Trader or investor? The Singapore tax question

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Singapore has no capital gains tax, which means that the question of whether a disposal gain is capital or revenue decides whether it is taxed at all. The Income Tax Act 1947 charges income from a trade or business under s. 10(1)(a) and other gains or profits of an income nature under s. 10(1)(g). Gains from the disposal of an investment held on capital account are outside the charge.[1] The Inland Revenue Authority of Singapore (IRAS) applies the badges of trade to crypto assets in its e-Tax Guide on the income tax treatment of digital tokens, first published on 17 April 2020.[2] The badges are the familiar common law list: nature of the asset, length of ownership, frequency of transactions, supplementary work, circumstances of realisation, motive and method of financing.

The Singapore analysis differs from the Swiss one in three respects. There is no numerical safe harbour. The analysis applies equally to companies, which in Switzerland are taxed on all gains regardless of character. Since 1 January 2024, s. 10L treats gains from the sale of foreign assets received in Singapore by an entity of a multinational group as income unless the entity has adequate economic substance in Singapore. Holding companies with crypto on exchanges abroad are affected.[3]

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The sequence

1. Identify the taxpayer. For an individual, the badges of trade apply to personal holdings. For a company, ask in addition whether the company's objects and activity make trading in digital assets its business, in which case all gains are revenue.
2. Apply the badges to the holding pattern of the year. Frequent trading, short holding, borrowed funds and a systematic approach point to trade. Long holding, few transactions and purchase out of surplus funds point to investment.
3. Separate income receipts. Staking rewards, mining income received in the course of a business, airdrops received for services and tokens received as payment for goods or services are income when received. IRAS treats airdrops received for nothing as not taxable unless the recipient trades in tokens.[4]
4. For entities in multinational groups, test s. 10L: are the disposed assets foreign assets, are the gains received in Singapore, and does the entity meet the economic substance requirement? If the answer to the first two is yes and the third is no, the gain is taxable even if capital in nature.
5. Check the territorial and remittance rules. Foreign-sourced income of individuals is exempt from Singapore tax; foreign-sourced income of companies is taxed on remittance subject to the s. 13(8) exemption conditions.[5]
6. Document the intention at acquisition. Board minutes recording an investment intention, a treasury policy that forbids active trading and segregation of the long-term wallet from the operating wallet are the evidence IRAS looks for.

Indicator	Investor (not taxed)	Trader (taxed at 17 % corporate or progressive individual rates)
Frequency	Few transactions a year	Daily or weekly

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Indicator	Investor (not taxed)	Trader (taxed at 17 % corporate or progressive individual rates)
Holding	Years	Days to months
Financing	Surplus funds	Borrowing
Organisation	Passive	Systems, staff, market-making
Intention evidence	Minutes, policy, segregated wallet	Marketing as a trading business
Entity in MNE group	s. 10L substance test must be met	Trading income regardless

Cross-border perspective

A founder who moves from Zug to Singapore mid-year is tested under both systems for the same year. Switzerland taxes the period of residence and applies Circular 36 to it. Singapore applies the badges of trade from the date of residence. A disposal that falls in the Swiss period and is professional in character is taxed in Switzerland as self-employment income. The same disposal in the Singapore period may be untaxed if the holding is capital in nature. Timing the disposal of long-held positions to the Singapore period, and timing the cessation of active trading to the Swiss period, is legitimate planning that both tax administrations accept when the move is real. The residence test is examined in Part P, Chapter I.

Notes

1. Income Tax Act 1947, s. 10(1)(a) and (g); see Part M, Chapters I and II. ↩
2. IRAS e-Tax Guide, Income Tax Treatment of Digital Tokens, first edition 17 April 2020, as updated; see Part M, Chapter I. ↩
3. Income Tax Act 1947, s. 10L, inserted by the Income Tax (Amendment) Act 2023 with effect from 1 January 2024; see Part M, Chapter II. ↩

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4. IRAS e-Tax Guide, Income Tax Treatment of Digital Tokens, sections 5–7; see Part M, Chapter I. ↩
5. Income Tax Act 1947, s. 10(25) and s. 13(8); see Part M, Chapter II. ↩

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