

Client information

The tax treatment of cryptocurrencies in private and business assets

Initially ridiculed as play money, digital means of payment have long since become a coveted and highly speculative investment opportunity. Nowadays, you can trade cryptocurrencies on various exchanges and even pay with them in some stores. The large price fluctuations have also attracted professional traders. For many investors, the risk has paid off in recent years and they have been able to realize considerable profits - some of them tax-free.

For this reason, the Federal Ministry of Finance (BMF) published a letter on the VAT treatment of cryptocurrencies in February 2018 and on the income tax treatment of cryptocurrencies in May 2022. The latter was updated in March 2025 and supplemented in particular with far reaching tax declaration, recordkeeping and cooperation obligations.

Note: Cryptocurrencies have therefore also arrived in the mainstream with the tax authorities. As an investor, you are therefore well advised to fully document and disclose your transactions.

Table of contents:

2 The taxation of cryptocurrencies as private assets.....	2
3 The documentation of transactions in private assets..	5
4 The taxation of cryptocurrencies as business assets..	7
5 The documentation of transactions in business assets.....	9
6 Inheritance and gift tax.....	10

1. What are cryptocurrencies?

Cryptocurrencies are cryptographic coins that can be used directly as a means of payment. On the other hand, there are other tokens and assets that are more likely to be classified as investments. These can be almost anything, including real estate, shares in companies or non-fungible tokens, i.e. non-exchangeable or non-copyable, digitally encrypted objects such as digital works of art.

Through tokenization, information is digitized and stored decentrally on a so called blockchain. It can therefore be assigned to an owner publicly or anonymously. With regard to cryptocurrencies, the blockchain is used to manage monetary transactions and make them visible.

There are now over 10,000 different cryptocurrencies worldwide. The best known are

Binance Coin	Bitcoin	Cardano
Chainlink	Dogecoin	Ethereum
Polkadot	Ripple	Solana
Tether	Uniswap	USD Coin

Furthermore, so called Initial Coin Offerings take place regularly, in which new currencies are created and coins are issued to participants.

1.1 What are the most common forms of investment?

The history of Bitcoin began with the first **mining process**. As virtual currencies are not issued by central banks, the miners create ("mine") the coins themselves:

They provide their computing power so that a new coin can be produced or a transaction can be validated and added to the blockchain. The classic principle of the so-called proof of work is validation using computing power, predominantly by means of graphics cards.

The miner receives a reward in the form of coins, the amount of which depends on how much computing power they have made available.

Staking involves keeping virtual assets frozen in your digital wallet for a period of time in order to support the security and operation of a blockchain network (proof of stake). For this, you receive a reward in the same or another cryptocurrency. Staking is the more resource-efficient alternative to mining.

Trading, i.e. trading cryptocurrencies via special platforms, involves buying coins and profiting from price fluctuations in such a way that you can sell them at a profit.

In **lending**, the owner leaves their coins for a certain or indefinite period of time either to a trader on an exchange or to the exchange itself so that it can take over the lending. In return, they usually receive additional coins as "interest", but sometimes also euros or US dollars.

Note: If you invest in cryptocurrencies as described above, there are two types of transactions that can trigger income tax:

- On the one hand, the sale of coins and thus the capital gain (e.g. when trading)
- on the other hand, the generation of coins and thus the proceeds that you receive for mining, staking or lending.

In the opinion of the BMF, the generation of coins constitutes an acquisition and the coins received represent consideration for a service (e.g. for the provision of computing power). This means that both the inflow and the sale are taxable at a profit.

1.2 What are cryptocurrencies considered to be for tax purposes?

In Germany, cryptocurrencies are considered tangible, nondepreciable assets. They can be valued using market prices. Recently, the tax authorities - for both business and private assets - also accept valuation at the daily exchange rate of the currency, as long as a uniform valuation is guaranteed. In particular, the following exchange rates may be used:

- Daily average price: average of all market prices of a crypto value of a price source on a price day
- Time-of-day price: Market price of a crypto asset from a price source at a constant time of day
- Daily closing price: last market price of a crypto asset of a price source of a calendar day

Note: The option of using daily prices is a considerable simplification, as it relieves you as an investor of the time-consuming task of determining specific market values at specific points in time.

2. The taxation of cryptocurrencies as private assets

Income that you earn privately with cryptocurrencies is considered **other income** for tax purposes: either as income from private sales transactions or as income from services. This is taxable at the personal **income tax rate** (between 0 % and 45 %). In addition, a solidarity surcharge of 5.5 % and church tax of 8 % or 9 % may be levied.

2.1 Trading

The easiest thing to understand is the tax assessment of trading. The decisive factor here is the term: if less than a full year passes between the purchase and sale of a coin, the **profit from the sale** is subject to income tax as **income from private sales transactions** (not as capital income!) and must be declared in the SO annex.

However, there is an exemption limit of € 1,000 per year.

If this limit is reached, the total amount is taxable, not just the excess amount. Up to a total amount of € 999.99 inclusive, however, everything remains tax-free.

Note: If you want to calculate whether you have reached the exemption limit, you must not only include income from the sale of cryptocurrencies, but also income from the sale of other „other assets“ (e.g. works of art).

If you hold an amount **for longer than one year (so called speculation period)**, the profit from the sale is completely tax-free and does not have to be included in your personal income tax return. For larger sales (e.g. from € 50,000), the profit can be declared voluntarily for security or documentation purposes.

Losses from the sale of cryptocurrencies can generally only be offset against gains from other private sales transactions. If this is not possible, the loss can be carried back to the previous calendar year.

When valuing cryptocurrencies, the so-called **FIFO method** (first in, first out) can be used for simplification instead of individual valuation. This assumes that the oldest unit of a cryptocurrency is also the one that is sold first. You can refer to the data in your wallet for the time of acquisition.

In addition, the so-called average value method can also be used to determine the value. In this case, for example, outgoing cryptocurrencies are valued using the average value of the entire type of currency in a wallet.

Note: You are free to choose between these two valuation methods. However, once you have decided on a method, you must apply it to each wallet and keep it in this wallet until the units of a virtual currency have been fully sold.

2.2 Mining

The financial administration will hardly assign so-called **solo mining** to the private sphere because it requires immense computing capacity and high investment costs and consumes a lot of electricity.

If, on the other hand, several miners join forces, make their computing power available to the network and share the rewards, this is referred to as a mining pool. Depending on its scope and intensity, pool mining can be classified as a private or commercial activity.

There are also service providers who provide investors with entire server farms with extremely high computing capacities so that they can mine as many coins as quickly as possible. This so-called cloud mining is always considered private asset management due to the service contract.

Only if your mining activities are limited are they assigned to the sphere of private asset management. In this case, the income from mining - i.e. the remuneration for making the computing capacity available - is income from services. You must declare this in the SO annex and, if it reaches the exemption limit of € 256 per year, it is subject to your personal tax rate in full.

The new currency units obtained through mining can be recognized at the market rate at the time of acquisition.

Note: You can use the price of a trading platform (e.g. Stuttgart Digital Exchange) or a web-based list (e.g. www.coingecko.com) as the market price. To simplify matters, you may alternatively use the daily price (see point 1.2).

You can deduct your expenses for the purchase of software and hardware over three years from the date of purchase. You can also declare your electricity costs as **incomerelated expenses** in your tax return, provided they are related to your income.

In the event of a subsequent sale of the mined coins, the BMF assumes that the sales profit is only **tax-free** if

more than one year has passed since the production and thus the acquisition of the coins. **Capital losses** can only be realized within one year, i.e. offset against corresponding gains. After that, the gains are tax-free and the losses are irrelevant.

2.3 Staking

Income from staking - i.e. the rewards you receive for holding virtual credit - is also **income from services** for tax purposes. This must be declared in the SO annex and is fully subject to the personal tax rate if the **exemption limit of € 256 per year** is reached.

When **recording the value**, it is important to ensure that the exchange rate for each individual credit note is known. This is likely to be issued automatically by most platforms anyway.

In the case of staking, all expenses incurred in this context can generally be claimed as income-related expenses. This also includes, for example, debt interest for financing if a loan was taken out.

The **speculation period** for coins that are frozen for staking purposes is also one year between purchase and sale. After this period, the profit from the sale is exempt from income tax.

2.4 Lending

Income from lending - i.e. the coins you receive as remuneration for lending - is taxable as income from services. Once the **exemption limit of € 256 per year** is reached, they are subject to the personal tax rate in full. (Despite the similarity to interest on a loan, the consideration for lending is an asset and not capital income).

All expenses incurred to generate income can be offset as **income-related expenses**.

In the case of lending, too, only one year must have passed between acquisition and disposal for the tax exemption on capital gains to apply.

2.5 Special case Airdrop

In an airdrop, units of a virtual currency are distributed free of charge as part of a market launch or marketing campaign. Under certain circumstances, you can only participate if you have previously provided your personal details. For the tax treatment of the airdrop in private assets, it must be checked exactly whether and what information has been provided. A distinction must be made between two cases:

In the first case, you receive the new coins in your wallet **without any action on your part**. In this case, the situation is **irrelevant for tax purposes**.

In the second case, the user must enter personal data in order to participate (e.g. their e-mail address, date of birth or other contact details). In this case, the user acts actively and receives a consideration for their actions. Consequently, they must declare the airdrop as a benefit (benefit in kind) in Annex SO and value it at the market rate at the time of receipt. If the **exemption limit of € 256 per year** is reached, he must pay tax on it at his personal tax rate. In the case of taxable airdrops, any income-related expenses can be offset.

Contrary to the prevailing opinion, the BMF assumes an acquisition for taxable airdrops and only considers the gain on sale to be tax-free if **more than one year** has passed since the acquisition.

2.6 Special case fork

Many of the cryptocurrencies known today were created from Bitcoin after a fork. Forks usually take place when the developers or miners disagree on the future path of a currency. There is then a split, from which the investor also benefits to a certain extent because they usually have at least one more coin in their wallet after a fork.

In a hard fork, a new currency is created as the changes in the blockchain are not backwards compatible. This happened with Bitcoin and Bitcoin Cash in 2017, for example. There is also the so-called soft fork, in which the currency as such is retained even after the change

in the blockchain. In known **soft forks**, for example, the validation of signatures was revised or the formatting of wallet addresses changed.

In principle, the **new coins** received as private assets in a hard fork do not count as taxable income.

Furthermore, in this case the so-called **footstep theory** applies. This means that a coin for which the one-year speculation period has already expired can **be sold** immediately tax-free. If the period has not yet expired, it expires the time it would have expired without fork.

3. The documentation of transactions in private assets

In the case of transactions with cryptocurrencies as private assets, you generally have **simplified record-keeping and cooperation obligations**. However, if you do not comply with these obligations, the tax office may estimate the basis of taxation!

The communication of the so-called **public key**, with which the information documented in the blockchain can be viewed, does not release you from providing additional information. You should nevertheless disclose the key so that the tax authorities can check the accuracy and completeness of your information.

You should also regularly save and store **transaction overviews**, even if you don't have to. These contain, among other things, the purchase and sale dates as well as the corresponding market values of the cryptocurrencies traded. Some of them can only be retrieved from the trading platforms and wallet providers for a limited period of time, so you should ensure that you retrieve them in good time.

Note: If the sum of your surplus income - including income from letting and leasing, for example - is more than € 500,000 in a calendar year (from 2027: € 750,000), you must keep your records and documents for six years.

Simple structured lists or tables are also recognized for documentation in the private sector (see below).

However, with increasing mechanization, manually maintained tables are becoming less and less important. Especially in the field of automated trading, you quickly reach your limits. And the wealth of data to be submitted also makes the use of specialized software increasingly attractive.

In its new letter, the tax authorities therefore see **automated tax reports as a central documentation tool**, which you can obtain either from the crypto exchanges themselves or from private software providers.

In the reports, the data from the exchanges - based on the transaction overviews - is evaluated for tax purposes. They are similar to the tax certificates issued by banks. The tax office can request the documents and files used to create the tax reports (e.g. transaction overviews or CSV files).

Note: Before selecting such software, you should definitely check whether the reports created comply with the requirements of the new BMF letter or the German tax laws.

To be recognized as evidence, the tax reports must be **plausible, complete and be conclusive**. You must enable the tax office to understand the underlying transactions. You are responsible for this. You should therefore always check tax reports and adjust them if necessary.

Corrections do not stand in the way of plausibility if you indicate and justify them. You should also regularly prepare extracts of the report settings (e.g. to determine the rates applied and the consumption sequence procedures used, such as FIFO) and make comments on the underlying income tax valuations.

Example: The manual preparation of automatically generated tax reports is necessary, for example, in connection with the one-year holding period, after which cryptocurrencies can be sold tax-free as private assets. This is because the software cannot know whether a sale is being made from private assets and whether the holding period has already expired.



In the case of **foreign and decentralized platforms**, you must comply with **extended recording and cooperation obligations**. You should not only retrieve the transaction overviews regularly and in full as evidence, but must also store them locally.

Another challenge with decentralized platforms is that they often do not provide transaction overviews. Instead, you need to use analysis software to create a transaction overview using the public key, from which you can then generate the tax report with the help of reporting software.

In the case of **lending and staking**, it is also necessary that the start, end, object, fee and conditions of the transfer are known. Corresponding information must also be recorded in the tax report.

Note: Missing records and loss of data are at your expense. You should take precautions to provide evidence, particularly in the case of decentralized platforms abroad. The table below provides information on how this can be done, especially if the platform itself does not offer the option of automated evaluation.

Documentation of transactions with cryptocurrencies in private assets

Purchase date	Type of acquisition (e.g. purchase, airdrop)	Name of the currency	Course in Euro	Quantity	additional fees	Date of sale	Exchange rate in Euro	Quantity	Selling costs

4. The taxation of cryptocurrencies as business assets

Income from cryptocurrencies and sales profits are **always operating income** in the business sector and trigger **income and trade tax**. No speculation period applies here. If ancillary purchase or sale costs are incurred that can be directly allocated to the purchase or sale transaction, these can be offset as acquisition or disposal costs.

Sales losses can be offset against other profits of the business without restriction. This means that the loss can be claimed directly and does not have to be carried forward or back, as is the case in the private sector.

For tax purposes, cryptocurrencies are considered nondepreciable, tangible assets. When held for speculative purposes (usually for less than one year), they are classified as other assets under **current assets**. If, on the other hand, a holding period of more than one year is intended, they must be classified as fixed assets and recognized under financial assets. What counts here is the intention to make a shortterm or longterm investment.

The type of accounting leads to various consequences for **subsequent measurement**: the strict lower of cost or market principle applies to current assets, according to which the lower market value at the balance sheet date must be recognized under commercial law. In contrast, fixed assets only have to be written down in the event of permanent impairment.

In the case of price losses, a tax-reducing so-called **partial value depreciation** can be carried out if the reduction in value is expected to be permanent. This applies to both current and fixed assets. If the price recovers at a later date, the value must be written up to the historical acquisition cost. This leads to taxable income.

Profits can be **determined** either by means of an income surplus calculation or by means of a comparison of business assets.

4.1 Trading

In Germany, trading is currently the most common form of investment in cryptocurrencies. This trading can take place both in the private sphere and as a commercial activity.

In tax law, an activity is considered commercial if it is carried out **independently, sustainably and with the intention of making a profit** and the trader participates in **commercial transactions**. The BMF does not base its qualification on the number of transactions, but on a „commercially organized business operation“ and on the fact that one acts „like a trader“ on the market. This may be the case if a trader trades regularly and makes a living from it in the long term. The normal buy-and-hold investor is usually excluded here, as he only profits from price increases in the long term.

If trading is classified as commercial, the sales proceeds constitute **operating income**, which can be reduced by the acquisition costs of the coins. If ancillary purchase or sales costs are incurred that can be directly allocated to the purchase or sale, these can be claimed as acquisition or disposal costs.

The profit from the sale of cryptocurrencies is subject to income tax on the one hand and trade tax on the other. A tax-free sale is not possible in the business sphere. The income tax burden can be between and 45 %. In addition, a solidarity surcharge of 5.5 % and church tax of 8 % or 9 % may apply. The amount of trade tax depends on the respective assessment rate of the municipality. However, the national average around 14% once the tax-free amount of € 24,500 (for sole proprietorships and partnerships) is exceeded.

4.2 Mining

The tax treatment of mining depends entirely on how mining is carried out. The known types are solo, pool and cloud mining. (The terminology was explained under point 2.2).

Cloud mining is only a commercial activity in the rarest of cases, namely if it is operated by a partnership or corporation. In the case of natural persons, it always constitutes **private asset management**.

The situation is different with solo and pool mining. Here, you are already participating in the general economic traffic by making your computing power available to other network participants - alone or in a pool.

The acquisition or expansion of your own hardware and software, for example, also speaks in favor of this.

In the case of solo and pool mining, the tax office generally assumes a **commercial activity**. However, if there are disproportionately high acquisition costs for software and hardware compared to very low or irregular income, which is likely to be the rule with solo mining, the tax office will examine the miner's intention to make a profit. If it establishes a so-called hobby, it will disallow the deduction of business expenses (also retroactively).

Income from solo and pool mining must be recognized as **operating income** at the time of receipt or when the entitlement arises, depending on the method of profit determination. The costs of the software or hardware used can be offset as operating expenses or amortized over three years. Other costs - such as for electricity, financing or consulting in this area - can also be deducted as operating expenses.

This results in a profit or loss that must be declared for tax purposes. The profits made are subsequently subject to income tax and trade tax. For information on the amount of tax payable and the options for determining profits, see point 4.

4.3 Staking

There are different designs for staking

- Standard staking was described in point 1.1. Here, you simply deposit coins in your wallet in order to generate passive income.
- The situation is different with the so-called delegated proof of stake, where you have to take action to generate revenue (e.g. by providing programming services).

If an investor **actively** participates in network when staking, a **commercial enterprise** is created. This is the case with the cryptocurrency Lisk, for example, where delegates have to be elected regularly and only receive rewards once they have been elected.

The inflow-outflow principle also applies to the recognition of **income** from staking as **operating income** if the revenue surplus calculation is chosen. If the profit is determined by means of a comparison of business assets, the income is deemed to be business income at the time the claim arises.

The **profits** generated are subsequently subject to income tax on the one hand and trade tax on the other. The same applies here as described under point 4.1.

4.4 Lending

Lending takes place in the commercial sector if the coins are **explicitly allocated to business assets**. Lending alone cannot give rise to a commercial enterprise because in this case the focus is on private asset management. For the tax treatment, please refer to the description in the previous chapters

4.5 Special case Airdrop

Unlike in the private sphere, airdrops in the business sphere are always business income – irrespective of active action or a random allocation. business **income**. For tax purposes, the above also applies to airdrops in business assets.

4.6 Special case Fork

While forks remain tax-free in the private sphere, the new coins received in the process must be recognized as **business income** in the commercial sphere. For the tax treatment, please also refer to the description in the previous chapters.

4.7 Sales tax assessment

With a ruling from 2015, the European Court of Justice created the basis for the first VAT assessments in the cryptocosmos. At that time, it dealt with the question of whether **trading in cryptocurrencies** is taxable or exempt and must therefore be carried out with or **without VAT**, and came to the conclusion that tax exemption is given.

The BMF addressed this issue in 2018 and clarified that trading in cryptocurrencies is VAT-exempt and that mining is not taxable in some constellations. Furthermore, the exchange of a virtual currency into a legal currency and vice versa is taxable but tax-exempt.

Note: It is important that you save and store such electronically received receipts electronically (e.g. as a PDF file). The tax office does not accept screenshots or paper printouts for business purposes.



However, it was also clarified that other services - such as consultancy services - where cryptocurrencies are accepted as consideration, i.e. as a means of payment, are treated as usual for VAT purposes.

5. The documentation of transactions in business assets

With regard to the obligations to cooperate and keep records in the case of transactions involving business assets, the same applies mutatis mutandis as under point 3. However, no analysis software for generating tax reports has yet been established for business investors. For business assets, you must also comply with the general accounting and recordkeeping obligations at. In particular, the entries required to reflect crypto transactions must be made individually, completely, correctly, in good time and in an orderly manner. Changes to the entries (e.g. reversals) must be documented.

In principle, the obligation to keep individual records and receipts applies in the business sector. In practice, there is the problem that investors do not usually receive individual receipts from central crypto exchanges, but only summarized transaction overviews. However, the latter are sufficient proof for the tax office.

Decentralized trading platforms generally do not provide transaction overviews. Here you can only document your transactions using the publicly accessible blockchain and evaluate them with analysis software. You should definitely save the evaluations created (e.g. as a CSV file).

In addition, the **principles for the proper keeping and storage of books**, records and documents in electronic form and for data access (GoBD) apply.

Electronic documents should be entered into a data management system to ensure that changes are documented and a search function is available. This also allows the tax office to access the data in the event of a tax audit.

If you use special software to fulfill your accounting and recordkeeping obligations, the tax authorities also require **procedural documentation**. This must describe the data processing from the retrieval of the transaction data from a crypto exchange to the recording of the data in the accounts and contain a description of the software used.

Note: When choosing a software provider, it should therefore be an important criterion whether the provider can already supply procedural documentation or at least parts of it for the product.

The usual **retention periods** of six years for business correspondence in connection with transactions, eight years for accounting documents and ten years for all other documents apply to the documents relating to your transactions with cryptocurrencies.

6. Inheritance and gift tax

If you receive cryptocurrencies as an inheritance or gift, they can be compared for tax purposes with gold or foreign currencies, which are subject to tax. The **time of the gift or inheritance** is relevant for the valuation. In practice, this can lead to problems if the price of the cryptocurrency at that time was far higher than the price that was later made available to the heir or the donee.

Example: The son of the wealthy Mr. Müller inherits 100 Bitcoin on 16.04.2024 with a value of € 50,000 per Bitcoin. The price of the cryptocurrency falls to € 30,000 within a few days. The inheritance is taxed at the price of € 50,000 per Bitcoin. For tax purposes, it is irrelevant that the price has subsequently fallen by € 20,000 per Bitcoin. Depending on the tax rate and final tax burden, this can result in a considerable financial disadvantage for the son.

The so-called **footsteps theory** applies to both inheritance tax and gift tax. This means that the heir or donee follows in the footsteps of the testator or donor and assumes the original acquisition values and dates. This means that they can sell the coins tax-free if the testator or donor held them for longer than one year. This also applies if the testator and heir or donor and donee together the speculation period of one year.

Note: The subject matter is complex and characterized by constant change. The tax assessment will certainly continue to evolve. We will be happy to accompany you on this path and help you to always find the most favorable tax solution for your investments.



Dr. Christopher Arendt
Lawyer
Specialist lawyer for tax law
c.arendt@acconsis.de



Kerstin Weidenbach-Koschnike
Auditor
Tax consultant
k.weidenbach-koschnike@acconsis.de

For further questions about the taxation of cryptocurrency investments: Please contact us!

Acconsis

**Steuerberatung | Rechtsberatung | Wirtschaftsprüfung
Finanzierungsberatung | Unternehmensberatung**
Schloßschmidstraße 5 | 80639 München
phone +49 89 54 71 43 | fax +49 89 54 71 45 00
info@acconsis.de | www.acconsis.de