



## Tax Notes

Our business - your insight

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**The tax-related treatment of cryptocurrencies held by a company is not clearly regulated but mainly driven by the function of the respective currency as well as the principles of commercial law.**

As of today, the legislators has not yet made a clear statement or issued an official opinion regarding the accounting treatment of cryptocurrencies. However, the association Expertsuisse recently published recommendations in its «Q&A on the new accounting law». Expertsuisse limits its recommendations to the virtual currency Bitcoin. In our opinion, the explanations can also apply to other cryptocurrencies as long as the currency in question fulfils the conditions of Art. 959 paragraph 2 of the Swiss Code of Obligations (OR). The article states that items must be considered as assets on the balance sheet if due to past events they may be disposed of, a cash inflow is probable and their value can be reliably estimated.

### Classification

Possible accounting positions for cryptocurrencies are liquid assets, securities, inventory or intangible assets.

The fact that cryptocurrencies are very volatile and not generally accepted means of payment is a strong argument against a classification as liquid assets. A report issued by the Swiss Federal Council on June 25, 2014 came to the same conclusion. According to this report, cryptocurrencies fail to fulfil the basic functions of a means of payment (medium of exchange, unit of account and store of value).

Accordingly, cryptocurrencies should be classified as assets. According to Expertsuisse, a classification as an asset primarily depends on whether or not trading cryptocurrency is part of a company's regular business activities. If this is the case the specific currency can be recorded as inventory. If however, the currency is only held for a short-term, it can be listed in the position «Securities» under the current assets. If the holding period is longer, it can be

booked as a financial asset under fixed assets. Another alternative within the fixed assets - even if not recommended by Expertsuisse - would be to record the currencies as intangible assets. This is recommended in particular by international accounting standards, which is why Swiss entities applying IFRS could book their cryptocurrency inventory as intangible assets.

### Valuation

According to Art. 960a paragraph 2 OR the valuation of the inventory for subsequent years must be in accordance with the historical cost principle (i.e. valuation cannot be above historical cost).

An exemption of this principle is possible for assets which are publicly traded or that have an observable market price. On the basis of this (optional) provision, a company can value its inventory of cryptocurrencies at market prices. In such cases the company can record a fluctuation provision which is in line with the changing value of the inventory. This gives the possibility to offset and defer any gain/loss resulting from price movements of the inventory until the gain or loss is actually realized. If at a later date the stock of cryptocurrencies is sold, the company realizes a taxable gain or loss in the amount of the difference between the book value and the actual sales price. At this time the fluctuation provision, if any, must be released.

### Functional currency for accounting

Pursuant to Art. 957a paragraph 4 OR and Art. 958d paragraph 3 OR, accounting must be carried out in the national currency or in the currency required for business operations (so-called functional currency). Since Bitcoin and other cryptocurrencies are not considered as a national or foreign currency, accounting or financial reporting cannot be performed in Bitcoin or another cryptocurrency.

## Taxation generally follows accounting treatment

According to Art. 58 paragraph 1 lit. a of the Direct federal tax law the statutory accounts of a Swiss company are the basis for determining taxable income. As the tax treatment generally follows the accounting treatment (Massgeblichkeitsprinzip), no separate tax accounts have to be prepared. However,

since the legislator has not yet issued an official statement regarding the accounting treatment of cryptocurrencies, we recommend that companies with high inventories of cryptocurrencies obtain a binding tax ruling to ensure that no negative tax consequences arise during the holding period of cryptocurrencies.

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