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Cryptoassets Manual

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CRYPTO40150 - Cryptoassets for businesses: trading in exchange tokens

As with the tax analysis of other types of business, the question of whether a trade is being carried on is a key factor in determining the correct tax treatment.

Whether the buying and selling of exchange tokens amounts to a trade depends on a range of factors including:

- frequency
- level of organisation
- intention

If a person's activities do amount to a trade, the receipts and expenses will form part of the calculation of the individual or company's trading profit.

Only in exceptional circumstances would HMRC expect businesses to buy and sell exchange tokens with such frequency, level of organisation and sophistication that the activity amounts to a financial trade in itself. If activities are considered to be trading then:

- For individuals, Income Tax will take priority over Capital Gains Tax and will apply to profits (or losses).
- For companies, profits (or losses) will form part of the trading profits instead of being a chargeable gain.

As with any activity, the question whether cryptoasset activities amount to trading depends on a number of factors and the individual circumstances. Whether a business is engaged in a financial trade through the activity of buying and selling tokens will ultimately be a question of fact. It's often the case that individuals and companies entering into transactions consisting of buying and selling tokens will describe them as 'trades'. However, the use of the term 'trade' in this context is not sufficient to be regarded as a financial trade for tax purposes.

A trade in cryptoasset exchange tokens would be similar in nature to a trade in shares, securities and other financial products. The approach to be taken in determining whether a trade is being conducted or not would also be similar, and guidance can be drawn from the existing case law on trading in shares and securities.

More information on the existing approach and case law for share transactions and financial traders can be found in BIM56800 (https://www.gov.uk/hmrc-internal-manuals/business-income-manual/bim56800).

If the activities do not amount to a trade, businesses must still consider if other legislation, such as chargeable gains or miscellaneous income, applies.

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