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Taxation of Crypto Assets

Cyprus Perspective

Christos A. Theophilou BSc (Econ.), FCA, ADIT, MSc Tax (Oxon), LLB (Hons)



Agenda

1. Why Taxation of Crypto Assets is so difficult?
2. Income tax Fundamentals
3. Crypto assets various tax implications

1. Why Taxation of Crypto Assets is so difficult?

Tax Considerations

Is it an asset/
property
or a
currency
?

Tend to
have a
hybrid
character
?

Functional
ity may
gradually
change
over a
crypto
asset
lifecycle?

Crypto assets can be used in many ways:

- **Payment token** (typically used as means of payment); or
- **Utility token** (i.e. accessing an online service); or
- **Investment token** (dept, equity or asset-backed tokens).

And the
taxation will
ultimately be
determined
not only by its
characterization
per se but
also on the
purpose and
use of such
crypto assets.

Valuation?

2. Income tax Fundamentals: What is Income Tax

Income Tax and Payments as Building Blocks

An income tax effectively taxes the creation of wealth on a realisation basis.

“**Payments**” are the building blocks of the income tax.

Payment is meant in a broad sense i.e. not only in cash but also in bestow value, for example, transfer of an asset in cash or in kind.

Tax law taxes two things:

- (1) Income from Assets (tangible or intangible); and
- (2) Income from Labour.

An Asset can provide two types of income:

- (1) Income; and
- (2) Gains.

2. Income tax Fundamentals (1)

There are six fundamental principles, or questions, that are central to the application of income tax.

(1) Determine who is going to be taxed (**persons, i.e. who is taxed**);

(2) Identify the character of the income (What is Taxed?);

(3) Determine when an item of income is taxed (timing, i.e. when is taxed); (4) Quantify the income (How Much is the Income?);

(5) Determine the jurisdictional (rules) limitations; and

(6) Process of calculating the income tax base: Schedular approach; or Global approach.

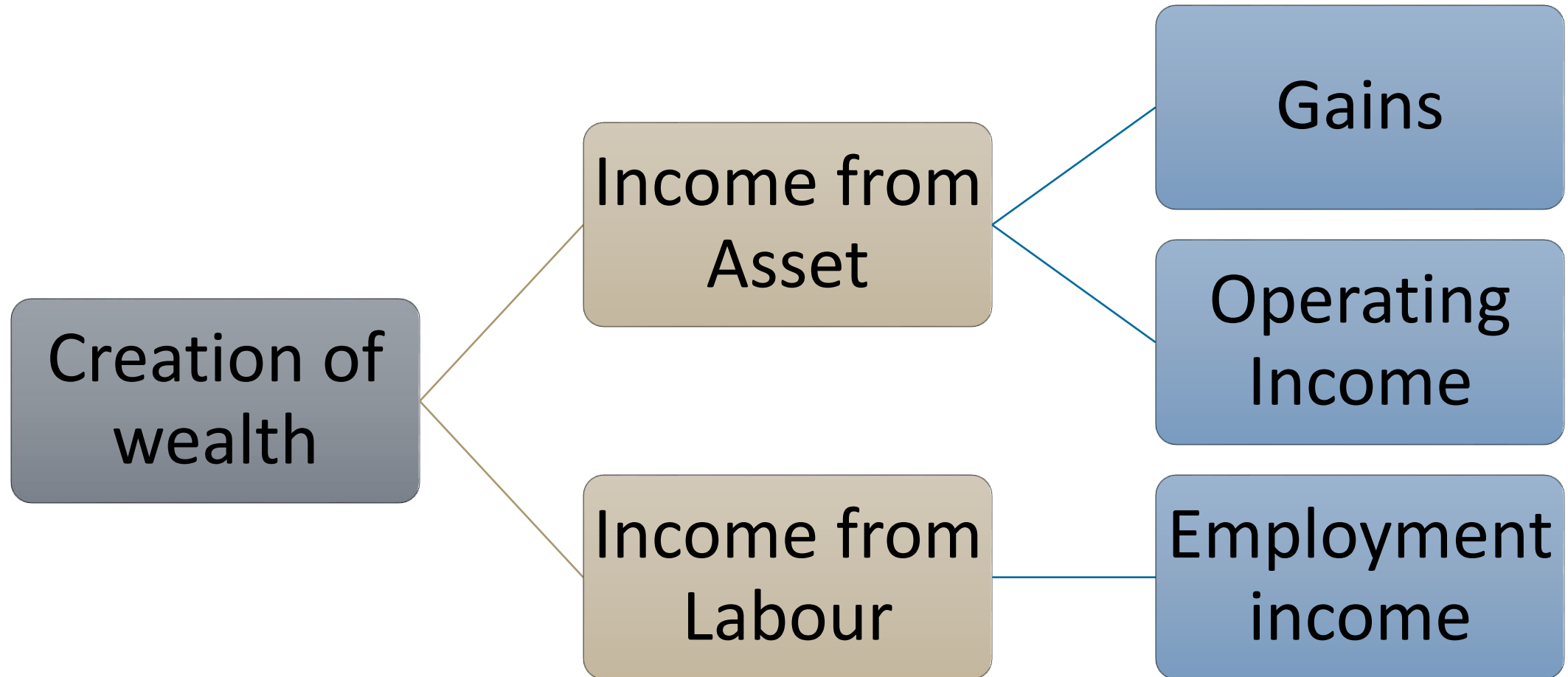
2. Income tax Fundamentals (2)

General Combination of definitional structure and income concept in various countries

Country	Definitional structure	Concept
Australia	Global	Source, trust
Canada	Global	Source, trust
U.S.	Global	accretion
France	Schedular	source
Germany	Schedular	source
Italy	Schedular	source
Japan	Schedular	accretion
Spain	Schedular	source
U.K.	Schedular	Source, trust

2. Income tax Fundamentals (3)

Example



3. Main Tax considerations of Crypto Assets (1)

Income from Asset: Gains

- ❖ Is it an asset/property or a currency?
- ❖ Taxed under **income tax law** or **capital gains tax law** (Badges of Trade)?
 - ❖ Rebuttable presumption that a company limited by shares (not limited by guarantee) carries out its activities by way of business;
 - ❖ It is easier to characterise the buy/sell of crypto assets by such a company, as compared to an individual, as being a “trade”.
- ❖ How to Characterise the income (Hybrid tokens is this debt or equity or)?
- ❖ Tax implications of exchanging/trading of crypto-to-crypto or crypto-to-fiat?
- ❖ Tax implications of mining?

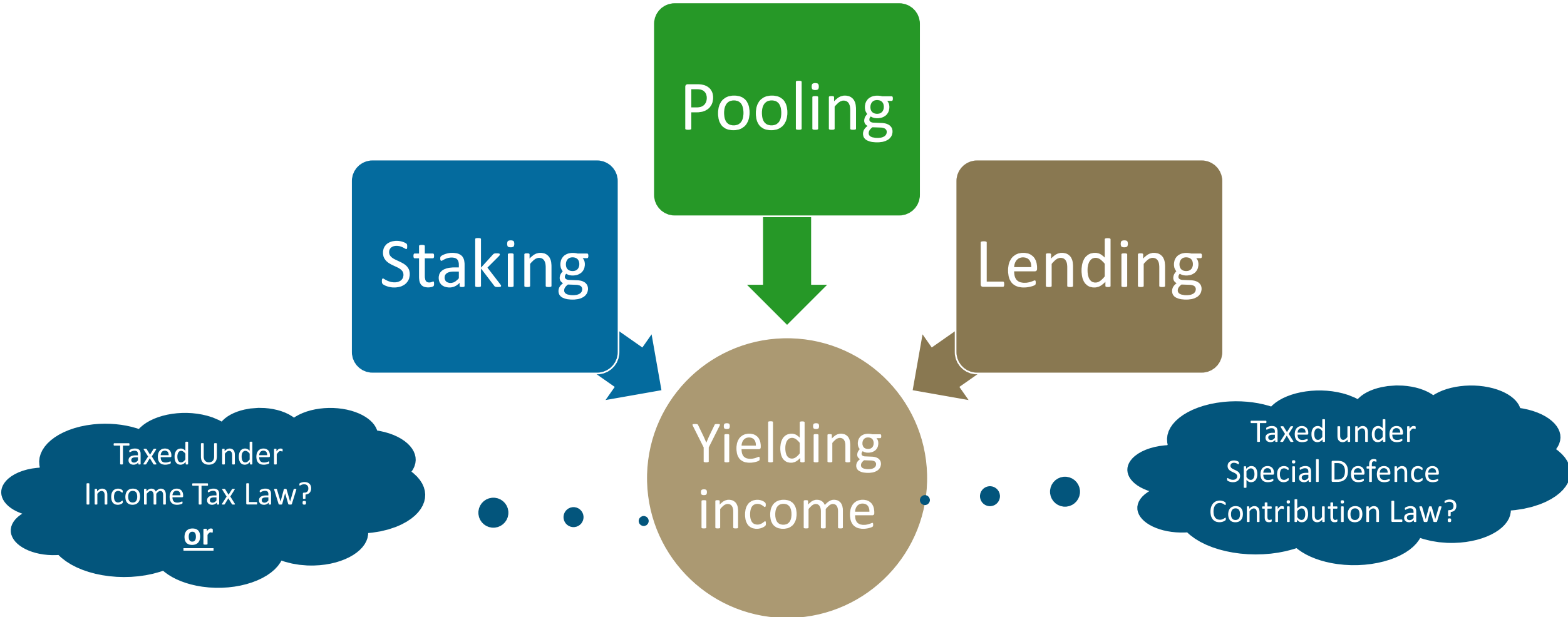
Badges of Trade

(non-exhaustive list)

- 1) Profit-seeking motive;
- 2) Number of transactions;
- 3) Nature of the asset;
- 4) Existence of similar trading transactions or interests;
- 5) Changes of the asset;
- 6) Way of sale was carried out;
- 7) Source of finance;
- 8) Interval between purchase and sale; and
- 9) Method of acquisition.

3. Main Tax considerations of Crypto Assets (2)

Income from Asset: Operating Income (i.e. Yielding income)



3. Main Tax considerations of Crypto Assets (3)

Income from Labour

- ❖ Tax implications of an employee receiving wages or salaries in crypto assets? Is this a benefit in kind/fringe benefits?
- ❖ Tax implications regarding payments of compensation in crypto assets?

Other Tax considerations of Crypto Assets

- ❖ Tax treaty implications on income arising from crypto assets? And are any payments in crypto assets subject to withholding taxes?
- ❖ Tax implication of a loss of crypto assets or a loss in value of crypto assets?
- ❖ Tax implications of forks/airdrops.
- ❖ Tax implications of a merchant receiving payments in crypto assets?
- ❖ Exit tax? Or Transfer taxes?
- ❖ Gift, inheritance, estate or wealth taxes?



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Thank you

Christos A. Theophilou BSc (Econ.), FCA, ADIT, MSc Tax (Oxon), LLB (Hons)

Partner | Taxand Cyprus

T: +357 22 875720 | E: ctheophilou@cy.taxand.com

Christos specialises in private clients and corporate tax issues (including transfer pricing) with an international dimension, such as private equity structuring, cross-border investments, structured finance, IP structuring and international trade.

Christos received his Master of Laws (MSc) in Tax Law from Oxford University. He holds an LLB Law, a Bachelor's degree in Economics, the Advanced Diploma in International Taxation (ADIT) of the UK Chartered Institute of Taxation, as well as being a qualified Chartered Accountant in England & Wales. Christos is a contributor to international tax publications such as IBFD, Tax Notes International, Bloomberg BNA, International Tax Review and IFA as a national reporter. Furthermore, Christos is currently a member of the Tax Policy and Strategy committee of Institute of Certified Public Accountants of Cyprus.

Christos is also a freelance lecturer for Tolley's (LexisNexis) in Greece, Cyprus and Ukraine, where his main areas are ADIT Paper 1 Principles of International Tax.