

Tax Pills

Cryptocurrencies: Budget Law 2023 establishes new tax rules

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Budget Law 2023 has expressly provides a set of new guidelines for the taxation of "*crypto-assets*" introducing a new category of "*other income*". Indeed, there has been much debate in recent years about the legal framing of all realities developed on the basis of blockchain technology, including cryptocurrencies (Bitcoin, Ethereum etc.) but also NFT and metaverse. For a number of years there has been a practice, followed by the Revenue Agency, of considering capital gains achieved thanks to cryptocurrencies to be subject to taxation. Today the Budget Law has fully restated the ruled applied till now, extending and refining the normative landscape providing for regulations that are even more specific.

What are the most important aspects defined by the new rules on "crypto-assets" contained in the 2023 Budget Law? - First, it is certainly good that has been finally elaborated a precise definition of crypto-assets as '*digital representation of value or rights that can be transferred and stored electronically, using distributed ledger technology or similar technology*'. That being said, we can divide the new rules into two groups: on the one hand, there are those governing taxation for transactions executed from January 1, 2023 (the date the Budget Law comes into force), and on the other hand, those applicable to what happened in the past.

Let's start with the rules on newest crypto assets - What are the rules in effect today? As for the present and the future, a new category of '*other income*' has been specifically provided for to be taxed at the rate of 26 percent (Art. c-sixth of Art. 67 TUIR). It consists of capital gains earned through crypto-assets, but only for the portion exceeding 2 thousand euros in the tax period. Capital losses are also tax-relevant and specific rules are provided for taking them as a deduction in the tax periods following (not beyond the fourth) those in which they occurred. It is then stipulated that the possession of crypto-assets must be subject to tax monitoring (regardless,

therefore, of whether capital gains have been earned). Finally, a stamp duty is also established.

Do the new rules also refer to past years? - Yes. This is clearly understood by reading the provisions dealing with "regularization", paragraphs 140 to 143, as well as those relating to "redetermination of value" (paragraphs 133 to 139). Nevertheless, even more important is paragraph 127, which provides that capital gains executed 'before the effective date of this law' are considered to be realized under the rules on "other income" (Art. 67 Tuir). On the same point, the *Illustrative Report* of the Budget Law is very clear, according to which, as a result of the new provisions, capital gains from crypto-assets 'will no longer be included' in the provisions applicable to foreign currencies, thus taking it for granted that, for the past, they had to be considered included in this category.

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