

# CRYPTOCURRENCY AND TAXATION: SHOULD PIT, WHT, AND VAT BE APPLIED TO DIGITAL ASSETS?

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**Published:** 29<sup>th</sup> May 2025

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## INTRODUCTION

Cryptocurrencies are digital or virtual currencies that use cryptography for security, making them difficult to counterfeit or double-spend. Unlike traditional currencies issued by governments (fiat money), cryptocurrencies operate on decentralized networks based on blockchain technology a distributed ledger enforced by a network of computers (nodes). The most well-known cryptocurrency is Bitcoin, but there are a handful of other cryptocurrencies or altcoins, such as Ethereum, Litecoin, and Ripple. Cryptocurrencies can be used for various purposes, including peer-to-peer transactions, remittances, and as a form of investment. They can be traded on crypto exchanges, stored in digital wallets, and in some cases, used to purchase goods and services.

The evolution of cryptocurrency has revolutionized the global financial world by offering decentralized, borderless, and secure transactions. On some estimates, perhaps 20 percent of the adult population in the United States of America (USA) and 10 percent of that in the United Kingdom (UK) hold or have held some crypto assets. Elsewhere is perhaps even more marked, including in some emerging and developing economies: the number of global users has been put at more than 400 million.

Nigerians, particularly the youths are not left out of this global trend. The level of involvement of Nigerian youths in cryptocurrencies as significant as it is, has been growing rapidly in recent years. A recent study<sup>1</sup> by ConsenSys and YouGov reveals that 99% of Nigerians are aware of digital currencies, with 77% understanding their functionality. Among those aware, 73% have purchased cryptocurrencies, and 42% currently hold digital assets, primarily Bitcoin, Binance Coin, and Ethereum. Notably, 93% plan to invest in cryptocurrencies within the next year, viewing them as "the future of money" and a means to participate in the global financial ecosystem.

This involvement into the cryptocurrency space is either driven by economic challenges, a desire for financial independence or a strong interest in technology and innovation. Despite regulatory obstacles, their participation continues to grow, making Nigeria a prominent player in the global crypto ecosystem. Over the years, the Nigerian government has intensified efforts to regulate

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<sup>1</sup> <https://consensys.io/blog/global-survey-on-crypto-and-web3-press-release-2024>

and tax cryptocurrency transactions, aiming to boost national revenue and exert greater oversight over the digital asset market.

This regulatory shift reflects the government's recognition of the significant role cryptocurrencies play in Nigeria's economy. Despite previous restrictions, Nigeria has consistently ranked among the top countries in cryptocurrency adoption, with a substantial portion of the population engaging in digital asset transactions. The deployment of cryptocurrency in Nigeria has also burst into an explosion, with the nation being among the top nations in Bitcoin peer-to-peer trade.

The rapid growth has consequently highlighted how digital assets are regulated and taxed. As Nigeria grapples with how to regulate and tax this emerging asset class, a critical question arises: should Pay-As-You-Earn (PAYE), Withholding Tax (WHT), and Value Added Tax (VAT) be applied to cryptocurrency transactions? This article addresses the applicability and the consequences of applying these tax systems to digital assets in Nigeria.

## **CROSS-JURISDICTION ANALYSIS OF CRYPTOCURRENCY REGULATIONS**

The use of cryptocurrencies is not only or even mainly a matter for advanced economies. In an index of national penetration produced by Chainalysis,<sup>2</sup> the top four are Vietnam, the Philippines, Ukraine and India, and the only high-income countries in the top twenty are the USA (5th) and the UK (17th). Of the estimated 420 million users, more than one-third are in India, with the highest population shares in UAE (28 percent), Vietnam (26 percent) and the US (13 percent).

Cryptocurrency is regarded as a digital asset in the United States, and the Internal Revenue Service (IRS) handles it similarly to stocks, bonds, and other capital assets. Depending on how cryptocurrency is acquired and how long it is kept, the money you make from it is taxed at varying rates as either income or capital gains, just like other assets and it includes if the cryptocurrency was given as a gift, was bought or donated to charity amongst others. Through centralized cryptocurrency exchanges that provide the IRS with client information, such as wallet addresses and personal data, the IRS is able to monitor cryptocurrency transactions. Additionally, the IRS mandates that taxpayers keep adequate records to support the tax positions they have made on their returns. Records of receipts, sales, exchanges, and other dispositions of virtual currencies are included in this data.

The US like the UK and South Africa, operates a self-reporting mechanism, where individuals that engage in any transactions involving digital assets during the year must report all income related to their digital asset transactions. Taxpayers can either file online or using paper forms. In India,

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<sup>2</sup> See Chainalysis (2022b). This is a composite reflecting five types of cryptocurrency services and giving higher weight to countries with lower income per capita

cryptocurrencies are also taxed depending on how the cryptocurrency was acquired. Cryptocurrencies and other crypto assets are defined and taxed as Virtual Digital Assets (VDAs) under the Income Tax Act. Gains made from trading cryptocurrencies are taxed at a rate of 30% (plus 4% cess) according to the law of India and the crypto tax applies to all investors, whether private or commercial, who transfer digital assets during the year. Additionally, a 1% Tax Deducted at Source (TDS) is applicable on the sale of crypto assets exceeding ₹50,000 (₹10,000 in certain cases) within a single financial year. Income earned through activities like staking, airdrops, or mining may also be subject to income tax at one's individual slab rate.

Crypto assets are not accepted by UK financial institutions as money or currency. Cryptocurrency is subject to the same taxation and treatment as shares. In the UK, this implies that all cryptocurrencies are subject to taxes. His Majesty's Revenue and Customs (HMRC) which oversees tax in the United Kingdom is clear that, depending on the particular transaction, cryptocurrency may be liable to both income tax and capital gains tax. If a person is trading, they will have to pay income tax on their gains. An individual who purchases and sells Bitcoin or other similar cryptocurrencies in situations where it does not amount to a trade will be investing in Bitcoin or other similar cryptocurrencies; any gains or losses incurred are chargeable to or allowable for capital gains tax. HMRC stated that they do not consider buying and selling cryptocurrencies to amount to "gambling." If losses occur, HMRC is likely to carefully consider whether the individual is in fact trading before allowing loss relief. Crypto transaction taxes are usually filed by taxpayers in the UK as a self-assessment tax return. Taxpayers can submit this using paper forms or the government's gateway service. The information that HMRC has gathered about the taxpayer from exchanges and other sources may be compared against this tax return to determine whether it is accurate.

The Central Bank of Nigeria (CBN) had prohibited banks and financial institutions from facilitating cryptocurrency transactions in 2021 but subsequently issued a framework for virtual asset service providers in 2023. Meanwhile, the Securities and Exchange Commission (SEC) views cryptocurrencies as securities under specific conditions. However, tax-specific rules remain unclear.

## **OVERVIEW OF THE CURRENT LEGAL FRAMEWORK**

The Central Bank of Nigeria (CBN) has issued various directives and circulars regarding the regulation of cryptocurrency activities in the country. In 2021, the CBN prohibited financial institutions, including banks, from facilitating cryptocurrency transactions. However, its regulations do not explicitly address the taxation of cryptocurrencies.

The Federal Inland Revenue Service (FIRS) and the Securities and Exchange Commission (SEC) of Nigeria have provided regulatory guidance on cryptocurrency taxation. In 2019, the FIRS issued a public notice stating that gains from cryptocurrency transactions are subject to capital gains tax.

Additionally, the SEC has released guidelines outlining the taxation and classification of certain cryptocurrency-based assets, as well as their regulatory framework.

The Finance Act 2023 significantly expands the scope of taxable assets under the Capital Gains Tax Act (CGTA) by explicitly including "digital assets" within the definition of "chargeable assets." As a result, the Act imposes a 10% Capital Gains Tax (CGT) on the disposal of digital assets in Nigeria. However, given the emerging nature of digital assets in the country and the ongoing development of Nigeria's digital economy, concerns have been raised regarding the practicality and feasibility of taxing these assets.

Under Section 6(1)(c) and (d) of the CGTA, the disposal of digital assets for CGT purposes occurs when a capital sum is realized from their sale, lease, transfer, assignment, compulsory acquisition, or any other form of disposition. Notably, this holds true even if the party making the payment does not directly acquire the digital asset. Specifically, CGT applies in scenarios where (i) a capital sum is received in exchange for the forfeiture, surrender, or non-exercise of rights associated with the digital asset, or (ii) a capital sum is earned as compensation for the use or exploitation of a digital asset.

Furthermore, Section 11 of the CGTA defines a "capital sum" as any monetary consideration or value that forms part of the overall transaction and is used in computing CGT. This means that, after accounting for any permissible deductions, any amount—whether in cash or in kind—realized from the sale, lease, transfer, assignment, compulsory acquisition, or other disposition of digital assets by a taxable person in Nigeria will attract a 10% CGT, regardless of whether the digital assets are located within or outside the country.

## **TAX CONSIDERATIONS FOR CRYPTOCURRENCY AND CHALLENGES FOR APPLYING THESE TAXES**

It is important to state that cryptocurrency is not recognized as a legal means of exchange in Nigeria, unlike in some other jurisdictions. Despite its volatility and susceptibility to drastic value fluctuations, cryptocurrency remains largely unregulated and is not issued or backed by the Central Bank of Nigeria (CBN). As a result, it is inherently difficult, if not impossible, to regulate through direct government intervention or monetary policy controls.

Digital or virtual currencies, including Bitcoin, Ethereum, and similar assets, utilize cryptographic security and operate on decentralized blockchain networks. This decentralized nature poses significant challenges for tax authorities, as cryptocurrency transactions are often anonymous, cross-border, and difficult to monitor. Consequently, tracking and effectively taxing these transactions remain complex and problematic for regulatory agencies.

## **VALUE ADDED TAX (VAT)**

Value Added Tax (VAT) in Nigeria is imposed on the supply of all goods and services in Nigeria, whether produced locally or imported, except those specifically exempted under the VAT Act.<sup>3</sup> The current VAT rate stands at 7.5% with certain goods, such as non-oil exports, being zero-rated. All taxable persons are required to submit monthly VAT returns no later than 21 day following the month of transaction.

However, the VAT Act does not explicitly address the VAT treatment of cryptocurrency transactions. Cryptocurrencies are classified as assets rather than commodities and subjecting them to VAT could lead to double taxation, given that capital gains tax already applies to cryptocurrency profits. Nevertheless, Nigerian tax authorities may explore the possibility of imposing VAT on specific cryptocurrency-related services, such as cryptocurrency exchange platforms or the sale of digital assets. This could be achieved by defining the place of supply for VAT purposes in a digital economy and differentiating between various cryptocurrency transactions, such as utility tokens and security tokens.

## **WHT (WITHHOLDING TAX)**

Withholding tax (WHT) in Nigeria applies to various payments, including dividends, interest, rent, and royalties, with rates typically ranging from 2.5% to 10% before the introduction of the WHT Regulations 2024. The responsibility for withholding and remitting the tax to the appropriate authorities lies with the payer. Specific rates include real estate rent (10%), corporate dividends or profits (10%), interest on securities or bank deposits (10%), and royalties (5%).

Certain businesses, particularly those operating on low profit margins, have faced challenges in fully offsetting WHT deductions against their income tax obligations, as WHT is typically applied at a rate of 5% or higher. This has led to an accumulation of WHT credits that these businesses may struggle to fully utilize. Although businesses can apply for WHT refunds, the process is often cumbersome and time-consuming.

WHT is imposed on a variety of transactions, including construction, survey, and supply contracts, as well as professional services, consulting, interest, royalties, dividends, and real estate rentals. However, enforcing WHT on cryptocurrency transactions presents significant challenges due to their peer-to-peer nature and lack of intermediaries. The decentralized structure of cryptocurrency platforms makes it difficult to trace both payers and payees, thereby complicating tax enforcement. Additionally, categorizing cryptocurrency income—such as whether staking rewards should be classified as interest—remains an area of uncertainty.

The implementation of WHT on cryptocurrency transactions would require addressing key challenges, including determining an appropriate tax rate for different cryptocurrency activities

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<sup>3</sup> Value Added Tax Act Cap V1 LFN 2004

and identifying the entity responsible for withholding and remitting tax when transactions occur on decentralized platforms.

## **PERSONAL INCOME TAX (PIT)**

Personal Income Tax are taxes on individuals, communities and families and on executors and trustees, and to provide for the assessment and collection and administration of the tax. Individuals' resident in Nigeria are taxable on their worldwide income. In the case of employment, a non-resident person is liable to tax in Nigeria if the duties of employment are wholly or partly performed in Nigeria, unless:

- the duties are performed on behalf of an employer who is in a country other than Nigeria,
- the remuneration of the employee is not borne by a fixed base of the employer in Nigeria, and
- The remuneration of the employee is liable to tax in that other country under the provisions of the avoidance of double taxation treaty (DTT) with that other country.

Section 3 (1)(b) of PIT Act states that the income chargeable for taxes involves any salary, wage, fee, allowance or other gain or profit from employment including compensations, bonuses, premiums, benefits or other perquisites allowed, given or granted by any person to any temporary or permanent employee other than so much of any sums as expenses incurred by him in the performance of his duties, and from which it is not intended that the employee should make any profit or gain.

This means that in a situation where an employee is paid his salary, wage, fee and allowance in crypto currency then he is liable to pay his taxes. However, Nigeria has not gotten to the stage of paying staff in cryptocurrency. Many countries treat gains from cryptocurrency trading as capital gains, which are subject to PIT. Individuals earning income from cryptocurrency transactions are subject to Personal Income Tax. Depending on an individual's income level, Nigeria's progressive income tax rates range from 7% to 24%.

Lots of European countries tax cryptocurrency gains as capital income, with rates varying by country. Income generated from mining or staking cryptocurrencies may be treated as ordinary income and subject to PIT. With regards to the Personal Income Tax and cryptocurrency, it can be challenging to determine the initial purchase price when making several deals and determining the fair market value at the time of transactions, especially for less liquid tokens. The implementation of PIT on cryptocurrency transactions would require addressing these key challenges.

## **CHALLENGES**



One cannot overemphasize the fact that the extreme volatility of cryptocurrency prices poses significant challenges for tax assessments, underscoring the need for clear guidelines on valuation dates and exchange rates. Additionally, the government's inability to efficiently tax cryptocurrency transactions has led to substantial revenue losses. The prevailing regulatory and taxation uncertainty may deter investors, slowing down the growth and adoption of digital assets in Nigeria. Moreover, cryptocurrency businesses, including exchanges and service providers, struggle with unclear tax obligations, making it difficult to structure their operations effectively. Addressing these issues through comprehensive regulatory frameworks is crucial for fostering a stable and thriving digital asset ecosystem.

## **RECOMMENDATIONS**

To establish an effective regulatory framework for cryptocurrency in Nigeria, the government must define clear classifications for digital assets—whether as assets, currencies, or commodities—to determine their appropriate tax treatment. This requires collaboration among the Central Bank of Nigeria (CBN), the Securities and Exchange Commission (SEC), and the Federal Inland Revenue Service (FIRS) to create comprehensive policies that provide clarity and consistency in cryptocurrency regulation and taxation.

Rather than fitting cryptocurrencies into existing tax frameworks, Nigeria could develop a specialized tax regime for digital assets, similar to how some countries regulate derivatives or foreign exchange transactions. Additionally, leveraging blockchain analytics tools would enable tax authorities to track cryptocurrency transactions efficiently while maintaining a balance between oversight and innovation.

The FIRS should issue specific tax guidelines covering Pay-As-You-Earn (PAYE), Withholding Tax (WHT), and Value-Added Tax (VAT) on cryptocurrency transactions. These guidelines should address the classification of cryptocurrency income and valuation methods for digital assets to ensure accurate taxation.

Furthermore, fostering collaboration with industry stakeholders—including exchanges, developers, and users—would provide regulators with valuable insights into the cryptocurrency market, allowing for more informed and adaptive policymaking. The government should also explore innovative taxation approaches, such as implementing withholding tax on cryptocurrency transactions or introducing a digital asset registry to enhance compliance and revenue collection.

A balanced approach to regulation is crucial—while mitigating risks associated with cryptocurrency, Nigeria should also cultivate an environment that encourages innovation and market growth. Clear distinctions should be made regarding taxable cryptocurrency activities,

differentiating between business income (such as mining, staking, or professional trading) and capital gains from long-term investments.

## CONCLUSION

The application of PIT, WHT, and VAT to cryptocurrencies in Nigeria is a complex issue that requires careful consideration. With the correct legal structure and technology resources, these conventional tax methods could be modified even though they might not be entirely appropriate for digital assets. Nigeria has an opportunity to lead in Africa by creating a balanced approach that encourages innovation while ensuring fair taxation.

As the cryptocurrency ecosystem evolves, policymakers must engage with stakeholders to develop a tax system that is both effective and equitable. Instead of imposing current tax laws on cryptocurrencies, Nigeria would gain from creating a customized framework that recognizes the unique characteristics of these assets while guaranteeing equitable taxes. In terms of bitcoin legislation, such a strategy would establish Nigeria as a progressive state, which would draw in respectable blockchain companies while deterring illegal activity. Nigeria's tax policy must strike a balance between generating income and encouraging innovation in this new industry as the digital asset ecosystem develops.

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