

營業人銷售虛擬資產服務法所定之虛擬資產及穩定幣，不課徵營業稅

稅務法令新訊

要旨：

財政部於 115 年 9 月 3 日發布最新解釋令，明確規定營業人銷售《虛擬資產服務法》第 3 條第 1 款及第 6 款所定之虛擬資產及穩定幣，非屬營業稅課稅範圍，免徵營業稅。此項規定正式釐清我國虛擬資產交易之營業稅處理原則，並與多數採行加值型營業稅制度之國際慣例接軌。

解析：

按《加值型及非加值型營業稅法》課稅原理，支付工具、外幣、儲值工具、儲蓄或保值性等投資工具，其本身不具消費性質，於移轉交易中不屬營業稅課稅範圍。財政部認為，《虛擬資產服務法》第 3 條第 1 款所定「虛擬資產」(例如比特幣 Bitcoin、乙太幣 Ethereum 等)，以及第 6 款所定「穩定幣」(Stablecoin，例如 USDT、USDC 等)，主要係作為支付工具、價值儲存工具及投資工具，故其交易或移轉行為，非屬營業稅課稅範圍。

惟上述不具消費性質之虛擬資產移轉過程中，由虛擬資產服務商所收取之服務費，例如：撮合交易手續費、交易平台服務費、代為交換虛擬資產服務費、管理費等，則屬提供服務所獲取之報酬，視為銷售勞務所得，依法仍應課徵營業稅。

須注意的是，目前在網路上蔚為風潮的 NFT (Non-Fungible Token，非同質化代幣) 交易，並非前開《虛擬資產服務法》中所定義之「虛擬資產」。因 NFT 多表彰特定藝術品、收藏品、數位內容、不動產權利、特定商品或權利等，實際上具備特定性及不可替代性，因此銷售 NFT 及使用 NFT 交換貨物或勞務之行為，仍應視為銷售貨物或勞務而予以課徵營業稅。

透過發布本號解釋令，財政部首次明確區分「虛擬資產本身之交易」與「虛擬資產相關服務」之差異，和各別對應之營業稅處理方式。營業人如欲銷售虛擬資產，應審慎檢視其收入性質及帳務分類，避免錯誤適用免稅規定而產生相關稅務風險。此外，針對過往 NFT 交易或虛擬資產服務費收入，若有短漏報營業稅情形，亦應盡快主動補報補繳，以適用稅捐稽徵法免予處罰之規定。

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