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## **Taxing Bitcoin Transactions Under Polish Tax Law**

### **Abstract**

*Recent years have witnessed the emergence of digital currencies - digital representations of value which are transferred using IT technologies and used as a medium of exchange but are not recognised as official means of payment. Bitcoins are one of such currencies and their popularity in Europe and in Poland has been growing. Hence it is a good time to consider to what extent Polish law is prepared to face the phenomenon and what potential problems may arise from it for the judicial system. The main objective of the paper is to analyse Polish tax regulations in the context of bitcoin transactions, as broadly understood.*

**Keywords:** *bitcoin; tax; transactions; polish tax law; virtual currency; digital currency; PIT; CIT; VAT; PCC*

### **1. Introduction**

In the era of progressing digitalisation and globalisation a multitude of processes have changed traditional market mechanisms, including the 'money' used as a means of payment. Although cashless transactions have become common nowadays, digital currencies and Bitcoin (hereinafter BTC, or cryptocurrency), as

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their most famous representative, are considered a specific *novum*. That a completely intangible currency, which exists only on the Internet and does not represent the currency of any particular country, would be accepted across the world as a means of payment would have been unthinkable until very recently.

Bitcoin, Litecoin, Dogecoin are examples of digital currencies which, in accordance with the definition of the European Central Bank (hereinafter ECB) (European Central Bank 2012), operate in virtual space and are used to buy goods and services. BTC is becoming more and more popular as it can be exchanged into traditional currency without any supervision by public authorities and is independent of inflation.

As K. Zacharzewski rightly notes, the inclusion of digital currencies into the dictionary of typical law terms is of paramount importance. Considering the characteristics and practical relevance of bitcoin we can certainly declare that the phenomenon will soon pose huge problems for law enforcement institutions. This paper is an introduction to the considerations concerning the position of digital currencies - with BTC used as an example - in the reality of public law and, more precisely, tax law (Zacharzewski 2014, p. 1132)

Taxes and the laws that regulate them have important impacts on economic processes at both the macro- and micro-economic levels. Statutory laws and regulations may not act to destroy the sources of taxable income, in particular those relatively new ones such as revenue from transactions in digital currency, used in the broad sense. That precludes a state from effectively implementing its public tasks and leads to taxpayers' non-compliance with their tax obligations. In order to determine the practices applied by tax authorities vis-à-vis taxpayers receiving income from trading in digital currency, we need to analyse the present legal situation.

## 2. Taxing bitcoins

We may surely conclude that transactions in bitcoins are taxable in Poland. Although Polish tax laws lack explicit wording to that effect, the interpretations of tax law and the letter by the Minister of Finance of 4 April 2013<sup>1</sup> are indicative of it. The letter starts with an important thesis, which confirms what could be otherwise doubtful; that transactions in bitcoins are legal: (...) *the presence and transactions in virtual currencies in the territory of*

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<sup>1</sup> Statement by the Minister of Finance of 28 June 2013 FN/FN-7/602/WOS/4-3/2013/RD-64616/2013, <http://senat.gov.pl>

*the Republic of Poland infringe neither Polish nor European law.* The legality of such transactions is important, as it means they are in principle taxable, as the provisions of selected tax laws, such as Art. 2 para. 1 p. 4 of the Personal Income Tax Act (hereinafter: PIT Act)<sup>2</sup>, Art. 2 para. 1 p. 3 of the Corporate Income Tax Act (hereinafter: CIT Act)<sup>3</sup>, and Art. 6 p. 2 of the Goods and Services Tax Act (hereinafter: GST Act)<sup>4</sup> stipulate only that actions which may not be subject to legally binding contracts are not taxable. Tax interpretations share the view of the Minister of Finance and clearly indicate that: (...) *Revenue from the sales of Bitcoin currency purchased by the Applicant shall constitute revenue from property rights (...) Acquired income shall be taxed on general terms (...)*<sup>5</sup> and (...) *the transfer of electronic Bitcoin money acquired through a website creates a tax obligation for such a transaction taxable in accordance with the goods and services tax.*<sup>6</sup>

As we can see, transactions in virtual currencies are interpreted broadly. However we may distinguish three facts connected with them which potentially lead to tax obligations: mining, exchange, and purchase of goods or services. Each of them requires a separate discussion with respect to their substance and the tax obligations that it may imply.

### 3. Mining bitcoins

Logically we should start the legal analysis of the above presented issues with mining, which is one of the ways of acquiring the currency. The word *mining* as used here is an analogy to gold mining. However, the term means making the computing power of the user's computer available to the network, i.e. *a sort of dispersed equivalent of the central bank* (Roslan, Stolarski 2014, p.271) The amount of digital coins acquired by a single user depends on the computing power he/she contributes into the network in relation to the denominator (total computing power of the network). Having successfully

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<sup>2</sup> Act of 26 July 1991 on Personal Income Tax (Dz.U.2012.361 consolidated tax with amendments).

<sup>3</sup> Act of 15 February 1992 on Corporate Income Tax (Dz.U.2014.851 consolidated tax with amendments).

<sup>4</sup> Act of 11 March 2004 on the Goods and Services Tax (Dz.U.2011.177.1054 consolidated tax with amendments).

<sup>5</sup> Interpretation of the Director of Tax Chamber in Warsaw of 25 February 2014, No. IPPB2/415-842/13-2/MK.

<sup>6</sup> Interpretation of the Director of Tax Chamber in Poznan of 8 January 2014, No. ILPP1/443-912/13-2/AW.

completed this cryptographic part of the process, a receiving party obtains a certain digital value referred to as the BTC nonce. This fact raises questions concerning the emergence of tax obligations. In this case a tax obligation in this case does not emerge in the area of income taxes, and even less in the realm of the tax on goods and services or the tax on legal acts. Pursuant to Art. 11 para. 1 of the PIT Act and Art. 12 para. 1 pts. 1-2 of the CIT Act revenue means, *inter alia*, money, financial resources and the value of benefits received or left at the disposal of a taxpayer. According to the Polish Language Dictionary<sup>7</sup>, the word *receive* means we have been given something or that something is due to us. Mining digital currency consists in actions leading to the production of currency using the computing power of the computer. Thus, it may not be concluded that one receives BTC.<sup>8</sup> Moreover, the mechanism of mining bitcoins does not belong to any of the catalogues of taxable actions listed in Art. 5 of the GST Act or Art. 1 of the Tax on Legal Acts Act (hereinafter: TLA Act)<sup>9</sup>.

#### 4. Exchanging bitcoins

The second fact, more prominent than mining under the tax law, is the exchange of bitcoins. Exchange is the second way of acquiring the digital currency. One must bear in mind that BTC are not a currency, money or means of payment, not even goods in the meaning of foreign currency or banking law (Kowalski 2014, pp. 9-12). Thus the exchange may not be compared by analogy to, for example, the exchange of euro into Polish zloty or US dollars into pounds sterling. Under the civil law it is a sales transaction of bitcoins (an intangible good) paid with money in Polish or foreign currency. Such sales can be concluded mainly via Internet exchanges, e.g., <http://bitmarket.pl>, <http://bitbay.net>.

From the point of view of personal income tax law such an exchange of bitcoins generates revenue pursuant to Art. 9 of PIT Act. The party obliged to pay the tax is in this case the seller of the cryptocurrency, who receives money taxable as income. The practice of tax authorities clearly classifies the above action as a paid disposal of property rights in the meaning of Art. 10 para. 1 pt 7 of PIT Act

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<sup>7</sup> The term: "receive" (in:) Polish Language Dictionary SJP, <http://sjp.pl/otrzyma%E6>.

<sup>8</sup> The same interpretation of the word in the context of the PIT Act can be found in: Bartosiewicz A., Kubacki R., *PIT. Komentarz*, LEX, Warsaw 2014.

<sup>9</sup> Act of 9 September 2000 on the Tax on Legal Acts (Dz.U.2015.143 consolidated tax with amendments).

and Art. 18 of PIT Act<sup>10</sup> linked with it. Under civil law, property rights are closely linked with the economic interests of the entitled individual. Art. 18 of the PIT Act lists revenues by types which are considered revenue from property rights. These include, *inter alia*, revenue from: copyright, related rights, trade marks and paid disposal of the above rights. Nevertheless we must remember that the wording used here unambiguously indicates that the above catalogue is not exhaustive. By the same token, the doctrine points to other sources of revenue not explicitly enumerated by the law, but which may generate revenue from property rights: paid disposal of an object or right, remuneration for services, remuneration for the sales of goods, or a dividend. Digital currencies meet the conditions of the above classification and revenue from their sales constitutes revenue from property rights (Bartosiewicz, Kubacki 2014).

Revenue from the exchange of bitcoins into other currencies, treated as revenue from the disposal of property rights, shall cumulate with the other revenue of a taxpayer received in a fiscal year. It is taxed at an 18 % tax rate calculated on an income of PLN 85,528, and at a 32% tax rate for incomes exceeding the above amount. The taxpayer's income is calculated on general principles, as the PIT Act does not include any specific provisions concerning the costs involved in receiving income from property rights. Art. 22 para. 1 of the PIT Act stipulates that the cost involved in receiving income includes costs incurred to receive revenue and to retain or secure revenue sources, with the exception of costs exempted by virtue of Art. 23 of the PIT Act. Hence, in order to calculate the income from the exchange of bitcoins, we must determine taxable base by deducting from the revenue the costs incurred to receive it, insofar as they are rational, economically justified and properly documented. The present position of tax authorities<sup>11</sup> when it comes to documenting costs involved in purchasing bitcoins in Internet exchanges from anonymous sellers is liberal, as a bank transfer confirmation suffices to document the transaction.

Exchanging bitcoins into a currency also generates revenue under the corporate income tax regime. The CIT Act does not distinguish between the sources of revenue, thus pursuant to Art. 7 of the CIT Act in principle any income received by a taxpayer is taxed. With respect to the tax rate, the general provisions of Art. 19 of the CIT Act apply, which have established the rate as 19% of the income.

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<sup>10</sup> Interpretation of the Director of the Tax Chamber in Poznan of 2 October 2014, No. ILPB2/415-741/14-2/TR, Interpretation of the Director of the Tax Chamber in Warsaw of 26 June 2014, No. IPPB1/415-276/14-4/EC, Interpretation of the Director of the Tax Chamber in Warsaw of 25 February 2014, No. IPPB2/415-842/13-2/MK.

<sup>11</sup> Interpretation of the Director of Tax Chamber in Warsaw of 26 June 2014, No. IPPB1/415-276/14-4/EC.

To finalise the analysis of Polish regulations concerning income tax in the context of exchanging bitcoins into other currencies, we should also take into account the situation when one of the parties is based outside of Poland. Under such circumstances, the applicable legal act is a concrete double taxation treaty concluded between the two states in which the parties to the BTC transaction are either based or domiciled. The majority of treaties signed by Poland include a provision stating that income, independently of where it has been achieved, shall be taxed only in the country where the taxpayer is either domiciled or based. For instance, dollars transferred by an entity based in the U.S. to a Polish resident for bitcoins shall be taxed only in Poland pursuant to the act on appropriate income tax. This regulation has its roots in Art. 21 of the OECD Model tax convention on income and on capital, which has become the paragon for agreements between countries. Art. 21, entitled "Other Income", applies to situations when two conditions are met concurrently: income has been received by a resident of one of the state parties to the treaty, and the income is not covered by the provisions of any other article of the Convention (Ciszewski, Napierała 2010, p.1098). The fact that income from the sales of bitcoins is covered by Art. 21 of the Convention and international treaties based on it is also confirmed in the position of tax authorities.<sup>12</sup>

Exchanging bitcoins into another currency also involves consequences in the area of the tax on goods and services, when at least one of the parties is an entrepreneur. Pursuant to Art. 5 of the GST Act the tax is payable on: supplying goods for remuneration, rendering services for remuneration, exports and imports of goods as well as intra-Community supply or acquisition of goods. According to the above classification a bitcoin shall be considered a service. Firstly, a cryptocurrency is not a merchandise within the meaning of the Goods and Services Tax Act, since it does not comply with the definition of a merchandise laid down in Art. 2 pt. 6 of the GST Act, which interprets goods as objects, parts of objects and energy. Bitcoins may not be assigned to any of the above categories as they are immaterial, which differs them from objects in the meaning of the civil law. Secondly, the definition of services outlined in Art. 8 of the GST Act states that rendering a service means any service for a private individual, legal entity or a unit without any legal form different than the supplies of goods, including, *inter alia*, the transfer of rights to intangibles. The above understanding of cryptocurrencies is recognised by tax authorities in

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<sup>12</sup> Interpretation of the Director of the Tax Chamber in Warsaw of 26 June 2014, No. IPPB1/415-276/14-4/EC.

several interpretations.<sup>13</sup> In the case of bitcoins sales the purchaser, he becomes a VAT taxpayer who pays a net price with an added tax of 23%.

The above legal concept raises no doubts since Internet transactions in immaterial goods (e.g. the purchase of subscriber rights to individual accounts at various Internet platforms) are effected in large numbers. What worries taxpayers is the absence of a total VAT exemption for BTS exchange transactions, an exemption which would be due to their specific affinity to currencies and means of payment which enjoy an entitlement to the exemption. Pursuant to Art. 43 para. 1 pt 7 of the GST Act, transactions, including intermediary transactions, in currencies, banknotes, and coins used as a lawful means of payment are exempted from VAT. In addition, Art. 43 para. 1 pt 40 of the same Act exempts services consisting of depositing the means of payment keeping accounts, all forms of payment transactions, money transfers, debts, cheques, bonds and intermediary services in rendering the above.

Requests for an individual interpretation list various arguments in favour of VAT exemption for bitcoin transactions, due to the fact that digital currencies are very close in their status to fully-fledged means of payment. In the Interpretation of the Director of the Tax Chamber in Lodz of 7 April 2014, No. IPTPP2/443-52/14-6/IR the applicant argued that Bitcoins should be considered a means of payment. He invoked the position of the Minister of Finance, who concluded in his statement that digital currencies are legal in Poland and used as a contractual means of payment. It was argued that in consequence of the above reasoning, transactions in cryptocurrency are not subject to the VAT tax as Art. 43 para. 1 pt 7 of the GST Act does not exclude contractual means of payment. In the Interpretation of the Director of Tax Chamber in Katowice of 14 November 2013, No. IBPP2/443-762/13/Icz the applicant compared bitcoins to vouchers and money bills as they play an identical role and exempt digital currency from tax obligations the same as with vouchers pursuant to Art. 43 para. 1 pt 40 of the GST Act. The respective tax authorities unanimously rejected the arguments put forward by the taxpayers and held that bitcoins are not exempted from VAT, based on an exact interpretation of the two above-mentioned provisions. They justified their position mainly by the absence of any regulation of digital currencies in Polish regulations. They held that while BTC plays the role of a means of payment or a currency, it is neither of the two as there are no provisions to that effect in, *inter alia*, the Act on the National Bank of Poland<sup>14</sup>, Act on payment services<sup>15</sup>, and the Foreign Currency Law Act.<sup>16</sup>

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<sup>13</sup> Interpretation of the Director of the Tax Chamber in Poznan of 21 October 2014, No. ILPP1/443-626/14-2/HW, Interpretation of the Director of the Tax Chamber in Lodz of 7 April 2014, No. IPTPP2/443-52/14-6/IR.

<sup>14</sup> Act of 29 August 1997 on the National Bank of Poland (Dz. U.2013.908. with further amendments).

Exchanging BTC into a currency implies obligations under the Act on tax on legal actions. Under civil law the above transaction is interpreted as a sales contract which, when concluded, implies tax obligations pursuant to Art. 1 para. 1 pt 1 of the TAL Act. The content of the quoted provision stipulates that a sales contract or a contract on exchanging goods and property rights are subject to the tax on legal acts. The tax is paid by the purchaser of bitcoins, who pays a contractual price to the seller and becomes the owner of the currency. Pursuant to Art. 6 para. 1 pt 1 of the TAL Act the taxable base shall be the market value of the property right (BTC Internet rate) and the tax rate is 1% by virtue of Art. 7 para. 1 pt 1 b) of the TAL Act. We should bear in mind, however, that in principle the purchaser of cryptocurrency will be tax exempted if he himself or the other party are VAT registered or exempted from it. The above principles of taxing bitcoins with the tax on legal acts have so far been confirmed by one interpretation.<sup>17</sup>

## 5. Purchasing goods and services for bitcoins

The third taxable event connected with bitcoins is the purchasing of goods and services. In practical terms, selected sellers offer the possibility to buy a concrete product or service and pay directly in BTC. This is a unique situation, not as widely available in Poland as abroad. But the Internet is a different case, where such trade is much more common. This digital currency may be used to buy plane tickets from *Air Lithuanica*, bid at *Ebay* auctions, spend a night at *Villa Sart* in Gdansk, have a hamburger at the *Bobby Burger* restaurant in Warsaw, or even go to the dentist at *Dentysta.eu* of Maciej Krufczyk in Gliwice. From the legal point of view, such a transaction between the parties will not be treated as a sale in the meaning of civil law, but as a barter or swap contract. The purchase of goods and services for BTC will not be classified as a sales contract as it does not involve the obligation to pay a price, which is its *essentialia negotii*. In accordance with a decision of the Supreme Court,<sup>18</sup> barter is a cashless transaction which leads to the exchange of goods of exactly the same value and is a compensation trade.

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<sup>15</sup> Act of 19 August 2011 on payment services (Dz.U.2011.199.1175 with further amendments).

<sup>16</sup> Act of 27 July 2002 Foreign Currency Law (Dz.U.2002.141.1176 with further amendments).

<sup>17</sup> Interpretation of the Director of the Tax Chamber in Warsaw of 28 March 2014, No. IPPB2/436-104/14-2/MZ.

<sup>18</sup> Decision of the Supreme Court – Civil Chamber of 26 August 2004, ref. No. I CK 210/04.

What differs such a contract from a swap contract is the equivalence of the provisions. When the considerations of both parties differ in value, the purchase of goods and services for cryptocurrency will be considered a swap contract.

Pursuant to both income tax acts only the income calculated from the revenue obtained from consideration expressed in money terms taxable, and the same is true of the value of other considerations in kind (e.g. products or rights). In accordance with the position of the tax authority,<sup>19</sup> in barter contracts income received is taxable, i.e., the difference between the revenue and the revenue-related costs (costs of the purchase of goods reduced by sales-related costs). Calculated revenue is the value of mutual considerations specified in the contract. Revenue-related costs are costs incurred to purchase or manufacture goods or services which will be supplied to the other party. The above may lead us to conclude that when the parties exchange goods representing equivalent market values, none of them should pay income tax on the values exchanged in kind because the difference between the revenue and outlays on the acquisition of goods will be zero.<sup>20</sup>

The purchase of goods or services for BTC will also be taxed by the tax on goods and services pursuant to Art. 5 para. 1 pt 1 of the GST Act, meaning it will be treated as rendering services or supplying goods in return for payment. Of course, it must be kept in mind that bitcoins are not goods, so the supply of goods that you pay for will take place only when the client will exchange digital currency for such goods. The term *payment*, which features in the quoted provision, does not have to be linked to the fact that one party to the contract is obliged to pay the other party, as it may render a service or supply goods. The Provincial Court of Appeal in Lodz, in its decision of 14 March 2007,<sup>21</sup> ruled that the term means the meeting of the obligations of mutual consideration, directly linked with the rendering of services and a legal relation resulting there from, whereby one of the parties renders a service and the other pays a specified amount.

The specific tax consequences of the above presented fact depend on the legal status of the parties. When both parties are VAT-registered taxpayers they issue invoices to each other and the taxable base, in accordance with Art. 29 para. 1 of the GST Act, includes all that has been received by the service provider or the supplier of goods. Although the consideration of one party is not expressed in money, the obligation to pay taxes to the Tax Office rests with both

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<sup>19</sup> Explanation by the Director of Tax Office in Sopot of 20 June 2006, No. PDOP/423-7/06.

<sup>20</sup> *Barter to bezgotówkowa wymiana towarów i usług*, BDO Podatki i Rachunkowość 6 (80) 2014, <http://www.biuletyn.bdo.pl/biuletyn/podatki-i-rachunkowosc/bdo-podatki-i-rachunkowosc/Podatki-na-co-dzien/barter-to-bezgotowkowa-wymiana-towarow-lub-uslug7423.html>

<sup>21</sup> Decision of the Voivodeship Court of Appeal in Lodz of 14 March 2007, ref. No. I SA/Łd 721/06

of them. In their tax returns, both will have to pay back the difference between output and input VAT. In this particular transaction, where the value of mutual considerations is equal, the amounts offset each other. Thus a barter contract consisting of an exchange of bitcoins for goods is profitable to both parties who are VAT-registered taxpayers.<sup>22</sup>

Pursuant to current tax regulations, the situation becomes complicated when one of the parties is a VAT-registered taxpayer and the other is a consumer. To begin with, such transactions are legal but produce very little profit for entrepreneurs, as they must pay the tax which, in accordance with the VAT idea, should burden the consumer. As an example we may refer to the situation where a business offers the possibility to buy goods for bitcoins. The consumer pays bitcoins and receives a certain number of goods offered by the selling party. The seller of digital currency is obliged to pay the tax due on the sales of goods, which *de facto* he has not received because the payment was not effected in money but in certain number of goods. As a result of the above, a taxpayer should either suffer a loss and pay the sum due from his own resources, or exchange bitcoins which, in turn, would lead to another tax on goods and services and an appropriate income tax. In sum, due to the lack of liberal legal regulations such barter contracts concluded with consumers are highly unprofitable to businesses offering goods and services for BTC.

Purchasing goods and services under barter contracts whereby cryptocurrency is offered as one consideration is not subject to the tax on legal acts. Art. 1 para. 1 of the LAT Act includes a closed catalogue of all actions which lead to tax obligations. The above provision does not explicitly enumerate a barter contract. The doctrine (Ofiarski 2009) presents the opinion that acts which are not directly included in the provision are not subject to tax law.<sup>23</sup>

## 6. Legal definition of bitcoin in other EU Member States

The phenomenon of digital currencies has also had a great impact on other countries. Some European Union countries have been dealing with this new type of currency for much longer than Poland. Nevertheless, their tax law is also not precisely regulated.

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<sup>22</sup> We need to stress that when we are dealing with a swap contract - where considerations are not equivalent - the parties will have to supplement tax obligations to the appropriate amount.

<sup>23</sup> The facts pertaining to a swap contract will be treated in a completely different manner. The transaction will be subject to tax obligation because swap is included in the text of the provision in question.

This is confirmed by the EBC study conducted in order to identify the regulations in the area of digital currencies in 28 EU Member States. It showed that only four of them have attempted to define these currencies one way or another. The rest of countries (24) have not defined them yet. Moreover, 13 Member States<sup>24</sup> have not taken any position on bitcoin, while the rest of them (11) have specified only what bitcoin is not. Belgium, Croatia, Finland, Italy, Luxembourg, Malta and Poland<sup>25</sup> claim that this type of currency is neither a legal tender nor electronic money. The Czech Republic claims that bitcoins are not banknotes, coins, scripted or electronic money. Denmark states that bitcoin does not have any real trading value compared to gold and silver, so it is more similar to glass beads. Spain claims that they cannot be considered as a legal currency, since they are not issued by the government's monetary authority. Finally, Slovenia states that bitcoins are neither currency nor a payment instrument and even that they could fall within the scope of the Prevention of Money Laundering and Terrorist Financing Act.

The countries which have defined digital currencies in their legal order are: Germany, Estonia, Sweden, and the United Kingdom. In Germany, the Minister of Finance has recognised bitcoin as an accounting unit (not as legal tender) and financial instrument. It can be used for private transactions and only when a company possesses permission from the Federal Financial Supervision Authority. Estonia (Central Bank of Estonia and Ministry of Finance) is the most enigmatic as it claims digital currencies are an alternative payment method, not a currency. Selling or buying bitcoins is not illegal and doing it as a professional entrepreneur is considered to be the provision of services of alternative means of payment. In Sweden, the Tax Agency claims that bitcoins are not currencies because they are not tied to the central bank or a geographic area. On the other hand, bitcoin should be classified as a 'another asset', like art or antiques. Moreover in Sweden every owner of digital currency has to be registered with the Financial Supervisor (*Finansinspektionen*). The Bank of England is very theoretical on the issue of bitcoins. It claims that digital currency could act as money (special money for those who have an internet device).

To sum up, it becomes clear that at the European level in general, the issue of the legal definition of BTC has been solved in a way not very dissimilar from the Polish regulations. From the legal point of view, digital currencies are not a type of money or a currency in the legal perspective. Nevertheless, some governmental authorities allow for using bitcoin as substitutes of banknotes and

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<sup>24</sup> Bulgaria, Ireland, Greece, France, Cyprus, Latvia, Lithuania, Hungary, Netherlands, Austria, Portugal, Romania, Slovakia.

<sup>25</sup> Statement of the Minister of Finance of 28 June 2013 FN/FN-7/602/WOS/4-3/2013/RD-64616/2013, <http://senat.gov.pl>.

coins, but the mere fact of their use is not broadly regulated. (European Central Bank 2014, pp.34-37).

## 7. Conclusions

The tax implications of trade in digital currencies, as broadly understood, are determined by their legal and economic nature. When thoroughly analysed, the provisions of individual acts lead us to conclude that in Poland, ownership of bitcoins, trading in them, and receiving revenue from them are not sufficiently regulated (Prokurat 2014, p. 32). The situation poses many interpretation problems resulting from, for instance, the lack of a basic definition in any legal act. One must be aware that to a large extent this is an effect of the early developmental stage of digital currencies in the Polish market, and even in foreign markets.

In conclusion, taxpayers who benefit from bitcoins may be exposed to an intensified tax risk. The absence of sufficient regulations and practice in the area leads one to undertake actions leading to tax obligations with special caution. To protect the capital interests of the taxpayers we need to aim at obtaining more individual tax interpretations.

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### Streszczenie

#### **OPODATKOWANIE OBROTU BITCOINAMI NA GRUNCIE PRZEPISÓW POLSKIEGO PRAWA PODATKOWEGO**

*W ciągu ostatnich lat można zaobserwować zjawisko cyfrowych walut – cyfrowych reprezentacji jakiejś wartości, które przekazywane są za pośrednictwem technologii informatycznej i są stosowane jako środek wymiany, ale nie mają statusu oficjalnego środka płatniczego. Jednym z rodzajów takich walut są bitcoiny, które stają się coraz popularniejsze w Europie i także w Polsce. Dlatego warto zastanowić się czy polskie prawo jest przygotowane na to zjawisko i zastanowić się jakie ewentualne problemy mogą nastąpić w praktyce wymiaru sprawiedliwości. Głównym celem niniejszej publikacji jest analiza przepisów polskich ustaw podatkowych w kontekście szeroko rozumianego obrotu bitcoinami.*

**Słowa kluczowe:** bitcoin; podatki; obrót; polskie prawo podatkowe; wirtualne waluty; cyfrowe waluty; PIT; CIT; VAT; PCC