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Why Are Portuguese Increasingly Excited About Cryptocurrency Trading: Expert Blog

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Portugal's Central Bank Director Hélder Rosalino said that he didn't consider cryptocurrency a currency or legal tender and hinted that the Central Bank of Portugal has a similar position.

His views are in line with many countries around the world, including the US where "a cryptocurrency does not have legal tender status in any jurisdiction."

The Finance Minister of Portugal Mario Centano, who is also the president of the Eurogroup, said last December that he is looking to European regulatory guidance concerning cryptocurrencies since they are "overseeing the general picture." The Eurogroup is a group of nineteen finance ministers of EU countries, who meet once a month to talk about major economic and monetary policies that are implemented across the EU. Finance ministers from France, Germany and the UK have proposed that cryptocurrency regulation should be coordinated at a global level with discussions taking center stage at the next upcoming G20 meeting in Buenos Aires, Argentina.

The Ripple effect on banking transactions

As the Portuguese banking and finance regulators hint at and seek a coordinated regulatory solution for cryptocurrencies– their extreme price volatility with tsunami-like price fluctuations have Portuguese banks spooked, to no end.

When in December 2017 Bitcoin's price first surged 100 percent to $20,000 and then nose-dove 50 percent in value, bringing down the prices of all other cryptocurrencies in its wake, Banco Santander-Portugal, the fourth largest Portuguese bank, shuttered their customer's cryptocurrency trading activity.

As a backlash, more than 1,000 its customers signed a petition stating that the bank was deviating from the financial innovation trend and was ignoring the unhinged technological shift towards Blockchain technology all over the world. Some customers even went to file complaints with the DECO, country's consumer protection organization.

Caving to customer pressure after admitting that the Santander Group began using Blockchain technology in the fourth quarter of 2017 to reduce costs and make cross-border payment transactions more efficient, Banco Santander-Portugal changed its policy about shutting down its customer's cross-border cryptocurrency trades at foreign cryptocurrency exchanges like Luxembourg-based Bitstamp and US-based Coinbase.

"We are committed to creating a leading international Blockchain payment ecosystem that presents significant opportunity for cross-border payments globally," explained José Luis Calderón, the global head of Santander Global Transaction Banking. Banco Santander-UK began working with American Express and the Ripple network, to allow American Express' US business customers to make instant, traceable cross-border non-card payments using the Blockchain network – RippleNet – to Banco Santander-UK.

"We're taking a huge step forward with American Express and Santander to solve the problems customers experience with slow cross-border global payments," Brad Garlinghouse, CEO of Ripple revealed. RippleNet provides optional access to Ripple (XRP), which as of Jan. 28, 2018, is the third largest by market capitalization cryptocurrency, after Bitcoin and Ethereum.

Released in 2012, Ripple purports to enable "secure, instantly and nearly free global financial transactions of any size with no chargebacks." It supports tokens representing fiat currency, cryptocurrency, commodity or any other unit of value such as frequent flier miles or mobile minutes.

Currently, Ripple requires two parties for a transaction to occur: a regulated financial institution "holds funds and issues balances on behalf of customers" while "market makers" such as hedge funds or currency trading desks provide liquidity in the currency they want to trade in. In addition to Banco Santander, over 100 banks and payment networks have adopted RippleNet as a settlement infrastructure technology.

No personal income taxation of cryptocurrency gains

As Banco Santander-Portugal began restating its customers' ability to trade cross-border on foreign cryptocurrency exchanges, more good news arrived.

Personal income taxation does not apply to cryptocurrency gains in Portugal. "A recent binding ruling from the Portuguese tax administration says that gains from the sale of cryptocurrency are not taxed in Portugal unless the individual taxpayer carries on a business or professional activity and earns said income in that context (profit). The tax administration acknowledges that this sale is not taxable as personal income, particularly as capital income or capital gains. Thus, unless the individual taxpayer carries on an active trade or business concerning cryptocurrencies, income from the sale or purchase of cryptocurrency is not subject to tax in the context of the Personal Income Tax (PIT) code, Rogerio Fernandes Ferreira, the lead tax partner at international law firm Rogerio Fernandes Ferreira & Associados pointed out.

Taxation may only take place when its regularity constitutes a business or professional activity for the taxpayer.

"Portugal does not charge a "cross-border tax" in addition to or as an alternative to the personal income tax," Ferreira added

However, since Portuguese individual taxpayers may undertake cross-border cryptocurrency transactions on a foreign crypto exchange – they may be subject to cross-border taxes imposed by a foreign country that may be minimized or eliminated under an income tax treaty.

Recently the EU Commission has prepared draft tax legislation on the digital economy, which calls for formulating an appropriate proposal, with cooperation with the Organization for Economic Co-operation and Development (OECD) and other international partners. While the Portuguese consumer protection association DECO has appealed to the Ministry of Finance, and the European commissioner in charge of consumer defense, proposing that individual cryptocurrency gains in Portugal should be taxed in the same manner as stocks.

DECO's tax proposal has similarities to the method in which the US Internal Revenue Service (IRS) taxes cryptocurrency gains. The IRS characterizes cryptocurrencies as property. This means that every time a cryptocurrency is transferred, it might trigger a gain, subject to US taxation. A cryptocurrency held as a capital asset by a taxpayer would be taxed as capital gains. A cryptocurrency held as inventory or for resale by a taxpayer would be taxed as ordinary income. If it is used as a means of payment, it would be treated like a currency, converted to fiat at its fair market value as disclosed on a cryptocurrency exchange and taxed as ordinary income.

Since cryptocurrencies are used in cross-border transactions, US sourced cryptocurrency gains of non-resident taxpayers would be subjected to a withholding tax that could be reduced or eliminated under an income tax treaty. For these purposes, the cryptocurrency-related income traded over the Internet would be determined under the international communications source rules.

In summary, it can to be said that Portuguese individual taxpayers who are increasingly excited about trading cryptocurrencies cross-border on foreign cryptocurrency exchanges are urged to take into consideration the tax laws in all the jurisdictions they trade in and store their cryptocurrencies in secure foreign wallets to avoid hacking risks.

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