

Cryptocurrencies

SARS has issued a media release stating that they do not view a cryptocurrency as a currency for tax purposes, because it is "neither official South African tender nor widely used and accepted in South Africa as a medium of payment or exchange". Of course this is no reason not to consider it a currency. Any foreign currency is not legal tender nor widely used in South Africa, but it is still currency. Under the FAQs SARS states: "Cryptocurrency is not considered to be legal tender; however your question relating to the current legal status of cryptocurrency would best be answered by the SA Reserve Bank". The Reserve Bank position paper states: "A virtual currency (VC) is a digital representation of value that can be digitally traded and functions as a medium of exchange, a unit of account and/or a store of value, but does not have legal tender status". This makes it clear that a virtual currency is a currency. It is submitted that SARS's view is wrong, but I am open to being convinced otherwise. SARS needs to put forward valid reasons for its view. It certainly must not charge penalties if a taxpayer takes a different view. SARS is entitled to take a view of what a currency is, but this view is merely an interpretation of the law, and not the law itself.

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