

GOVERNANCE BY NATIONAL ECONOMY

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PROBLEMS OF FINANCIAL MONITORING AND TAXATION OF THE ACTIVITY OF CRYPTOCURRENCY EXCHANGES IN UKRAINE

The article considers urgent issues of financial monitoring and taxation in the field of crypto business. It is stated that cryptocurrency exchanges are powerful players in the global crypto markets, and one of their main activities is cryptocurrency trading on special online services. Today the activities of crypto companies are not legalized in most countries. This creates potential risks both for the financial system of the state and each citizen, on the one hand, and for the activities of crypto companies, on the other hand. Due to the lack of legal mechanisms for taxing cryptocurrency exchanges, the state loses the opportunity to replenish its budget.

Since the activities of crypto companies (crypto exchanges) are outside the scope of legal regulation, there is no definition of the concept of crypto exchange as a legal entity in normative and legal acts. In addition, the legal status of cryptocurrency as a widely used virtual asset in Ukraine remains unclear.

The main prospects for the introduction of legal regulation of the activity of crypto exchanges are considered. Analysis of the Law of Ukraine "On Virtual Assets" that is aimed at regulating legal relations arising due to the circulation of virtual assets in Ukraine, the provisions of the legislation on financial monitoring of virtual assets, as well as the draft law on taxation of virtual assets is carried out. The mechanisms of cryptocurrency transactions on special online services provided by crypto companies and possible ways of legalization of such transactions are considered.

Conclusions were made concerning the need to improve the legislation in order to ensure effectiveness of the legal regulation of virtual assets, eliminate future legislative gaps, develop common terminology in the field of legal regulation of virtual assets and adjust it in accordance with Ukraine's international obligations.

Keywords: cryptocurrency exchange, virtual asset, cryptocurrency, online service, financial monitoring, taxation.

Formulation of the problem. The problem of financial monitoring of cryptocurrency exchanges and taxation of income from cryptocurrency transactions is one of the most urgent problems in the financial law science. It should be noted that each state has its own approaches to cryptocurrency legalization, in particular, as well as the activities of cryptocurrency exchanges. Due to the fact that neither domestic legislators nor international financial institutions and central banks have developed harmonized approaches to the issues related to the operation of cryptocurrency exchanges, the problem of legal regulation of cryptocurrency exchanges remains relevant. In the legislation of most countries of the world the activity of cryptocurrency exchanges is neither legalized nor forbidden. Ukraine has adopted the Law "On Virtual Assets", which aims to regulate the market for virtual assets. In addition, cryptocurrency transactions are subject to financial monitoring. However, the legal status of cryptocurrency exchanges remains uncertain. At present, they are not subject to tax relations, since necessary amendments to the tax legislation have not been made. All the above-mentioned determine the relevance of the research topic.

Analysis of recent research and publications. Problems of the legal regulation of the cryptocurrency market in Ukraine have been studied by S.V. Volosovych, D.M. Hladkykh, M.V. Hrebenuk, M.I. Dyba, V.D. Ivaniuk, V.V. Zymovets, A.S. Karnausenko, V.M. Kostiuhenko, A.T. Kovalchuk, O.O. Loviak, N.V. Moskalenko, A.M. Novytskyi, S.S. Pylypyshyn, B.B. Pospolitak, T.S. Smovzhenko, V.H. Soslovskyi,

N.S. Tanklevska, H.H. Chmeruk and others. However, as the cryptocurrency market in Ukraine is developing rapidly, introduction of its legal regulation requires further research.

Presentation of the main material. According to the Ministry of Digital Transformation of Ukraine, in 2020 Ukrainians earned profits of about \$ 400 million from investments in bitcoin, making our country rank 10th in the list of crypto-leaders¹. Crypto companies trade cryptocurrency on special online services, namely crypto exchanges (cryptocurrency exchanges, digital currency exchanges). As of August 2021, ten largest crypto exchanges in the world included Binance (daily turnover is \$ 26 billion), Tokocrypto (\$ 18 billion), Upbit (\$ 8 billion), OKEx, Huobi Global, ZG.com, BitWell, HitBTC, Bitcoin.com, Changelly PRO². The largest crypto exchange Binance has been actively operating in Ukraine since 2020 (www.binance.com/uk-UA). Ukrainian citizens use large Ukrainian cryptocurrency exchanges Exmo (www.exmo.com), KUNA (www.kuna.io) and BTC TRADE UA (www.btc-trade.com.ua). The most popular crypto exchanges in Ukraine are Bitcoin, while Ethereum ranks the 2nd. Litecoin is also in demand.

There are also online cryptocurrency exchangers that offer the exchange of hryvnia for cryptocurrency. Cryptocurrency can be exchanged offline, but by prior arrangement via the Internet.

In recent years, the virtual assets market is growing, but the activities of crypto companies, including world leaders, are still not legal in our country, which creates potential risks for the financial system, every citizen, on the one hand, and for crypto companies, on the other hand. Officially, no legal entity declares operations in the cryptocurrency market in Ukraine, although the country actually has all the infrastructure: buyers and sellers of cryptocurrencies, cryptocurrency exchanges, cryptocurrency miners and even creators of new cryptocurrencies who have organized successful investment projects.

Thus, when analyzing the situation on the crypto market of our state, representatives of the largest crypto Binance emphasize that the main problem of crypto business expanding is the lack of legal regulation. According to them, cryptocurrency should enter the legal field, and for this purpose it is necessary to adopt a number of laws that would classify virtual assets, provide the opportunity to cooperate with banks, ability to pay taxes as a result of trade. This will significantly expand the presence of Binance in Ukraine and let “interact with financial institutions more closely, while currently this interaction is quite limited³”.

Today one cannot deny the fact that virtual assets have become an integral part of human social life and, despite risks, have many potential benefits. However, without proper regulation virtual assets are risking to become a tool for illicit financial transactions and terrorist financing. In addition, the need to grant legal status to virtual assets is caused by the potential threat of illegal income growth as well as the possibility of money laundering or tax evasion.

We fully agree with Professor A.M. Novytskyi, who identifies key risks to the financial system of the state under conditions of active uncontrolled growth of the cryptocurrency market: cryptocurrency is not regulated by the legislation of any country in the world; all relations related to the circulation of cryptocurrencies are based solely on trust, there are no systems of insurance and guarantee for the safety of such cryptocurrencies; there are no mechanisms for legal appeal of transactions, cancellation of transactions, etc.; there are no mechanisms for preserving and guaranteeing the inviolability of electronic wallets of the subjects of these financial transactions; there is a dependence on technological and software aspects; complete anonymity regarding financial transactions with cryptocurrency contradicts the general principle of banking relations, i.e. “know your client”, which makes it possible to identify each participant of financial relations; anyway the state is unable to affect financial stability of the currency (maintain the exchange rate, conduct the additional issue, control the percentage of permanently lost assets), which can result in losing the state financial sovereignty⁴.

One of the main threats to the financial security of the state associated with the active spread of cryptocurrencies in the world are numerous frauds, which do not always find an adequate response

¹ Офіційний сайт Міністерства цифрової інформації (2021). *Україна увійшла в топ-10 країн з найбільшим заробітком на біткоїні в 2020 році* <<https://thedigital.gov.ua/news/ukraine-uviyshla-v-top-10-krain-z-naybilshim-zarobitkom-na-bitkoini-v-2020-rotsi>>(2021, серпень, 28).

² Statista.com (2021). *Biggest cryptocurrency exchanges based on 24th volume in the world on August 16, 2021* <<https://www.statista.com/statistics/864738/leading-cryptocurrency-exchanges-traders/>> (2021, серпень, 19).

³ Ярова, М. В (2021). *Україні переважають роздрібні криптоінвестори. Інтерв'ю регіонального керівника Binance* <<https://ain.ua/2021/02/11/interview-binance-2021/>> (2021, серпень, 17).

⁴ Новицький, А. (2011). *Правове регулювання інституціоналізації інформаційного суспільства в Україні*. Ірпінь: НУДПС України, 338.

from law enforcement agencies in various countries, primarily due to the objective complexity of criminal proceedings in the field of IT-technologies¹.

Virtual currencies that can be exchanged for real money or other virtual currencies are potentially vulnerable to illegal use. They can provide a higher degree of anonymity compared to traditional methods of non-cash payments. The systems of virtual currencies that can be traded over the Internet are generally characterized by a lack of direct interaction with customers and may allow anonymous financing (by cash or third party financing through virtual exchange offices where the source of funding is not properly identified). They may also provide for anonymous transfers if the sender and recipient's identities are not properly established. Decentralized crypto exchanges are especially vulnerable to the risk of anonymity².

It is important to note that under the lack of legal regulation of taxation of transactions with virtual assets and considering a significant actual number of such transactions, Ukraine loses potential income at the level of state and local budgets in the form of corporate income tax, personal income tax, and military duty. According to the most conservative estimates, Ukrainian citizens own cryptocurrencies and other virtual assets worth about UAH 98.7 billion. Hence, introduction of transactions with virtual assets in the legal field would make it possible to attract additional budget of at least UAH 1.27 billion annually³.

The main players of the cryptocurrency market are crypto companies (crypto exchanges, cryptocurrency exchanges), and one of their main activities is cryptocurrency trading, so it is advisable to consider the mechanisms for transactions with cryptocurrency on crypto exchanges.

In Ukraine, like in most other countries, the activities of crypto companies are beyond the scope of legal regulation, so there is no definition of the concept of a crypto company (crypto exchange) as a legal entity in normative and legal acts. In addition, the legal status of cryptocurrency as a widely used virtual asset in Ukraine remains uncertain. The main reason for this is the very nature of cryptocurrency. Cryptocurrency is not electronic money, it is not a payment system or a foreign currency.

Under German law, a cryptocurrency exchange is a platform for commercial cryptocurrency trading. The Central Bank of Singapore defines a cryptocurrency exchange as a virtual currency intermediary that facilitates the purchase or sale of virtual currencies, or creates a platform for the exchange of virtual currencies⁴.

The Law of Ukraine "On Virtual Assets" is limited to a rather general definition, "providers of services related to the circulation of virtual assets are exclusively business entities-legal entities that carry out one or more of the following activities in the interests of third parties: storage or administration of virtual assets or keys of virtual assets; exchange of virtual assets; transfer of virtual assets; provision of intermediary services related to virtual assets"⁵.

Domestic scientists and experts working in the field of research on the legal regulation of the cryptocurrency market in Ukraine offer their definitions of the concept of crypto exchange. Thus, V. Ivaniuk proposes to define the cryptocurrency exchange as a legal entity that has received a license to conduct professional activities in the cryptocurrency market, i.e. activities for the exchange of cryptocurrencies and fiat currencies; exchange of one or more types of cryptocurrencies, transfer of cryptocurrencies; storage and/or administration of cryptocurrencies, allowing to control the circulation

¹ Гладких, Д. (2019). *Банківська безпека держави в умовах розвитку інформаційної економіки (трансформації банківських операцій)*. Київ: НУОУ, 202.

² Москаленко, Н. В. (2017). Віртуальні валюти та потенційні ризики легалізації доходів, отриманих злочинним шляхом. *Нові форми грошей та фінансових активів: становлення, перспективи, ризики: тези I Міжнародної науково-практичної конференції. (29 листопада 2017 р, Київ)*.

³ Пояснювальна записка до проекту Закону України Про внесення змін до Податкового кодексу України щодо оподаткування операцій з віртуальними активами в Україні, 2018 (Верховна Рада України). *Офіційний сайт Верховної Ради України* <<https://ips.ligazakon.net/document/GH70B00A?an=8>> (2021, серпень, 08).

⁴ Інформаційна довідка, підготовлена Європейським інформаційно-дослідницьким центром на запит народного депутата України (2018). *Міжнародний досвід законодавчого регулювання питання функціонування криптовалют, криптовалютних бірж, майнінгу та виводу в фіат* <<https://gadaprogram.org/sites/default/files/infocenter/publications/65.pdf>> (2021, вересень, 01).

⁵ Закон України Про віртуальні активи, 2021 (Верховна Рада України). *Офіційний сайт Верховної Ради України* <https://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf35111=69110> (2021, вересень, 09).

of cryptocurrencies, or participation and provision of financial services related to the issuer's offer and/or sale of cryptocurrencies in the manner prescribed by law¹.

To clarify the possibility of legal regulation of crypto companies, it is necessary to consider the mechanisms of cryptocurrency trading. Cryptocurrency as one of virtual assets is a complex digital system of information technology procedures that is based on a decentralized mechanism of issuance and circulation. The nature of cryptocurrencies requires a special online trading platform. Services for cryptocurrency trading (also called cryptocurrency exchanges, crypto exchanges) make it possible to exchange one cryptocurrency for another, buy and sell coins, exchange fiat for cryptocurrency. Different cryptocurrency exchanges can provide different services. Some of them are designed for crypto traders, while others are intended for fast exchange of cryptocurrency. The exchange of one cryptocurrency for another is possible if the number of supported financial instruments of the exchange includes the corresponding cryptocurrency pair. For example, the presence of a pair of Bitcoin/Litecoin (BTC/LTC) means that you can exchange Bitcoin for Litecoin. Absence of a pair means that it is impossible to exchange on this exchange. Cryptocurrency exchanges can support the exchange of cryptocurrencies for fiat money.

The activities of cryptocurrency exchanges have some similarities with stock exchanges. The main difference is how traders make a profit. On the stock exchange, traders buy and sell assets to get a profit from their exchange rates, while on cryptocurrency exchanges, traders use cryptocurrency pairs to get a profit from highly volatile exchange rates. Cryptocurrency exchanges operate on the basis of a business model that is traditional for exchange institutions. Truly reliable exchanges successfully compete in the market, constantly advance their online services, improve functionality and create new opportunities for their users.

Cryptocurrency exchanges (especially centralized ones) require new users to complete the registration process before they can start trading. Levels of checks can be different – in some cases it will be enough to confirm the e-mail address, while in others the applicants have to upload a photo of their passport. These “know your customer” checks are performed to ensure that the crypto business complies with anti-money laundering measures. Enrollment of cryptocurrency is mostly free. The commission is charged for the movement of fiat funds, from about 1% to 8%. The commission depends on the method of depositing funds to the crypto exchange account and the commission of payment systems with which the exchange cooperates.

Trading on the exchange begins with the creation of a warrant (application) for the purchase, sale, exchange of cryptocurrency. The user sets the price at which he is ready to start trading. If there is a person who is ready to carry out the transaction at the specified price, the transaction takes place. Fiat funds and cryptocurrency can be withdrawn from the exchange, and can be left in the wallet.

There are two main types of crypto exchanges, depending on the type of operation and management, namely centralized and decentralized exchanges.

A centralized exchange is profit-oriented, receives income from the payment structure of its platform and controls funds. Registration does not require anonymity. Operations are carried out through mechanisms provided and approved by the central body, which controls its day-to-day operations, such as maintenance and security using fiat locks. The centralized exchange is not insured against hacking, theft and server downtime, but has high liquidity².

A decentralized exchange is independent of the services of any company. Users independently control the funds, which reduces the possibility of manipulation of prices and other types of fraudulent trading activities. Users operate anonymously on such exchanges. Trading takes place directly between users in peer-to-peer mode through an automated process. There is no fiat gateway. Theft and server downtime are not possible, but the exchange has low liquidity.

There is no official, global price for cryptocurrency. The cryptocurrency rate usually depends on the actions of sellers and buyers, although there are some factors that can affect the price. Thus, prices vary depending on the activities of buying and selling on each of these exchanges.

Each exchange calculates the price based on the volume of trades, as well as the supply and demand of its users. This means that the higher the exchange is, the more favorable the market prices are. There is no stable or fair price for bitcoin or any other coin – it is always set by the market. The most popular sources of income for crypto exchanges are trade fees, quotation fees, marketing and fundraising for IEO (initial

¹ Іванюк, В. Д. (2021). Фінансово-правове регулювання ринку криптовалют в Україні: дисертація на здобуття наукового ступеня доктора філософії. Тернопіль: Західноукраїнський національний університет Міністерства освіти і науки України, 109.

² CryptoHuckers (2018). *Що таке централізовані криптовалюти біржі* <<https://www.crypthuckers.club/2018/06/scho-take-centralizovani-kryptovalyutni-birzhi.html>> (2021, серпень, 28).

exchange offers), STO (security token offers) and ICO (initial coin offers). The most popular way to monetize exchanges (cryptocurrency and traditional exchanges) is to collect commissions on the market. This commission pays for the service of facilitating trade between a buyer and a seller. The commission can be 0.1% per transaction and due to the low cost of trading it ensures a large amount of trading.

Due to competition, newly established exchanges struggle with low volume of trading in the early stages and therefore they need an additional source of income. Many exchanges choose services on the token and coin placement to increase their revenue. When organizing IEO, STO, ICO, exchanges can collect a percentage of funds raised from these proposals.

Another large amount of crypto exchange's income is provided by creating a market or creating liquidity for a particular financial instrument. In its pure form, the creation of the market consists of buying and selling a digital asset on its stock exchange at slightly higher prices than on another stock exchange. When trading takes place on an exchange, they exchange the trade for another exchange, which compensates for the previous trade, and the difference in profits that is received by the exchange. This technique works extremely well if it is automated and used in long-distance markets (i.e. the difference between the supply price and the supply).

Another way to increase revenue is to equip the platform with an IEO module, which allows other companies to organize the sale of tokens. When an exchange collects funds on behalf of the fundraising company, it charges a percentage of the total revenue as a commission. Such profits can be quite significant¹.

The main source of income for cryptocurrency exchanges is a fee. Therefore, serious crypto exchanges are interested in the constant, stable growth of the customer base.

Having considered the principles of cryptocurrency exchanges, cryptocurrency exchange (crypto exchange) can be defined as an organization that ensures interaction between the subjects of cryptocurrency transactions (exchange of cryptocurrency of any kind for another cryptocurrency, fiat money, currency values, securities, etc.).

There are certain relations between the subjects of cryptocurrency transactions, which can be considered as legal relations when they are regulated by law. In his research, V. Ivaniuk defines the following legal relations, "cryptocurrency legal relations are social relations between internal and external entities, regulated by financial and legal norms that are formed in the process of performing actions with cryptocurrencies and control over their movement. As a type of financial legal relations, cryptocurrency legal relations have their own structure, the elements of which are subject, object, legal and factual content". The researcher proposes to classify the subjects of cryptocurrency legal relations depending on the areas of activity into two main groups: internal and external. Internal ones include cryptocurrency developer, cryptocurrency user, miner, cryptocurrency exchange, wallet provider, cryptocurrency provider. External entities include government agencies authorized to exercise control over cryptocurrency transactions².

Global trends in the legalization of cryptocurrency exchanges determine two main areas: 1) current legislation in the field of financial markets applies to the activities of cryptocurrency exchanges, and as a result, cryptocurrency exchanges require the status of a financial institution to enable the provision of financial services; 2) adoption of special legislation regulating the scope of cryptocurrency exchanges, and as a result, the latter acquire a new special status.

According to Volosovych S.V., operation of the system of virtual currency regulation should be based on the following principles: transparency, which provides completeness and accessibility of information for all stakeholders; stability, which provides for the prevention of crisis situations in the market; consumer protection; complementarity, which aims at complementarity of regulatory instruments; monitoring, which involves constant monitoring of transactions with virtual currencies³.

In Ukraine, in 2019, the first steps were taken in this direction. In particular, the Law on Prevention and Counteraction to Legalization (Laundering) of Proceeds from Crime, Financing of Terrorism and Financing of Proliferation of Weapons of Mass Destruction aimed at ensuring national security was adopted.

¹ GateHub (2020). *How Cryptocurrency Exchanges Work?* <<https://gatehub.net/blog/how-cryptocurrency-exchanges-work/>> (2021, August, 19).

² Гладких, Д. М. (2019). *Банківська безпека держави в умовах розвитку інформаційної економіки (трансформації банківських операцій)*. Київ: НУОУ, 40-42.

³ Волосович, С. В. (2017). Інструменти регулювання криптовалюти. *Нові форми грошей та фінансових активів: становлення, перспективи, ризики: тези I Міжнародної науково-практичної конференції. (29 листопада 2017 р, Київ)*, 198.

This law was important for the crypto business because it introduced the concept of a virtual asset into the domestic legal field, defining it as a digital expression of value that can be traded in the digital format or transferred and that can be used for payment or investment purposes (Article 1). According to the Law, any individual or legal entity, performing one or more of such activities as the exchange of virtual assets; transfer of virtual assets; storage and/or administration of virtual assets or tools that allow to control virtual assets; participation and provision of financial services related to the issuer's offer and/or sale of virtual assets, is a provider of services related to the circulation of virtual assets and is subject to financial monitoring. If a financial transaction with virtual assets is carried out in the amount that equals or exceeds 30 thousand hryvnias, a proper inspection is carried out, following the procedure determined by this Law¹.

Based on the provisions of this document, the cryptocurrency exchange, which operates in Ukraine, is considered to be a provider of services related to the circulation of virtual assets and is subject to financial monitoring. However, the uncertainty of the legal status of cryptocurrencies and cryptocurrency exchanges in civil, criminal and commercial legislation creates many obstacles to the practical application of this law.

Currently, general issues of operation of the virtual assets market in Ukraine should be regulated by the Law "On Virtual Assets" adopted on September 8, 2021². The law provides for comprehensive regulation of relations arising from the creation, release into circulation and circulation of virtual assets, in particular, the conclusion and execution of transactions with them. The purpose of the document is to ensure a comprehensive legislative regulation of the principles of operation of the virtual assets market, in particular, to ensure a unified approach to the organization of virtual assets trade.

The law defines a legal status of a virtual asset as an intangible asset. The law also defines the legal status of the players of the virtual assets market, the types and legal status of services related to the operation of virtual assets. These are services provided by crypto exchanges, in particular, for the storage or administration of virtual assets or keys of virtual assets; virtual asset exchange services; virtual asset transfer services; financial services related to the public offering and/or sale of virtual assets.

For example, in accordance with Article 11, virtual asset exchange services are activities related to the exchange of virtual assets for other virtual assets and currency values. The minimum limit of authorized capital for the service provider is also set in the amount of not less than 35 thousand non-taxable minimum incomes for the residents of Ukraine, and not less than 175 thousand non-taxable minimums for non-residents.

According to Article 19, the activities of providers of services related to the virtual assets turnover may be carried out by economic entities of all ownership forms.

According to the Commercial Code of Ukraine, business entities are as follows: 1) economic organizations - legal entities established in accordance with the Civil Code of Ukraine, state, municipal and other enterprises, as well as other legal entities engaged in economic activities and registered in the manner prescribed by law; 2) citizens of Ukraine, foreigners and stateless persons who carry out economic activity and are registered in accordance with the law as entrepreneurs (paragraph 2 of Article 55)³. All the above-mentioned let us conclude that the activities of crypto exchanges should be regulated by commercial and civil law.

In addition, the activity of crypto exchanges on the territory of Ukraine will be possible only if a permit to provide services of the appropriate type has been obtained. So that for each type of service there is a separate permit, which is issued once a year. To obtain such permission, the applicant must meet a fairly wide range of criteria set by law, including an impeccable business reputation for anti-corruption legislation, disclose information about the structure of owners, ultimate beneficial owners, confirm the origin of funds forming the authorized capital. In addition, the applicant provides all information about its legal entity, list of services, information about the owners of significant participation of the applicant, managers of the applicant, chairman and members of the supervisory board, etc. (identification data, percentage of capital, information on impeccable business reputation and other data provided by law).

¹ Закон України Про запобігання та протидію легалізації (відмиванню) доходів, одержаних злочинним шляхом, фінансуванню тероризму та фінансуванню розповсюдження зброї масового знищення, 2019 (Верховна Рада України). Офіційний сайт Верховної Ради України <<https://zakon.rada.gov.ua/laws/show/361-20>> (2021, серпень, 29).

² Закон України Про віртуальні активи, 2021 (Верховна Рада України). Офіційний сайт Верховної Ради України <https://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=69110> (2021, вересень, 09).

³ Господарський кодекс України, 2021 (Верховна Рада України). Офіційний сайт Верховної Ради України <<https://zakon.rada.gov.ua/laws/show/436-15>> (2021, серпень, 27).

The law establishes state regulation of virtual assets circulation and determines the powers of the relevant state bodies, namely the Central Executive Body, which formulates and implements state policy in the field of virtual assets, the National Bank of Ukraine, the National Securities and Stock Market Commission (Article 16).

It also provides for the creation and operation of the state register of providers of services related to virtual assets circulation, i.e. electronic database that contains information necessary for regulatory and supervisory functions of the central executive body that formulates and implements state policy in the field of virtual assets circulation.

Control over the implementation of legislation in the field of circulation of virtual assets is exercised by the central executive body, which formulates and implements the state policy in the field of circulation of virtual assets within its powers and in the manner prescribed by the Constitution and laws of Ukraine. Thus, this body will have the right to apply to those guilty of violating the requirements of the law in the field of circulation of virtual assets, financial sanctions, for example for activities that have the characteristics of a service provider related to the circulation of virtual assets without permission to provide services related to the turnover of virtual assets, namely a fine from two thousand to seven thousand non-taxable minimum incomes, etc. (Article 24). A separate section is devoted to international cooperation in the field of virtual assets.

Thus, the main objectives of this document are to regulate legal relations arising as a result of the circulation of virtual assets in Ukraine, to determine the rights and obligations of participants in the virtual assets market and the principles of state policy in the circulation of virtual assets. The law will apply to legal relations that arise when providing services related to the circulation of virtual assets. The law will establish the legal status and requirements for providers of services related to virtual assets through the procedures of state registration of such activities as storage and/or administration of virtual assets or tools that enable to control virtual assets; exchange of virtual assets; transfer of virtual assets; provision of intermediary services related to the sale or offer of sale of virtual assets¹.

The issue of income tax return is planned to be resolved by amending the Tax Code of Ukraine. The draft law “On amendments to the Tax Code of Ukraine and other laws of Ukraine on taxation of transactions with cryptocurrencies”² was included in the agenda in February 2021. According to the draft law, withdrawal of a large volume of transactions related to virtual assets (including the most common cryptocurrencies Bitcoin, Ethereum, Litecoin) from the shadow market will replenish the state budget by attracting to taxation a radically new type of income of individuals and legal entities, in particular, income from the operations with virtual assets. The draft law contains definitions of basic terms related to transactions with virtual assets. Thus, a virtual asset is defined as a special type of property that is a value in the digital form that is created, accounted for and disposed of electronically. The draft law also contains a list of types of virtual assets, namely cryptocurrencies, token assets and other virtual assets.

A crypto asset is defined as a type of virtual asset in the form of a token that is created, accounted for and disposed of in a distributed registry and does not certify property and/or non-property rights of the crypto asset owner, while a cryptocurrency transaction is a transaction for the sale of cryptocurrencies, tokens and other virtual assets (Article 1).

This document defines the features of cryptocurrency taxation in Ukraine, in particular, the establishment of tax parameters, provides a mechanism for determining the financial result of cryptocurrency transactions (Article 3), and it also defines the system of calculating investment income from cryptocurrency transactions as a positive difference between the income received by the taxpayer from the sale of a crypto asset and its value.

Transactions on the exchange of cryptocurrencies for other objects of civil law, other than cryptocurrencies, are considered as the transactions on the sale of cryptocurrencies at the value that is equal to the contractual value of the object (objects) of civil law, which are subject to exchange for cryptocurrencies. When determining the profit from cryptocurrency transactions, it is proposed to take into account the costs associated with their acquisition and/or creation³.

¹ Закон України Про віртуальні активи, 2021 (Верховна Рада України). Офіційний сайт Верховної Ради України <https://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=69110> (2021, вересень, 09).

² Проект Закону України Про внесення змін до Податкового кодексу України та інших законів України щодо оподаткування операцій з криптоактивами, 2019 (Верховна Рада України). Офіційний сайт Верховної Ради України <http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67423> (2021, вересень, 08).

³ Там само.

In our opinion, adoption of the analyzed documents will create preconditions for the proper operation of the virtual assets market in accordance with Ukraine's legislation taking into account the interests of all entities engaged in transactions with virtual assets.

Conclusions. In recent years, the market for virtual assets in Ukraine is developing rapidly being a part of public life. Ukraine has taken a number of important steps to ensure normative and legal regulation of the cryptocurrency market. Thus, the legislation in the field of financial monitoring has been improved, the Law "On Virtual Assets" has been adopted, and a number of draft laws in the field of cryptocurrency taxation have been developed. However, despite the fact that a large number of cryptocurrency exchanges operate in the Ukrainian cryptocurrency market, their activities remain illegal. Nowadays, no legal entity declares its activity in the cryptocurrency market in Ukraine. Uncertainty of the legal status of cryptocurrency (one of the most common virtual assets) and cryptocurrency exchanges in civil, criminal, tax, economic legislation creates lots of obstacles to the practical application of this legislation. Therefore, implementation of illegal financial transactions with virtual assets, increase in the share of illegal income, money laundering and tax evasion remain urgent problems of modern society and may threaten financial stability of the state. The need for legislative regulation of the crypto business is caused by the need to protect the right of ownership of virtual assets, withdraw transactions with virtual assets from the shadow circulation. Proper regulation will promote the crypto market development, attract international investors, increase revenues to the state and local budgets.

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