

Tax consequences of the DLT Act

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The DLT Act did not change tax law, although its instruments have tax consequences that practitioners must consider. A ledger-based security that represents a share is treated for tax purposes like any other share. Dividends are subject to withholding tax, the issue of shares to stamp duty and the transfer, where a Swiss securities dealer is involved, to securities transfer stamp duty. The tokenisation of shares does not change these consequences. It may complicate their implementation, since the issuer must identify the holders for the deduction of withholding tax and for the issue of tax certificates.

The Federal Tax Administration has confirmed in its working paper that the tax treatment of tokens follows their civil law nature. Asset tokens that represent a debt are treated as bonds or as loans, depending on the number of lenders and the terms. Asset tokens that represent participations are treated as participation rights. Payment tokens are treated as foreign currency for wealth tax purposes, while their sale by private individuals produces a tax-free capital gain, unless the individual is classified as a professional securities dealer.¹ The criteria for professional trading, which the Federal Tax Administration has set out in a circular, apply to crypto-assets in the same way as to other securities.

1 Notes

1. ESTV, "Arbeitspapier Kryptowährungen und Initial Coin/Token Offerings (ICOs/ITOs) als Gegenstand der Vermögens-, Einkommens- und Gewinnsteuer, der Verrechnungssteuer und der Stempelabgaben", 27 August 2019, updated 14 December 2021, [estv.admin.ch](https://www.estv.admin.ch/estv/de/home/steuerarten/verrechnungssteuer/verrechnungssteuer-und-stempelabgaben.html): payment tokens declared at market value at the end of the tax period; gains of private individuals treated like foreign currency transactions and tax-free as capital gains; professional securities trading under Circular No. 36; debt tokens treated like bonds, participation tokens as participation rights. The distinction between bonds and loans by number of lenders was not seen in this source. ↩

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