

TAX ON BUYING AND SELLING NFTs



HOW ARE NFTs BOUGHT & SOLD?



NFTs are bought and sold through an **online marketplace** such as OpenSea, Rarible and SuperRare

The consideration is usually paid in the form of cryptos such as Ethereum

Off marketplace transactions i.e., direct transaction between a buyer and a seller can also happen, without involving a marketplace. The seller may list NFTs on its personal or business website



HOW ARE NFTs BOUGHT & SOLD?



SELLER (CREATOR)

- ✓ Proceeds from sale
- ✓ Royalty from subsequent sale by buyer

Lists NFT for sale



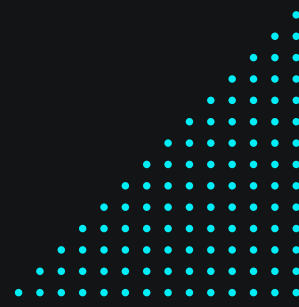
NFT MARKETPLACE

- ✓ Listing Fee
- ✓ Commission from sale

Buys NFT via marketplace



BUYER



REVENUE ON SALE OF NFTs



Seller

The seller (creator) of the NFTs earns income upon **first sale** of the NFT

A **royalty** may also be charged by the seller (creator) on all the subsequent sale made by the buyer



Buyer

The buyer earns income on subsequent sale of NFTs



NFT Marketplace

NFT marketplace charges listing fee and commission on every sale of NFT





NFT Classification - Goods vs Services

NFTs do not transfer the ownership right in respect of any physical goods instead it gives the **'right to use'** a digital asset

Thus, for VAT purposes, the transfer of NFTs may be considered as electronically supplied services and not supply of goods



The Spanish Tax Administration ruled that the transactions in NFTs is a supply of electronically supplied services

The tax authority in the UAE has not yet published any guidance on VAT transactions involving NFTs



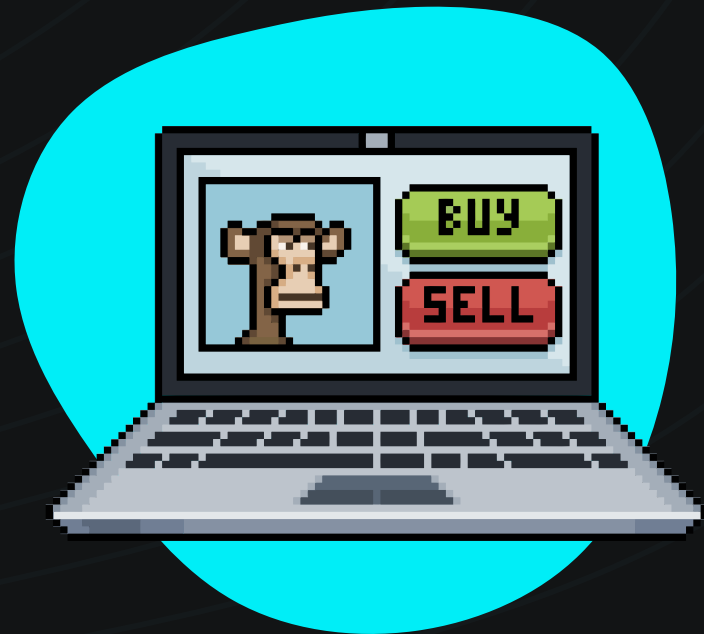
VAT (CONT.)



SELLER

As sale of NFT may be considered as an electronically supplied services, the VAT treatment may be determined based on the **place of use and enjoyment**

In case of subsequent sale by the buyer, royalty earned by the seller (creator) may be taxable



BUYER

Buyer may have to account VAT under reverse charge mechanism on the purchase of NFT

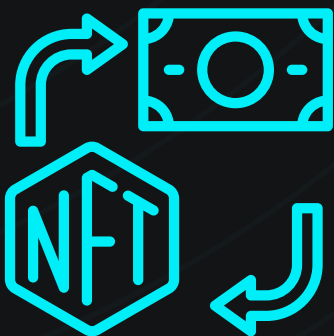
Buying NFT in exchange of cryptos may not create a barter transaction as cryptos may be treated as akin to 'fiat currencies' for VAT purposes

VAT (CONT.)



NFT MARKETPLACE

The listing fees and commission received by NFT marketplace on the sale of NFTs could be considered as a **taxable activity**



INCOME TAX

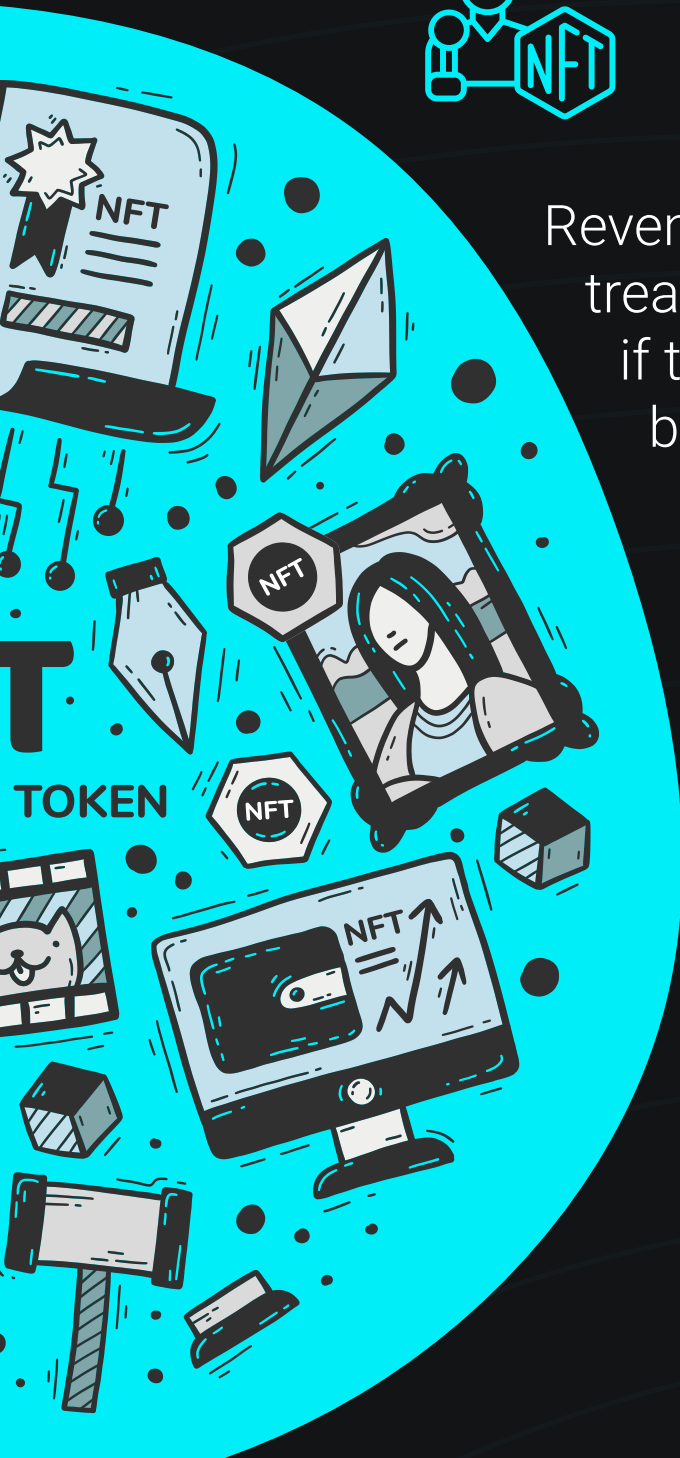


SELLER

Revenue on sale of NFTs may be treated as taxable business income if the seller is engaged in the business of trading NFTs

Otherwise, it is likely to be subjected to capital gains tax

Royalty earned by seller (creator) on subsequent disposals may be treated as **taxable business income**



INCOME TAX (CONT.)



BUYER

Generally, cryptos is treated as an intangible financial asset for income tax purposes

If cryptos are used for buying NFT, it may be treated as a **barter transaction**. Thus, may be subject to capital gains tax on disposal of cryptos



NFT MARKETPLACE

Listing fees and commission received by NFT marketplaces for facilitating the sale of NFTs may be considered as taxable business income

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