

NEW REGULATION OF INFORMATION OBLIGATIONS ON CRIPTOCURRENCIES

The Council of Ministers has approved the Royal Decree by which a series of regulatory amendments are made to implement various changes made by Law 11/2021, of July 9, on measures for the prevention and fight against tax fraud.

Among these amendments, those that comply with the new informative obligations related to the holding of virtual currencies and the operations carried out with them stand out. The objective is to improve the tax control of the taxable events that may derive from such holdings or operations. Likewise, the obligation to report virtual currencies located abroad is also regulated

The first returns relating to the reporting obligations on virtual currencies must be filed as from January 1, 2024.

Information on balances held in virtual currency

Specifically, persons and entities resident in Spain as well as permanent establishments in Spanish territory of persons or entities residing abroad and which provide services to safeguard private cryptographic keys on behalf of third parties, as well as maintaining, storing and transferring virtual currencies, will have to file an annual informative return. Said return shall refer to the whole of the virtual currencies such entities held in custody, under the terms established by the ministerial order approving the corresponding return format.

Information on transactions with cryptocurrencies

Likewise, persons or entities resident in Spain and permanent establishments in Spanish territory of persons or entities residing abroad either providing exchange services between virtual currencies and fiat currency or between different virtual currencies, intermediating in any way in the performance of such transactions or providing services to safeguard private cryptographic keys on behalf of third parties, as well as maintaining, storing and transferring virtual currencies, must also file an annual informative declaration disclosing the relevant operations of acquisition, transmission, exchange and transfer of virtual currencies, as well as the collections and payments made in such currencies, in which they intervened or mediated, under the terms established by the ministerial order approving the corresponding model.

Information on virtual currencies located abroad

Individuals and legal entities resident in Spanish territory, permanent establishments in said territory of non-resident individuals or entities and those entities referred to in article 35. 4 of Law 58/2003, of December 17, 2003, General Tax Law, shall be obliged to file, as of December 31 of each year, an annual informative declaration disclosing all the virtual currencies located abroad of which they are holders, or in respect of which they are the beneficiary, authorized or otherwise have the power of disposal, or held by persons or entities that provide services to safeguard private cryptographic keys on behalf of third parties, to maintain, store and transfer virtual currencies,



Said obligation also extends to those who have been (even if during only a part of the year) holders, authorized agents or beneficiaries of the aforementioned virtual currencies, or have had powers to dispose of them, or have been actual holders at any time during the year to which the declaration refers. In these cases, the information to be provided will be that corresponding to the date on which such extinction took place.

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