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Taxation of Blockchain Networks and Their Participants

For centuries, we had no choice but to trust governments, banks, and third parties if we wanted to do business. Any transaction relied almost exclusively on financial institutions serving as trusted third parties to process the payments. But, it all changed in 2008, when the pseudonym Satoshi Nakamoto created a major disruptor of government power by providing an alternative to government-controlled currency. Besides challenging government’s monopoly over currency, cryptocurrencies and blockchain networks also undermine government’s most important medium of power expression: its ability to tax.

At first glance, one wonders how to tax something governments cannot define, explain or, perhaps, monetize. But, looking beyond appearances, one arrives at two conclusions. First, a blockchain network is an example of taxation in and of itself, forcibly appropriating resources from individuals in order to produce a “public” good. After all, Montesquieu might have been right: “taxes are a payment of one’s property in order to enjoy the remained in security”. In other words, to benefit from its immutable nature or security, members of a blockchain network have a price to pay, one akin to a conventional tax.

Second, every transaction on a blockchain results in a creation of wealth and, thus, exposes its various actors to conventional governmental taxation. The paper will analyse the taxation of blockchain networks from a comparative law perspective by looking at the tax treatment of blockchain networks in Canada, the United States and Europe. For instance, the author will address the legislative positions of the Canada Revenue Agency, the Internal Revenue Service, and Her Majesty’s Revenue and Customs with respect to income tax, goods and services tax, the value-added tax, as well as tax evasion concerns. The author will also presents States that have decided not to implement any tax regulation of blockchain or crypto networks, which, consequently, attracts less foreign investments and deprives them from additional revenue. Concurrently, assuming each blockchain network has a tax system built in it, the author will discuss the dual role of the miner, for it collects the tax and, at the same time, is exposed to it.

Then, the author will present recent decisions from European and American courts that have tried to resolve blockchain-related questions. To that effect, courts seem to have adopted two approaches: either resolve the questions through pre-existing laws or develop a new analysis. For now, the former is favoured over the latter. The most evident advantage of applying pre-existing legal frameworks to new techmoligies is the fact that no additional undertaking is necessary to draw a new and *ad hoc* regulation. Enforcing already existing jurisprudence or laws is a cost-efficient way of embracing progress and economic growth. Plus, if applying pre-exisiting laws bears success, it demonstrates that the law or jurisprudence has always applied.

In conclusion, the author will present a regulatory framework for taxation of blockchain networks. Taxes matter: they have an effect not only on who bears the burden of paying for government expenditures but also on the level of economic activity and incomes in a country. Drawing on a comparative law approach, the author will argue for a legislative approach that will foster economic activities and ensure consumer protection while leaving room for the blockchain technology to develop in different directions over time.