# 逃税作为洗钱的上游犯罪

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自2013年7月1日起，严重税务罪行已成为《1992年贪污、贩毒及其他严重罪行（没收利益）法》下洗钱罪的上游犯罪。被列明的罪行包括《所得税法》第96条和第96A条以及《消费税法》第62条和第63条规定的故意逃税和严重欺诈性逃税，并通过双重犯罪原则涵盖相应的外国税务罪行。[1]其后果是，逃税所得属于犯罪财产，处理此类财产即构成CDSA第50条至第54条规定的洗钱。金融机构或DPT服务提供商如怀疑客户资金来源于逃税，必须提交可疑交易报告（参见第L部分第IV章）。

对数字资产客户而言，上游犯罪规则产生两方面影响。第一，客户自己未申报的交易利润如已构成故意逃税，在其手中即属犯罪财产，他将其转入新钱包或新交易所的行为就是洗钱行为。自愿披露计划通过和解解决税务罪行，实践中也消除了洗钱风险，因为IRAS不会将已和解的案件移交商业事务局。第二方面影响涉及服务提供商。新加坡交易所平台在接纳一位财富来源为境外加密货币交易的客户时，必须考虑该交易是否已经纳税。因此，瑞士或德国客户的境外税务状况是新加坡交易所反洗钱档案的一部分。瑞士方面通过《瑞士刑法典》第305bis条第1bis款规定的“合格税务罪行”确立了同样的规则（参见第G部分第VIII章和第F部分第V章）。因此，在任一中心逃税的客户，都会同时暴露于两地的反洗钱体系之下。

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## 跨境视角

一位德国客户在德国交易加密货币但未申报，现在希望在一家新加坡交易所开户。对该交易所而言，这构成潜在的外国税务罪行上游犯罪。交易所的合规官会要求提供证据，证明相关收益已经申报，或德国法律对其不予课税。根据德国《税收通则》（Abgabenordnung）第371条进行的自愿披露，往往是开户的前提条件。同一客户如向楚格的交易所申请开户，则须面对瑞士的合格税务罪行标准：只有每个纳税期间逃避税款至少达到30万瑞士法郎，才适用上游犯罪规则。门槛不同，但问题相同。答案就是在开户之前完成补正。

## 注释

1. Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992 (2020 Rev. Ed.)，附表二中关于Income Tax Act第96条和第96A条以及Goods and Services Tax Act第62条和第63条的条目，自2013年7月1日起被列为严重罪行。 ↩

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