

NFT CASE STUDY

SALE OF WHISKEY NFTs

Swipe



BACKGROUND



NFTs extend far beyond digital assets. They can also be used to purchase/ redeem physical goods

Nowadays, various companies are minting NFTs to market their products to the public. One can buy NFT and redeem the actual product it represents such as a bottle of whiskey, a pair of sneakers, or designer clothes

Today's case study covers the possible tax implications and key takeaways of whiskey NFTs



WHISKEY NFTs MECHANICS



Distillery - Minting NFT

A distillery owns whiskey bottles which are rare, limited and one of a kind

As these whiskey bottles are unique, the distillery mints NFT which represents ownership of a whiskey bottle

Each NFT contains a special image of the whiskey bottle it represents



NFT Marketplace - Sale of NFT



The distillery sells the whiskey NFTs on NFT marketplace such as BlockBar, Metacask, etc

Buyers purchase the whiskey NFTs in exchange of cryptos

WHISKEY NFTs MECHANICS (CONT.)



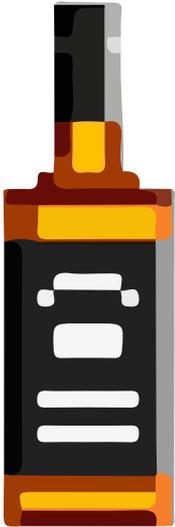
Buyer - Resale of NFT or Redemption

The buyer can hold the whiskey NFT for resale

Alternatively, the buyer can also redeem the actual whiskey bottle it represents from the distillery. The NFT shall be 'burned' upon redemption



NFT CLASSIFICATION FOR VAT



NFTs linked to a digital asset

As discussed in our previous post on 'Tax on Buying and Selling NFT', certain NFTs give '**right to use**' a digital asset such as digital artwork or music. NFTs linked to a digital asset may be considered as **electronically supplied services**



NFTs linked to a physical asset

NFTs can be linked to an underlying physical asset. The NFT serves as a **proof of ownership** over the physical asset. Such proof of ownership (NFT) can be subsequently sold or used to redeem the physical asset.

The taxability of NFT will follow the tax treatment of the underlying physical asset. Rules for **supply of goods** may apply



The present case study refers to **NFTs linked to a physical asset** i.e., whiskey



DISTILLERY

Taxable Event	Possible Tax Implication
Minting of whiskey NFT	There may not be any VAT implication on minting of NFT since there is no supply
Sale of whiskey NFT	<ul style="list-style-type: none">• NFT serves as proof of ownership. Hence, when NFT is sold, it will be treated as if the underlying whiskey is sold• This may be considered as taxable supply of goods• Cryptos received on account of sale of NFT may be treated as consideration for taxable supply
Redemption of actual whiskey bottle	There may not be any VAT implication as VAT may have already been charged upon sale of NFT



NFT MARKETPLACE

Taxable Event	Possible Tax Implication
Commission earned on sale of NFT	Commission received by NFT marketplace could be considered as a taxable activity



BUYER

Taxable Event	Possible Tax Implication
Purchase of whiskey NFT	<ul style="list-style-type: none">• Purchase of NFT may be treated as purchase of underlying goods. Input tax recovery is dependent on the related income of the buyer• Payment in cryptos may be treated as outside the scope as cryptos may be considered as akin to fiat currencies

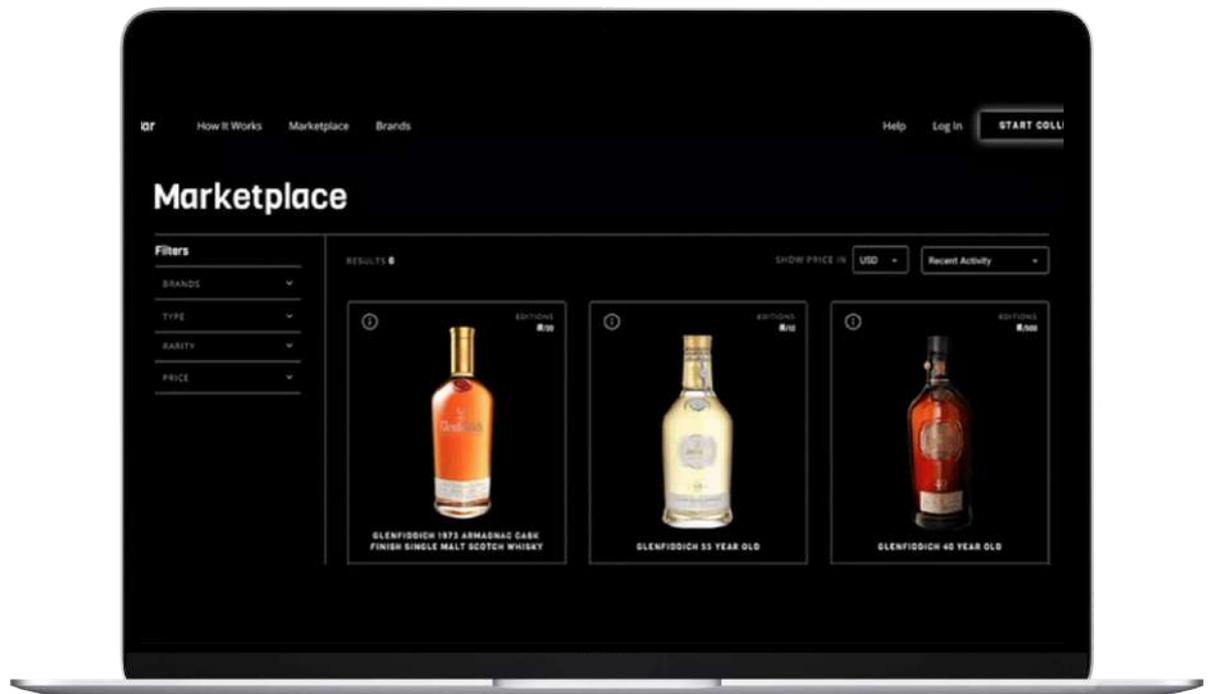


BUYER

Taxable Event	Possible Tax Implication
Resale of whiskey NFT	This may be considered as taxable supply of goods as explained in previous page (distillery)
Redemption of actual whiskey bottle	There may not be any VAT implication as VAT may have already been paid upon purchase of NFT

Note:

- Taxability will depend on the location of the physical goods (whiskey)
- Input tax recovery will be dependent on the taxability of the related income



CORPORATE INCOME TAX



DISTILLERY

Taxable Event	Possible Tax Implication
Minting of whiskey NFT	Minting of NFTs may not have any corporate tax impact
Sale of whiskey NFT	Sale of whiskey NFTs could be treated akin to sale of whiskey thus resulting in taxability as business income
Redemption of actual whiskey bottle	No tax implication for distillery on redemption of NFTs for actual whiskey bottle



NFT MARKETPLACE

Taxable Event	Possible Tax Implication
Commission earned on sale of NFT	Commission received by NFT marketplace could be considered as a taxable business income



BUYER OF THE WHISKEY NFT

Taxable Event	Possible Tax Implication
Purchase of whiskey NFT	Difference in purchase value of crypto and the value for which it is being exchanged (i.e., NFT value) could be subject to capital gains tax for the buyer
Resale of whiskey NFT	Gains made (if any) on resale of NFTs could be subject to income tax
Redemption of actual whiskey bottle	Difference between purchase value of NFT and the value on the date of redemption may be subject to capital gains tax

Note: The proposed UAE Corporate Tax law applies only to individuals engaged in business activity. Thus, any gains on sale / exchange of NFTs earned by non-business individuals should not be taxable in the UAE

KEY TAKEAWAYS



- ✓ Determine whether NFT is linked to a digital or physical asset to evaluate the tax treatment
- ✓ Correctly determine the place of supply
- ✓ As cryptos are generally used as a payment for NFT transactions, the value of supply should be appropriately calculated
- ✓ Take into account the corporate tax impact on transfer of NFT and subsequent redemption of the underlying physical asset



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