

Actifs numériques et information en matière fiscale : de l'utopie cypherpunk à la dystopie orwellienne ?

Initialement conçus pour répliquer en ligne les propriétés et garanties d'anonymat de la monnaie fiduciaire, les actifs numériques ont connu un développement important ces dernières années. La démocratisation de ces nouveaux actifs, et leurs caractéristiques inhérentes, soulèvent des défis considérables pour les États en matière de lutte contre la fraude fiscale. Si les outils juridiques actuels ne permettent pas aux administrations fiscales d'exercer efficacement leurs missions de contrôle, la coopération entre États et les expérimentations s'intensifient afin d'établir un cadre de transparence en matière de cryptoactifs robuste et de doter les administrations d'outils de ciblage efficaces.

« Le respect de la vie privée dans une société libre implique l'existence de systèmes de transaction anonymes »⁽¹⁾. C'est l'un des postulats du mouvement cypherpunk dont la vocation, présentée dans les manifestes publiés par Timothy C. May⁽²⁾ en 1988 et Eric Hughes en 1993⁽³⁾, est de se saisir des outils cryptographiques pour tenter de protéger la vie privée dans un contexte numérique.

Ce postulat a donné naissance, plusieurs décennies plus tard, au protocole informatique Bitcoin revendiquant la qualité de système de paiement et dont l'objet est de

permettre, en lieu et place de la monnaie fiduciaire censée se raréfier, la réalisation de transactions n'impliquant pas de révéler son identité.

Depuis cette date, les cryptoactifs⁽⁴⁾ ont connu un essor impressionnant : près d'un

(4) Les cryptoactifs recouvrent un nombre extrêmement varié d'applications : ils peuvent constituer de simples unités de compte servant comme moyen de paiement ; mais aussi représenter toutes sortes de droits (livraison d'un bien, fourniture d'un service, accès à une plateforme, droit au bénéfice d'un revenu, droit de vote, etc.) ou de fichiers numériques lorsqu'ils ne sont pas fongibles (pour une définition des jetons non fongibles (JNF), ou non fungible tokens (NFT) en anglais, v. C. Zerbit, W. O'Rourke, NFT : chaînon manquant ou maillon faible de l'art numérique ?, Propriété industrielle, n° 5, mai 2021, étude 11).



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(1) E. Hughes, A Cypherpunk's Manifesto, 9 mars 1993, traduction libre.

(2) T. C. May, The Crypto Anarchist Manifesto, 1988.

(3) E. Hughes, A Cypherpunk's Manifesto, précité.

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