# **How to raise money for charity using NFTs**

In 2022 [the Alivia Cancer Foundation](https://alivia.org.pl/) organized the [*Buy My Cancer*](https://www.buymycancer.org/en/home) project*.*The project involved collecting donations for the treatment of cancer patients by auctioning specially designed NFT (Non-Fungible Token) tokens.

We believe that this concept can be repeated by other charities to fundraise and give cryptocurrency holders the opportunity to donate to charity projects.

Please note that the [*Buy My Cancer*](https://www.buymycancer.org/en/home) project was developed and analyzed from the Polish law point of view. If you want to use this concept under your local law you need to verify if the legal assessment of the project would be the same and implement necessary changes. However, the principle of the VAT tax is the same throughout the European Union so we believe that this concept should work on other EU countries.

**What is the problem? It's about taxes**

NFT tokens, once created (minted), are transferred to first-time buyers in two ways. They can be available to buyers either directly from the entity that created them, or through a platform that acts as intermediary (such as [OpenSea](https://opensea.io/) or [Vast](https://vast.app/) in the case of the Buy My Cancer project mentioned above). Subsequent transactions usually take place only through the platforms.

In the case of charities, the second solution mainly comes into play due to the costs of preparing their own platform for the sale of NFTs. And this is where the problem of the legal and tax qualification of the transfer of the NFT token arises.

NFT platforms are designed to act as marketplace for sales of NFTs between users. Their interfaces reflect this approach through the use of terms such as sale, auction, price, offer or marketplace. In consequence, if a charity puts its NFT tokens on the platform and someone purchases them, there is a transaction that should be described as a provision of services for consideration - so such transaction is subject to VAT.

This means that the charity would have to pay VAT on the funds raised from the sale of the NFT, which calls into question the reasonableness of doing so.

**How to solve the problem?**

Fortunately, there is a solution.

It is sufficient to note that NFT tokens are not necessarily just tokens representing digital assets in the form of graphics. NFT tokens can have a very different legal nature.

NFT tokens apart from being a digital representation of digital assets can also be a proof of authenticity, a proof of some right (e.g., a right to attend a conference), or a confirmation of attendance at some event. The legal meaning of an NFT token is determined by a number of factors, of which the following are the most important:

* the data comprising of the token (tokenId, smart contract address, on-chain metadata, detailed smart contract rules)
* the off-chain metadata linked to the token
* the specifics of the blockchain in which the NFT is minted
* the terms of use of NFT-related services (platform, wallet)
* the legal obligations relating to the NFT (contained in the NFT or - more often - in online communications, e.g. various white papers)
* the statutory regulations that may apply to tokens.

The NFT token can therefore serve as proof or acknowledgement of a donation made and, in the case of a donation, the charity does not have to pay VAT on the funds received.

However, such legal nature of an NFT token must clearly result from as many contexts as possible within which such a token can be assessed.

**The sale of NFTs on the platform may actually be a donation**

It is therefore possible to clearly establish that the amount paid by the auction participant - the bidder who wins the auction for the NFT token - does not constitute the price for such a token, but is a donation for the purposes designated by the charity and the NFT token is merely an acknowledgement of having won the auction and thus having made the highest donation bid.

However, this cannot be a legal fiction - the donation must not result in an increase in the donor's wealth. In other words, the transfer to the donor of the NFT must not involve the transfer to the donor of a property or rights of some value. Otherwise, we will be dealing with a sale, not a donation, and no contractual arrangements will change this.

In this case the NFT token is a kind of digital diploma for winning an auction and confirming support for a particular charity and its fundraising.

In such a situation, the funds raised by the charity will not be linked to the economic value of the NFT tokens, so the transaction of 'selling' them at auction will not be for consideration within the meaning of VAT regulations. The purchaser of the NFT token will then be the donor, while the charity will be the recipient.

This does not mean, of course, that such an NFT token cannot acquire an economic value and be sold in the future, as this is the case of collectible historical documents currently offered at auctions, which had no value at the time of their creation but acquired one with the passage of time (e.g. an Elvis Presley concert ticket).

**Summary**

It is possible to design an auction of NFT tokens organised by a charity in such a way that the transfer of the rights to the NFT to the successful auctioneer does not constitute a supply of services for consideration within the meaning of the VAT Act.

**Confirmation of this concept by Polish tax authorities**

The correctness of the concept presented above was confirmed by the individual tax interpretation [0114-KDIP4-2.4012.315.2022.1.KS](https://eureka.mf.gov.pl/informacje/podglad/511204;keyWords=0114) issued in Poland in October 2022, which confirmed its compliance with the tax regulations in full.

**What next?**

The total value of all cryptocurrencies - depending on the current exchange rate - is estimated to be around USD 1 trillion. There are many investors who became rich investing in cryptocurrencies or NFTs. Most of them keep their funds in cryptocurrencies because converting them into traditional (fiat) currency generates an obligation to pay income tax. This means that many will not support charitable projects as they will not want to exchange cryptocurrencies and trigger tax liability.

Organising fundraising in the form of NFT token auctions can allow such individuals to actively support charitable projects of their choice. However, this requires charities to take such an initiative.

**Offer**

The information presented above is sufficient for anyone interested to be able to carry out a similar project. However, if additional information or support is needed, please feel free to contact us.