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IRS Issues New Guidance On Virtual Currency

Got Crypto? With the ups and downs of Bitcoin and other cryptocurrencies, it can be dizzying to invest, even if you aren't thinking about taxes. When you add taxes into the mix, it is much more so. Since 2014, the IRS said it would tax it as property (not currency), and that has a vast array of tax impacts. It can mean that each transfer–even each swap of one virtual currency for another–is taxed. Meanwhile, as the vast wild frontier of different coins, exchanges, forks and hard forks has been percolating, the digital community has been anxious for more IRS guidance. Now, the IRS has issued two new pieces of guidance for taxpayers who engage in transactions involving virtual currency.

Expanding on its guidance from 2014, the IRS is issuing additional detailed guidance to help taxpayers better understand their reporting obligations for specific transactions involving virtual currency. The new guidance includes Revenue Ruling 2019-24 and some frequently asked questions. The latter are a way the IRS is hoping to get informal guidance out faster and more user-friendly (although technically such FAQs are not legal authority. The new revenue ruling addresses common questions by taxpayers and tax practitioners regarding the tax treatment of a cryptocurrency hard fork. In addition, a set of FAQs address virtual currency transactions for those who hold virtual currency as a capital asset.

"The IRS is committed to helping taxpayers understand their tax obligations in this emerging area," said IRS Commissioner Chuck Rettig. "The new guidance will help taxpayers and tax professionals better understand how longstanding tax principles apply in this rapidly changing environment. We want to help taxpayers understand the reporting requirements as well as take steps to ensure fair enforcement of the tax laws for those who don't follow the rules."

The new guidance supplements the guidance the IRS issued on virtual currency in Notice 2014-21. The IRS is also soliciting public input on additional guidance in this area. In Notice 2014-21, the IRS applied general principles of tax law to determine that virtual currency is property for federal tax purposes. The Notice explained, in the form of 16 FAQs, the application of general tax principles to the most common transactions involving virtual currency. The IRS is aware that some taxpayers with virtual currency transactions may have failed to report income and pay the resulting tax or did not report their transactions properly. The IRS is actively addressing potential non-compliance in this area through a variety of efforts, ranging from taxpayer education to audits to criminal investigations.

For example, in July of this year the IRS announced that it began mailing educational letters to more than 10,000 taxpayers who may have reported transactions involving virtual currency incorrectly or not at all. Taxpayers who did not report transactions involving virtual currency or who reported them incorrectly may, when appropriate, be liable for tax, penalties and interest. In some cases, taxpayers could be subject to criminal prosecution.

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This is not legal advice. For tax alerts or tax advice, email me at Wood@WoodLLP.com.