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Don't Skip The IRS 'Yes Or No' Crypto Tax Question On 2023 Tax Returns



There is a lot of talk about crypto investors and tax compliance, but a yes or no question can be surprisingly important. The IRS is asking everyone about crypto transactions. A variation of this seemingly innocuous question appears at the top of [Forms 1040, Individual Income Tax Return](#); [1040-SR, U.S. Tax](#)

[Return for Seniors](#); and [1040-NR, U.S. Nonresident Alien Income Tax Return](#), and was revised for 2023 returns to update wording. The question was also added to these forms: Forms [1041, U.S. Income Tax Return for Estates and Trusts](#); [1065, U.S. Return of Partnership Income](#); [1120, U.S. Corporation Income Tax Return](#); and [1120S, U.S. Income Tax Return for an S Corporation](#). The IRS asks this question with variations for corporations, partnerships and estates and trusts:

- “At any time during 2023, did you: (a) receive (as a reward, award or payment for property or services); or (b) sell, exchange, or otherwise dispose of a digital asset (or a financial interest in a digital asset)?” Yes or No?

By digital asset, the IRS means “any digital representations of value that are recorded on a cryptographically secured distributed ledger or any similar technology. For example, digital assets include non-fungible tokens (NFTs) and virtual currencies, such as cryptocurrencies and stablecoins.”

You are *not* supposed to leave it blank, and everyone who files Forms 1040, 1040-SR, 1040-NR, 1041, 1065, 1120, 1120 and 1120S must check one box answering either "Yes" or "No." In addition to checking the box, you must report all income related to digital asset transactions. Thus, an investor who held a digital asset as a capital asset and sold, exchanged or transferred it during 2023 must use [Form 8949, Sales and other Dispositions of Capital Assets](#), to figure their capital gain or loss on the transaction and then report it on [Schedule D \(Form 1040\), Capital Gains and Losses](#). A taxpayer who made a gift of a digital asset may be required to file [Form 709, United States Gift \(and Generation-Skipping Transfer\) Tax Return](#).

So does the yes or no question really matter? It is not asking for numbers or detail, although if you sold some, that must go elsewhere on your tax return. Since the IRS classified crypto as property a decade ago, any sale should produce gain or loss. Perhaps the IRS is just surveying who is using crypto, you might guess? Not necessarily, and a simple yes or no can turn out to be important.

It sounds similar to the foreign account question included on Schedule B to Form 1040. The question could set you up for big penalties or even committing perjury for checking the wrong box. If you answer “no” and then are discovered to have engaged in transactions with cryptocurrency during the year, the fact that you explicitly answered no to this new question (under penalties of perjury) could be used against you.

We learned this with foreign bank accounts. In that context, the Department of Justice Tax Division successfully argued that the mere failure to check a box related to foreign account reporting is *per-se* willfulness. Willful failures carry higher penalties and an increased threat of criminal investigation. The IRS’s Criminal Investigation Division has met with tax authorities from other countries to share data and enforcement strategies to find potential cryptocurrency tax evasion.

This might suggest that the safe play is to check yes, right? But what if you don’t know if you can fairly say that you are the one who did the transactions? What if you have been acting for your company, not personally? Or less formally, what if you just have a kind of ‘signature authority’ over crypto owned by your non-computer savvy parents or other relatives to help them manage their crypto?

If you sell a parent's crypto on their behalf, at their request and/or for their benefit, should you answer "yes" or "no" to the question? Either way, should you attach an explanatory statement to the return explaining your relationship to the virtual currency? There probably aren't perfect answers to these questions. The IRS has said that you have a financial interest in a digital asset if you are the owner of record of a digital asset, or have an ownership stake in an account that holds one or more digital assets, including the rights and obligations to acquire a financial interest, or you own a wallet that holds digital assets.

But helpfully, the IRS has also said that the following actions or transactions in 2023, alone, generally don't require you to check "Yes":

- Holding a digital asset in a wallet or account;
- Transferring a digital asset from one wallet or account you own or control to another wallet or account that you own or control; or
- Purchasing digital assets using U.S. or other real currency, including through the use of electronic platforms such as PayPal and Venmo.

The IRS says not to leave the questions unanswered, answer "Yes" or "No." There is more information at [IRS.gov/VirtualCurrencyFAQs](https://www.irs.gov/VirtualCurrencyFAQs). What is clear is that answering "no" if the truth is "yes" is a big mistake. Skipping the boxes entirely might not be as bad, but it isn't good either. If the truth is "yes," say so, and remember to disclose and report your income, gains, losses, etc. Maybe that's the point of the question, as a prominent reminder.

If this makes you realize that you forgot to report your crypto gains in past years, consider amending your tax returns to fix it. Don't wait for the IRS to find you, even if you did not get one of those 10,000 IRS crypto warning letters. Five years ago, the IRS sent letters to 10,000 crypto taxpayers, and

even if you did *not* receive one of those [10,000 IRS letters](#), you might want to dust off your past tax returns and consider [amending your taxes](#).

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