

HW Hot Topics Article 2018-07 Cryptocurrency

HW Hot Topics articles are brief summaries of a topic, for clients to gain a general understanding. We intend for the information to answer the “quick questions” and to advance the dialog when we provide further analysis and planning.

Cryptocurrency is a hot topic in many circles. As you begin to consider the topic, one initial question is ‘What is it?’ Is it Money, Property, Commodity, Securities or Something Else? As CPAs we briefly describe how it affects the circles of our clients and our services. We start with three questions we may ask and that you should ask yourself:

- 1. Do you own or use cryptocurrency? If yes, read on.**
- 2. Is it held in a foreign account?**
- 3. What is your method of determining “tax basis” in the cryptocurrency held?**

The IRS

The IRS has declared in Notice 2014-21 that cryptocurrency is **Property**. Therefore, whenever an owner of property exchanges it for something else, a taxable event just occurred. There is taxable gain or loss on the disposition of a Property item.

If so, the question of determining Tax Basis is important to address. Some cryptocurrency exchanges provide Basis reports. The IRS has warned that they could be inaccurate.

FINCEN and BSA

FINCEN is the acronym for Financial Crimes Enforcement Network, an agency of the U.S. Treasury. That is the agency that requires filings about foreign bank accounts, and other information. The penalties for not filing or not reporting fully and accurately are severe. Therefore, the determination for Question 2 above is important. FINCEN takes the position cryptocurrency is **Currency**. Therefore, if held outside the US, it is also “foreign currency”, required to be reported.

BSA is the acronym for the U.S. Bank Secrecy Act. Under those laws, cryptocurrency is **Money**. Therefore, required to be reported in reports to be filed by a Money Service Business (MSB). An Exchanger is a Money Service Business and must register with FINCEN and file reports under the BSA.

SEC

The U.S. SEC prefers to deem cryptocurrency a **Security**. Therefore, they may prosecute abusers of defrauding people under securities laws.

At this time, cryptocurrency may simultaneously be Money, Currency, Property and Securities. If you transact in cryptocurrency, your reporting requirements should be carefully examined.