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Bitcoin IRS Tax Amnesty...Sort Of

The IRS has trained its criminal agents to pursue Bitcoin and other digital currencies. The IRS is using tracking software, and the IRS successfully went after Coinbase accounts via summons. And more IRS enforcement is surely on the way. Yet there has [long been speculation](#) that a special IRS amnesty program will be announced for Bitcoin and other digital currencies. Even government officials have mentioned the idea, but so far, it hasn't arrived. Without a formal amnesty, you can still amend a few returns to pick up additional income you failed to report. But some people are reluctant. A more predictable tax and

penalty result is what IRS amnesty programs usually provide.



If the IRS finds you first through an audit, you won't be protected. But some people are not comfortable just preparing and filing a few amended tax returns to correct mistakes. For more serious transgressions, traditionally, if you voluntarily go to the

IRS to correct your tax problems before the IRS discovers them, you won't be prosecuted. Still, one can feel pretty vulnerable with a powerful agency like the IRS.

Although there is not a special IRS amnesty for crypto, there *is* one for offshore accounts. If you have an offshore account, the IRS amnesty can offer crypto investors a back door. With extensive data swapping deals between the IRS, foreign governments, and foreign banks, almost no offshore account is secret any more. Yet, offshore account holders can safely fix their problems, even if they intentionally evaded reporting in the past. The cost of the IRS amnesty can be small compared to the risk of vastly larger civil penalties or prosecution. Civil FBAR penalties alone can wipe out foreign accounts.

There are two IRS programs, the [OVDP](#) or Offshore Voluntary Disclosure Program, and the Streamlined program. The OVDP is a clean wash-your-hands kind of way to correct past tax filings and come clean. It involves filing up to 8 years of tax returns (or amended tax returns) and FBARs. You pay taxes, interest and a 20% penalty on whatever you owe. For most people, there's also a 27.5% penalty on your highest offshore account balance. In some cases, that penalty can be 50%, [depending on the bank](#) and timing. In contrast, the Streamlined program involves only 3 years of tax returns, not 8. You file 6 FBARs in Streamlined instead of 3, to match the longer FBAR statute of limitations.

The Foreign Streamlined program (for U.S. persons abroad) has no penalty. The Domestic Streamlined program involves a 5% penalty pegged to the highest offshore account balance over the 6 FBAR years. Still, Streamlined filings are subject to worrisome [IRS audits](#). Thus, for crypto investors with risk, the OVDP seems a far better hook for resolving crypto tax problems. As long as you are filing amended tax returns, other corrections *unrelated* to your foreign accounts can be handled too. After all, before you sign amended tax returns under penalties of perjury, you need to make sure they are accurate. If you failed to report any *other* income, you should include it on your amended returns.

By its terms, the OVDP applies to foreign account matters. Other corrections are technically not part of the OVDP, so the IRS could pursue these items outside the OVDP. In reality, though, the IRS appears to be processing them all together. In short, if you have other unrelated corrections to your returns, by all means make them. In fact, cleaning up domestic tax problems is a feature of many OVDP cases. Until the IRS has a special *crypto* amnesty, the OVDP may be worth a look.

For alerts to future tax articles, email me at Wood@WoodLLP.com. This discussion is not legal advice.