



## Robert W. Wood

THE TAX LAWYER

TAXES 12/04/2017

### Bitcoin Tax Troubles Get More Worrisome

The IRS has not yet announced a tax amnesty for people who failed to report their gains and income from Bitcoin and other virtual currencies. But there has long been speculation that it might happen. Soon would be good. It is well-known that the IRS is looking hard at Bitcoin and other cryptocurrency transactions, hoping to collect big. Frighteningly, much of the IRS attention appears to be focused on the criminal end of the spectrum. The IRS Criminal Investigation Division not only ordered training for its agents. It also entered into a contract with Chainalysis for tracking. We may expect this area to unfold materially in the coming years, and not in a happy way.



The Coinbase summons saga has been resolved for the time being [here](#). As a result, some account holders are going to be exposed to the IRS. They may have nothing to fear, if they have been reporting their gains. However, given what the IRS has said about the paucity of

Bitcoin transactions reported on tax returns, it seems likely that some people have not been reporting. That means there could be a scramble to get to the IRS

before the IRS collects the data and acts on it. Some people will surely consider filing amended tax returns. The IRS looks on self-correction as vastly better than just being caught.

This is where an IRS amnesty of some sort could be huge. There have been more than a few comparisons raised with the Swiss and other offshore bank controversies. For models on special amnesty programs, the IRS has good examples. The Swiss bank controversies of a decade back prompted two IRS programs, and they are both still in existence. First was the so-called OVDP, and second was the Streamlined programs. These formulaic voluntary disclosure programs could be helpful blueprints.

One Justice Department attorney recently noted that IRS scrutiny on tax reporting could prompt some kind of program. Mark F. Daly, senior litigation counsel in the Justice Department Tax Division, made the remarks in a November 3, 2017 symposium held by the State Bar of Texas Tax Section. It does seem about time. Other than the [2014 “it is property” notice](#), the IRS has not provided taxpayers with more information. The fact that the IRS is going to get data from Coinbase might suggest that the IRS does not need to extend a carrot to non-compliant taxpayers.

But the carrot and stick approach was exactly what the IRS did with the offshore bank accounts. The IRS won big with a [John Doe Summons](#) to UBS, the Swiss bank. The IRS used a John Doe Summons against Coinbase too. The IRS prosecuted big foreign banks for helping Americans stash money overseas, and prosecuted individuals too. The IRS used whistleblowers, and strong-armed foreign governments and banks to turn over data. But perhaps the greatest coup in the IRS’s strategy was a type of limited amnesty. The IRS collected more than \$10 billion in these efforts, and the money train isn’t done yet.

Coinbase was [ordered](#) to supply the IRS with the identities of all users in the U.S. who conducted at least one bitcoin transaction equivalent to at least \$20,000 between 2012 and 2015. Coinbase will be required to turn over the names, addresses, tax identification numbers, and account details on 14,355 account holders out of its nearly 6 million customers. The UBS release that started the Swiss avalanche was only 4,250 names. Meantime, Bitcoin values have gone meteoric. It seems likely that the IRS could use both carrots and sticks to get what it wants from Bitcoin and other digital currency gains. Some sticks are certainly coming. Hopefully a carrot is too.

*For alerts to future tax articles, email me at [Wood@WoodLLP.com](mailto:Wood@WoodLLP.com). This discussion is not legal advice.*