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Is Puerto Rico a Crypto Tax Paradise? - Expert Take



EXPERT TAKE

In our Expert Takes, opinion leaders from inside and outside the crypto industry express their views, share their experience and give professional advice. Expert Takes cover everything from Blockchain technology and ICO funding to taxation, regulation and cryptocurrency adoption by different sectors of the economy.

2017 was a challenging year for Puerto Rico. First came the destruction and devastation from Hurricane Irma and Maria. Then came disorganized relief efforts, and allegations back and forth as to whether Puerto Rico or the US were to blame. Even today, only 60 percent of Puerto Rico has access to reliable electricity. And the Tax Reform bill that just

passed the Congress imposed new tariffs on US companies that hold Puerto Rican subsidiaries.

Still, some see in Puerto Rico a budding crypto tax paradise. Some tax advisers are telling their clients to pick up and move to Puerto Rico. As the theory goes, after establishing residency they can sell their cryptocurrency holdings 100 percent tax-free. Sounds great! Where does one sign up?

If true, this could be a boon to the Puerto Rican economy, not to mention to those individuals sitting on mountains of appreciated cryptocurrency assets. But does this Puerto Rico tax scheme actually work? Like everything in the world of cryptocurrency taxes, great caution is in order.

[The IRS is just getting around](#) to developing a strategy to identify, assess and collect the billions of dollars in taxes from cryptocurrencies that some believe are going unreported. The notion that US and Puerto Rico tax authorities will allow millions (if not billions) in cryptocurrency sales to escape taxation entirely is pretty optimistic, to say the least.

Will the US tax crypto sales after a move to Puerto Rico?

Generally speaking, the IRS does not require a US taxpayer to include income from “sources within Puerto Rico” if they have resided in Puerto Rico for an entire taxable year. That part seems good.

However, there are a whole host of rules governing “bona fide residency” that can apply, as well as information reporting requirements to the IRS. So one would need to truly move to Puerto Rico, not just go through some of the motions. Plus, sales may still need to be reported to the IRS, even if they’re not subject to US tax.

Of course, the more significant worry is that the IRS will seek to tax these crypto sales from Puerto Rico, even if one legitimately establishes residency there. How could this be done? Possibly under complex regulations governing “property of former US residents.” The IRS might argue that much of the gain from a crypto sale in Puerto Rico [should be taxed in the US](#). For example, take someone that bought Bitcoin back in 2015 and only moved to Puerto Rico in 2018. The IRS might argue that nearly all of the appreciation occurred prior to the move to Puerto Rico and that therefore the IRS has the right to tax nearly all of the gains from the sale. You may have to wait ten years before you sell to avoid any US tax.

Would the IRS prevail if this issue went to court? Some tax advisers apparently think not. But with big tax dollars at stake, caution is definitely in order. [The IRS is just ramping up its efforts to tax cryptocurrencies](#), and it might not take the most taxpayer-friendly positions. The idea that someone can move to Puerto Rico with appreciated cryptocurrencies, potentially worth billions of dollars, and sell them entirely tax-free, sounds good but perhaps too good to be true.

Que Pasa con Puerto Rico?

The other side of the equation is Puerto Rico. Let's assume that in a perfect world, the IRS conceded that the sale of crypto in Puerto Rico (after moving) was not subject to any US tax.

Would Puerto Rico try to tax these sales? Again, some advisers say no, and point to tax incentives that Puerto Rico has for built-in capital gains of new residents. But here too, caution is definitely in order. Consulting with Puerto Rico tax experts first seems prudent, to avoid an expensive mishap.

For example, the Puerto Rican exemptions might only apply to gains that were accrued after the individual becomes a bonafide resident of Puerto Rico. Plus, with state budget severely strapped, and the local economy flailing, it might pay to expect the unexpected. Even if the Puerto Rico tax dodge works for now (which is questionable), whether it will persist is worth considering carefully.

Imagine that billions of dollars of cryptocurrency sales are being executed in Puerto Rico, and no government is collecting any tax on them. Should you really expect the IRS and the Puerto Rican tax authorities to sit back and watch, rather than trying to take a piece for themselves?

If so, I have an island paradise to sell you.

The views expressed here are the author's own and do not necessarily represent the views of Cointelegraph.com

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