

03/07/20

By [Robert W. Wood](#)

## New IRS Tax Question: Can Yes Or No Trip You Up?

**Y**es or no seems pretty simple, right? A new IRS question appears on your 2019 Form 1040 at the top of Schedule 1. It asks if you received, sold, sent, exchanged, or otherwise acquired any financial interest in any virtual currency at any time during the year. It is not asking for numbers or detail, although if you sold some, it should go elsewhere on your tax return. Since the IRS classifies crypto as property, 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 pretty important. Tax savvy people may recognize it as similar to the foreign account question included on the Schedule B. The question could set you up for big penalties or even committing perjury for checking the wrong box as the [IRS intensifies its hunt for crypto tax cheats](#).

If a taxpayer answers “no” and then is discovered to have engaged in transactions with cryptocurrency during the year, the fact that they explicitly answered no to this new question (under penalties of perjury) could be used against them. So if you did any of the listed things, you check yes, right? What if you just have a kind of ‘signature authority’ over crypto owned by your non-computer savvy parents or other relatives? That way, you can 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. But 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.” 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 realized that you forgot to report your crypto gains in past years, considering amending 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 last year. Just remember, the IRS is quite interested in crypto, and is taking steps to ferret out people who do not report.

The new crypto tax question on your 2019 federal tax return should tell you something. After all, the Department of Justice Tax Division has 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 is even meeting with tax authorities from other countries to share data and enforcement strategies to find potential cryptocurrency tax evasion.

The IRS appears to believe that millions of transactions might still be unreported. Taxpayers may think they will not be caught, but the risks are growing, and the best way to avoid penalties is to disclose and report as accurately as you can. IRS Commissioner Chuck Rettig has even moved to increase criminal investigations too. Last year's IRS letters to 10,000 crypto taxpayers was just a start, so 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 filing amended ones. Of course, anytime you are [amending your taxes, you should be careful](#).

*Robert W. Wood is a tax lawyer and managing partner at Wood LLP. He can be reached at [Wood@WoodLLP.com](mailto:Wood@WoodLLP.com).*