



IRS Clarifies Its View of Cryptocurrency Hard Forks

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For years, taxpayers with a connection to cryptocurrency have eagerly awaited guidance from the Internal Revenue Service. The last trove, released in the form of Revenue Ruling 2019-24 and set of Frequently Asked Questions in 2019, left a number of taxpayer questions unanswered. This past month, the Service filled in one more piece of the puzzle.

In a memorandum dated March 22, the Service explained its view of the consequences of a cryptocurrency hard fork. A hard fork is a software update effectively branching a cryptocurrency into two incompatible blockchain networks. This creates a new cryptocurrency if both networks continue to operate, in which case the event is termed a contentious hard fork, a persistent chain split or a schism. The fork of Bitcoin Cash from Bitcoin in August of 2017 is a prominent example of a contentious hard fork.

The previous guidance on the issue, Revenue Ruling 2019-24, addressed the consequences of a hard fork followed by an airdrop. Taxpayers wondered about the scope of this ruling, given the rarity of a hard fork followed by an airdrop as a means of acquiring a forked cryptocurrency.

The recent memorandum clarifies that the previous analysis also applies to the more common standalone hard fork scenario. The Service's view is that when the recipient of a newly forked cryptocurrency has the ability to sell, exchange or transfer the new cryptocurrency, that new cryptocurrency is included in the recipient's gross income. Thus, for example, if the taxpayer held Bitcoin through the Bitcoin Cash hard fork on a cryptocurrency exchange platform that did not support access to the taxpayer's Bitcoin Cash until months after the hard fork, that taxpayer would not have income until Bitcoin Cash was supported by the platform.



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The Internal Revenue Service continues to investigate and pursue noncompliance in the cryptocurrency space. If you face a high-stakes cryptocurrency tax issue, including potential past noncompliance and ongoing or contemplated transactions, please reach out to a member of our team to discuss available strategies.