

The Bankler Report

February 6, 2020

INTRODUCTION

On October 9, the IRS updated guidance on cryptocurrency. Despite many requests from the tax professional community, the IRS shows no signs of having any amnesty programs similar to the various programs that were instituted for taxpayers with foreign accounts.

IRS is looking for underreporting of cryptocurrency:

- 1. Coinbase Summons** – IRS issued a “John Doe” summons to Coinbase. This type of summons involves a group of taxpayers that the IRS cannot identify by name, YET, the court approved the enforcement of this summons and Coinbase released information on 13,000 customers. These were records from 2013-2015.
- 2. IRS issued more than 10,000 letters** – Last August, more than 10,000 taxpayers received letters from the IRS stating that they may have failed to properly report income. As the IRS obtains additional information, additional letters will be issued.
- 3. Cryptocurrency is property and NOT LEGAL CURRENCY** – Several years ago, the IRS stated that cryptocurrency is property for tax purposes (Notice 2014-21, 2014-16 IRB 938). They consider this in the same manner as stocks/bonds/ real estate, etc. The IRS FAQs state that all income, gain, or loss involving virtual currency must be reported regardless of the amount or whether you received a form W-2 or 1099. Many investors have made various purchases at multiple times over several years. The only record of these transactions may only be the investor’s own logs.
- 4. What happens if the taxpayer fails to report these transactions?** - The IRS believes that there are millions of cryptocurrency transactions that have not been reported. Many Coinbase users might have thought that their information would be protected, but the “John Doe” summons proved otherwise. The best way to avoid penalties is to disclose and report as accurately as you can. At least this will show that you did not have a willful intent to avoid taxes.
- 5. Could this failure to report be criminal?** – The IRS has taken several steps indicating that they plan to increase criminal referrals. New IRS Commissioner Charles Rettig has stated that the current percentage of civil referrals in the Criminal Investigation inventory is unacceptable. The recent IRS letters mentioned above basically state that if taxpayers received these letters and they are ignored, that fact can provide evidence of an intentional effort to hide assets. Also, new for 2019, tax forms have a checkbox requiring the taxpayer to answer whether at any time during 2019 they sold, sent, exchanged, or otherwise acquired any financial interest in cryptocurrency.

This report is a brief summary dealing with reporting cryptocurrency transactions. Please feel free to contact us with your specific questions.