

# HELP! – MY CLIENT HAS CRYPTOMANIA

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# What is Cryptocurrency?



# Terminology

A. Bitcoin



E. Air Drop



B. Blockchain

F. Key



C. Distributed Ledger

G. Wallet



D. Hard Fork



## Why Do I Care?



# Currency or Property?



## Currency or Property

- Arguments for Currency
  - Circulates
  - Accepted as payment for goods
  - Used and accepted as a medium of exchange
  - IRS definition of virtual currency



# Currency or Property

- Effects of Property Designations
  - Gain or loss on use – capital or ordinary
  - No like kind exchange
  - Miner of bitcoins – self-employment income
  - Investor versus trader
- SEC
- Commodity



## IRS Activity

- A. IRS Notice 2014-21, March 25, 2014
- B. Employees paid in bitcoins – include FMV of bitcoins in income
- C. Normal information reporting and withholding requirements
- D. Payor must file Form 1099-MISC if over \$600
- E. Purchase of goods using cryptocurrency
  - Basis – gain or loss





## IRS Activity

F. IRS News Release IR-2018-71, March 23, 2018

G. Revenue Ruling 2019-24, October 9, 2019

1. Tax treatment of hard forks and air drops

2. Examples:

- Hard fork without air drop
- Hard fork followed by air drop

H. Frequently Asked Questions – issued  
October 9, 2019

- Expanded on provisions of IRS Notice 2014-21



# IRS Investigations

- A. Tax compliance risks
- B. Tax evasion
  - Letters to 10,000 taxpayers
  - Coinbase subpoena
- C. Audit procedures – Large Business & International Division



## IRS Investigations

- D. Increased training for revenue agents and revenue officers
- E. New Question on Schedule 1 of Form 1040:

At any time during 2019, did you receive, sell, send, exchange or otherwise acquire any financial interest in any virtual currency?



# IRS Investigations

## F. Congress

Numerous bills pending to regulate virtual currencies on these topics:

- Crime Prevention & Detection
- National Security and Terrorism
- Regulatory Certainty
- Consumer Protection
- U.S. Competitiveness & Economic Prosperity
- Taxation



# Estate Planning – Cryptocurrencies

- Disclosure
- Access – private key
- Quadriga case
- Sale by Fiduciary of Estate



# Estate Planning – Digital Assets

Examples:

- Website
- Domain name
- Social media
- You Tube Channel
- Financial records



# Estate Planning – Digital Assets

## Fiduciary Access to Digital Assets Act (FADAA)

- Digital executor
- Online option tools
- Third party service providers
- Ownership by entity



# Cryptocurrency in Retirement Plan

- Allowable
- Too risky?

