

6-20-2021

## **THE UNFAIR TREATMENT OF CRYPTOCURRENCIES BY THE U.S. INTERNAL REVENUE SERVICE**

Antonio Alvarez Lorenzo

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**THE UNFAIR TREATMENT OF CRYPTOCURRENCIES**  
**BY THE U.S. INTERNAL REVENUE SERVICE**



by Antonio Alvarez Lorenzo  
20 June 2021

**Abstract**

*This paper explores the challenges the cryptocurrency industry has been confronting in the United States due to the unfairness of the tax policies issued by the United States Internal Revenue Service. Cryptocurrency service providers, miners, investors and general consumers are being prevented from taking advantages of special tax treatments as compared to other similar properties, commodities and securities. Tax legislation has not kept pace with the development of emerging cryptocurrency technologies that enable otherwise traditional types of revenue to be generated.*

## **I. Overview of Cryptocurrencies**

Most people use the terms “cryptocurrency” and “digital financial assets” interchangeably. However, cryptocurrencies are in fact a type of digital financial asset. Digital financial assets are stored and transferred electronically.<sup>1</sup> Generally, any financial asset existing only in digital format (scribed in the binary system of 0’s and 1’s) is a digital financial asset.<sup>2</sup> The US dollar balance in your checking account or the stock you hold in your brokerage account are digital financial assets, as opposed to physical financial assets like paper dollars in your wallet or a stock certificates you may keep in your safe.<sup>3</sup>

The word cryptocurrencies is derived from cryptography, the science of secret writing.<sup>4</sup> In cryptography, unencrypted data, or plaintext, is turned into encrypted data, which cannot be read until turned back into usable plaintext using a secret key.<sup>5</sup> Cryptocurrencies are digital financial assets that, rather than being scribed in 0’s and 1’s, use encryption to verify ownership and complete transactions while keeping the information secret.<sup>6</sup>

Encrypted transactions are registered and stored on online ledgers called blockchains that “record transactions in a way that cannot be later erased but can only be sequentially updated” ... “keeping a never-ending historical trail” of all transactions.<sup>7</sup> A blockchain displays publicly the balance of all accounts on the ledger.<sup>8</sup> Because the blockchain is encrypted, the identities of all account owners remain private to everyone, including the U.S. government.<sup>9</sup>

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<sup>1</sup> Andrew Wagner, *Digital vs. Virtual Currencies*, [www.bitcoinmagazine.com/15862/digital-vs-virtual-currencies/](http://www.bitcoinmagazine.com/15862/digital-vs-virtual-currencies/), last visited on April 2, 2021

<sup>2</sup> *Id*

<sup>3</sup> *Id*

<sup>4</sup> Gary C. Kessler, *An Overview of Cryptography*, <https://www.garykessler.net/library/crypto.html#purpose>, last visited on April 18, 2021

<sup>5</sup> *Id*

<sup>6</sup> See Wagner, *supra* note 1

<sup>7</sup> William Mougayar, *The Blockchain Is the New Google*, [www.techcrunch.com/2016/05/11/the-blockchain-is-the-new-google/](http://www.techcrunch.com/2016/05/11/the-blockchain-is-the-new-google/), last visited April 2, 2021

<sup>8</sup> *Id*

<sup>9</sup> Patrick McLeod, *Taxing And Regulating Bitcoin: The Government’s Game Of Catch Up*, 2014, at 384

The Internal Revenue Code defines gross income as “all income from whatever source derived.”<sup>10</sup> The Internal Revenue Service (IRS) further defines the term to include “[t]he sale or other exchange of virtual currencies, or the use of virtual currencies to pay for goods or services, or holding virtual currencies as an investment.”<sup>11</sup> The IRS is not making it easy for taxpayers to report their cryptocurrency related gross income by imposing on it a tax treatment different than the treatment imposed to gross income from similar, traditional sources.

This paper first reviews the tax treatment the IRS applies to gross income derived from traditional financial assets (e.g. gold, silver, or foreign currencies) that have similar uses as cryptocurrencies. It then reviews the current treatment applied to gross income derived from uses unique to cryptocurrencies (e.g. block validation income) as well as uses of cryptocurrency that are similar to traditional financial assets (e.g. investment or e-commerce income). This paper then concludes that the IRS should base its treatment of cryptocurrency related gross income solely on the intended use of the cryptocurrency, just like all other similar assets, and it should do so with a bias for simplicity of record keeping and reporting in order to promote compliance.

## **II. Tax treatment of Financial Assets**

The best way to encourage taxpayers to report their gross income is to reduce their filing burden.<sup>12</sup> Based on data from the Office of Information and Regulatory Affairs, complying with the tax code in 2019 consumed 7.85 billion hours of effort.<sup>13</sup> A reduced burden will increase the

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<sup>10</sup> 26 U.S.C. § 61(a)

<sup>11</sup> Internal Revenue Service, *Virtual Currencies*, <https://www.irs.gov/businesses/small-businesses-self-employed/virtual-currencies>, last visited on April 17, 2021

<sup>12</sup> Michael D. Chatham & Thomas K. Duncan, *Taxation as a barrier to blockchain innovation*, 2019, at 12

<sup>13</sup> Demian Brady, *Tax Complexity 2020: Compliance Burdens Ease for Second Year Since Tax Reform*, 2020, at 2

level of tax compliance.<sup>14</sup>

Based on this principle, the IRS has made significant changes to its code to reduce this burden for specific sources of gross income.

### A. Gold and Silver

Physical holdings in precious metals, such as gold or silver, are treated by the IRS as capital assets specifically classified as collectibles and subject to capital gains tax.<sup>15</sup> The tax rate applicable to capital gains from the sale of precious metals is equal to the taxpayer's marginal tax rate, and up to a maximum of 28%, regardless of the actual taxpayer's maximal rate.<sup>16</sup> That means that individuals in the 33%, 35%, or even 39.6% tax brackets only have to pay 28% on their gross income generate from precious metals.<sup>17</sup> In addition to the rate cap, the IRS also allows taxpayers to deduct costs such as appraisal expenses from these precious metal related capital gains, which effectively reduces the corresponding tax liability.<sup>18</sup> But that is not all; capital gains taxes are only owed on precious metals held for more than one year.<sup>19</sup>

But the regulations clearly state that such precious metals must be held in the physical possession to qualify.<sup>20</sup> Accordingly, cryptocurrencies are not included, even if their value is a cryptographic representation of a precious metal.

### B. Investments and Trades

Investing and trading are two very different methods of attempting to profit in the finan-

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<sup>14</sup> *Id* at 19

<sup>15</sup> Craig Anthony, *Taxes on Physical Gold and Silver Investments*, 2020, at 2

<sup>16</sup> *Id* at 3

<sup>17</sup> *Id* at 3

<sup>18</sup> *Id*

<sup>19</sup> *Id* at 2

<sup>20</sup> 26 U.S.C. § 408(m)(2)

cial markets.<sup>21</sup> Investors seek larger returns over an extended period through buying and holding financial assets, while traders take advantage of both rising and falling markets to enter and exit positions over a shorter timeframe, taking smaller, more frequent profits.<sup>22</sup>

Broker Dealers and Barter Exchanges are required by the IRS to record customers' gains and losses during a tax year.<sup>23</sup> These regulated financial institutions are required to calculate the preliminary gains and losses and to send each individual taxpayers an IRS Form 1099-B for every transaction completed.<sup>24</sup> Each transaction must be reported on a separate Form 1099-B.<sup>25</sup>

This type of reporting requirement encourages investors and traders to comply with their gross income reporting requirements by lightening their record keeping burden. But providers of cryptocurrency services are not included in this requirement, even if the cryptocurrency invested or traded is used to profit in the financial markets.

### C. Section 475 Election

Taxpayers generally must recognize income when there is a realization event, which often comes in the form of a sale or exchange.<sup>26</sup> However, even in the absence of a realization event, Section 475 of the Internal Revenue Code allows securities and commodity dealers to adjust the value of their investments to market value annually, recognizing the resulting gains and losses as ordinary income instead of as capital gains.<sup>27</sup>

For the purpose of Section 475, dealer is defined as a taxpayer who either “regularly pur-

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<sup>21</sup> Jean Folger, *Investing vs. Trading: What's the Difference?*, <https://www.investopedia.com/ask/answers/12/difference-investing-trading.asp>, last visited April 13, 2021

<sup>22</sup> *Id*

<sup>23</sup> Adam Barone, Form 1099-B: Proceeds from Broker and Barter Exchange Definition, <https://www.investopedia.com/terms/f/form-1099-b.asp>, last visited April 12, 2021

<sup>24</sup> *Id*

<sup>25</sup> Internal Revenue Service, *2021 Instructions for Form 1099-B*, <https://www.irs.gov/pub/irs-pdf/i1099b.pdf>, last visited April 12, 2021

<sup>26</sup> Jaya A. Soled J.D., Mary B. Goldsirsh, & Kristie N. Tierney,, *The lure of a Sec. 475 election*, 2014, at 1

<sup>27</sup> 26 U.S.C. § 475

chases securities from or sells securities to customers in the ordinary course of a trade or business, or regularly offers to enter into, assume, offset, assign or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.”<sup>28</sup>

Section 475 applies exclusively to both securities, which are broadly defined to include, among others, stocks, notes, bonds, currency or derivatives, as well as commodities, which are strictly defined as tangible goods such as gold, oil, cattle, pork bellies, and orange juice.<sup>29</sup>

By defining cryptocurrencies as property, the IRS is effectively preventing taxpayers that otherwise fall within the definition of dealers, from electing Section 475 and adjusting the value of their cryptocurrencies to market value annually, even when the cryptocurrency may be defined as an investment contract by the Securities and Exchange Commission or a commodity by the Commodity Futures Trading Commission.

#### D. Foreign Currency

Under Section 988 of the Internal Revenue Code, holders of foreign currency may exclude a de minimis amount of foreign currency gain.<sup>30</sup> The rationale behind the exclusion is administrative simplicity.<sup>31</sup> Tourists, for example, who make a small gain while holding euros during a trip to Europe do not need to recognize the gain as gross income on their tax return.<sup>32</sup>

Since the tax code does not contain a definition of foreign currency, the IRS has administrative authority to classify cryptocurrencies as foreign currencies.<sup>33</sup> However, despite pleas from advocates, the IRS has not made such classification.<sup>34</sup> Hence the foreign currency exception does

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<sup>28</sup> 26 U.S.C. § 475(c)(1)(A) & (B)

<sup>29</sup> See Soled, *supra* note 26, at 3

<sup>30</sup> 26 U.S.C. § 988(e)(2)

<sup>31</sup> 07 Eric D. Chason, *A Tax On The Clones: The Strange Case Of Bitcoin Cash*, 2019, at 22

<sup>32</sup> *Id*

<sup>33</sup> *Id* at 21

<sup>34</sup> *Id* at 22

not apply to cryptocurrencies, even when the gains from merely holding a cryptocurrency incidentally may be minimal.

### **III. Tax Treatment of Cryptocurrencies**

In 2014, the IRS published a notice clarifying the tax treatment of cryptocurrencies as property, regardless of the mode of acquisition or disposal.<sup>35</sup> Accordingly, if the cryptocurrency acquired is listed on an exchange, its fair market value is generally determined by the listed exchange rate.<sup>36</sup> On the other hand, in a barter exchange, the gain or loss for tax purposes is recognized as the difference between the fair market value, in USD, of the item received and the USD tax basis of the cryptocurrency traded.<sup>37</sup>

Philosophically, there are circumstances where the role of cryptocurrencies approximate the role of property more than currency by providing access to certain privileges<sup>38</sup>, rather than serving as mediums for exchange.<sup>39</sup> However, there are many cryptocurrencies that seek to be alternatives to traditional currencies instead, by seeking to be used in exchange of common goods.<sup>40</sup> Often, these cryptocurrencies do not carry an intrinsic value of their own, except that they are widely accepted by others.<sup>41</sup> In fact, some states have already implemented regulations that make cryptocurrencies subject to money transmission laws.<sup>42</sup> The New York State Department of Financial Services has probably the most complete set of cryptocurrency regulations at a

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<sup>35</sup> Internal Revenue Service, *IRS Virtual Currency Guidance Notice 2014-21*, [https://www.irs.gov/irb/2014-16\\_IRB#NOT-2014-21](https://www.irs.gov/irb/2014-16_IRB#NOT-2014-21), last visited on April 18, 2021

<sup>36</sup> *Id*

<sup>37</sup> *Id*

<sup>38</sup> For example, the Legends cryptocurrency (LGD).redeemable for drinks and dances at a strip club in Las Vegas, provides special VIP privileges to those individuals who possess a large amount of it. Corin Faife, *A Las Vegas Strip Club Is Making It Rain Cryptocurrency*, [https://motherboard.vice.com/en\\_us/article/qk7g8p/a-las-vegas-strip-club-is-making-it-rain-cryptocurrency](https://motherboard.vice.com/en_us/article/qk7g8p/a-las-vegas-strip-club-is-making-it-rain-cryptocurrency), last visited April 17, 2021

<sup>39</sup> Sami Ahmed, J.D., *Cryptocurrency & Robots: How To Tax and Pay Tax on Them*, 2017, at 23

<sup>40</sup> *Id* at 24

<sup>41</sup> *Id*

<sup>42</sup> Deidre A. Liedel, *The Taxation of Bitcoin: How the IRS Views Cryptocurrencies*, 2018, at 134

state level, including rules and guidance on how cryptocurrencies are to be categorized.<sup>43</sup>

In 2019, the Financial Crimes Enforcement Network (FinCEN), a separate department within the United States Department of the Treasury, issued an interpretive guidance “to remind persons subject to the Bank Secrecy Act how FinCEN regulations relating to money services businesses apply to certain business models involving money transmission denominated in value that substitutes for currency, specifically, convertible virtual currencies.”<sup>44</sup>

The opposing classifications of cryptocurrency both as a property by the IRS and as a value that substitute currency by FinCEN and many state regulators are clear evidence of the contradicting and prejudiced manner in which cryptocurrencies are being viewed by the federal government, and in particular by the IRS.

#### A. Blockchain Validators

Maintenance of a cryptocurrency blockchain involves registering and publishing transactions made so that there is a trusted record.<sup>45</sup> Participation in network maintenance is often called validation because a core task is to confirm the legitimacy of transactions before they become a permanent addition to the blockchain.<sup>46</sup> Validators are rewarded for their efforts directly by the blockchain with cryptocurrencies.<sup>47</sup>

According to the IRS, validators realize gross income upon receipt of cryptocurrencies resulting from their validating activities, and the fair market value of such cryptocurrencies as of the date of receipt must be included in their gross income.<sup>48</sup>

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<sup>43</sup> *Id*

<sup>44</sup> Internal Revenue Services, *Application of FinCEN's Regulations to Certain Business Models Involving Convertible Virtual Currencies*, [www.fincen.gov/sites/default/files/2019-05/FinCEN%20Guidance%20CVC%20FINAL%20508.pdf](http://www.fincen.gov/sites/default/files/2019-05/FinCEN%20Guidance%20CVC%20FINAL%20508.pdf), last visited April 17, 2021

<sup>45</sup> *Id*

<sup>46</sup> Abraham Sutherland, *Cryptocurrency Economics and The Taxation of Block Rewards*, 2019, at 753-754

<sup>47</sup> *Id*

<sup>48</sup> *Id* at 760

Including validation revenues as gross income results in inequitable overtaxation of validators. This overtaxation may be considered an accident of the method of accounting that cryptocurrencies to date have chosen: namely, the creation of new tokens when before there was nothing.<sup>49</sup> Validators do still have an option to designate their validating activity as a hobby and avoid some taxes in the short term.<sup>50</sup> However, if a validator turns a profit during three of the previous five years, the IRS will automatically classify its validating activity as a for-profit business and tax all revenues retroactively.<sup>51</sup>

Either way, the tax treatment of cryptocurrencies is a clear deterrence for validators to provide their essential maintenance services to the different blockchains.

## B. Cryptocurrency Exchanges

Cryptocurrency exchanges operate similarly to traditional currency exchanges or banks in that users can, instead of trading one currency for another, acquire cryptocurrencies in exchange for a traditional currency and then trade one cryptocurrency in exchange for another.<sup>52</sup>

The significant growth in the prices of several cryptocurrencies has caused many to purchase cryptocurrencies with the intention of holding them as speculative investments. The volatility Index of the most popular cryptocurrency, bitcoin, shows large swings in prices over short periods of time<sup>53</sup>

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<sup>49</sup> *Id* at 771

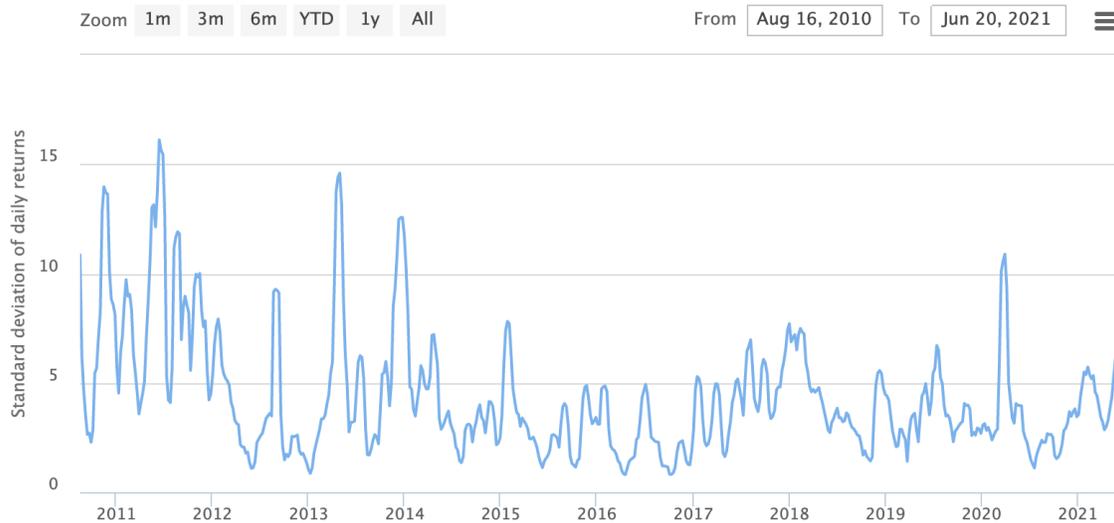
<sup>50</sup> 26 U.S. Code § 183(1)

<sup>51</sup> Internal Revenue Services, *Hobby or Business? IRS Offers Tips to Decide*, [www.irs.gov/newsroom/hobby-or-business-irs-offers-tips-to-decide](http://www.irs.gov/newsroom/hobby-or-business-irs-offers-tips-to-decide), last visited April 18, 2021

<sup>52</sup> See Chatham, *supra* note 12 at 6-7

<sup>53</sup> *The Cryptocurrency Volatility Index*, [www.buybitcoinworldwide.com/cryptocurrency-volatility/](http://www.buybitcoinworldwide.com/cryptocurrency-volatility/), last visited April 20, 2021

## Bitcoin Volatility Time Series Charts



These large and rapid changes in price generate significant trading activity, each of which becomes a taxable transaction.<sup>54</sup> And as we saw above, when the value realized from a sale or trade of a cryptocurrency exceeds its original tax basis, a gain must be recognized.<sup>55</sup>

Cryptocurrency exchanges are regarded by the IRS as payment settlement entities and are required to send their customers yearly IRS Form 1099-K if, for that calendar year, the gross amount of that customer's total reportable payment transactions exceeds \$20,000, and the total number of such transactions exceeds 200.<sup>56</sup> A 1099-K reportable payment transaction is one where a payment instrument is accepted and settled through a third party payment network.<sup>57</sup> It does not include ATM withdrawals, cash advances against a credit card or a check issued in connection with a payment card.<sup>58</sup> But the "gross amount" of payment transactions reported in the

<sup>54</sup> See Chatham, *supra* note 12 at 9-10

<sup>55</sup> *Id*

<sup>56</sup> Internal Revenue Service, *2021 Instructions for Form 1099-K*, <https://www.irs.gov/pub/irs-pdf/f1099k.pdf>, last visited June 20, 2021

<sup>57</sup> *Id*

<sup>58</sup> *Id*

1099-K form has nothing to do with any capital gains or losses the taxpayer may have realized from those payment transactions over the tax year.<sup>59</sup>

For example, a taxpayer that purchased \$10,000 worth of cryptocurrencies in a series of over 201 transactions throughout the year and sold them in a single transaction for \$12,000 would have a short term capital gain of \$2,000. However, the cryptocurrency exchange will be required to issue the taxpayer a Form 1099-K showing a “gross amount” of \$10,000 representing the total amount of payment transactions completed in the year. In addition the cryptocurrency exchange will be required to report the \$10,000 directly to the IRS as total payments settled on behalf of the customer. The taxpayer will then have to independently calculate and include \$2,000 of capital gains in his or her gross income, even though the exchange provided the user with no such information, when preparing his or her tax returns for the year.

In 2016, the IRS served Coinbase with a “John Doe” administrative summons seeking information on all Coinbase customers who transacted in cryptocurrencies between January 1, 2013 and December 31, 2015 and were US persons.<sup>60</sup> The court granted a partial victory to the IRS and ordered Coinbase to produce identity documents and transactional date on accounts with at least the equivalent of \$20,000 in transactions in any one calendar year between 2013 and 2015.<sup>61</sup> As a result, most cryptocurrency exchanges began issuing annually a Form 1099-K to each account holder who met the threshold.<sup>62</sup> Interestingly, the IRS did not address under what circumstances cryptocurrency exchanges should or could issue Form 1099-B instead, if at all,

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<sup>59</sup> William Madison, Recent IRS Action Against Cryptocurrency Users May Result in Less Tax Revenue, [www.uclawreview.org/2019/09/30/recent-irs-action-against-cryptocurrency-users-may-result-in-less-tax-revenue/](http://www.uclawreview.org/2019/09/30/recent-irs-action-against-cryptocurrency-users-may-result-in-less-tax-revenue/), last visited April 9, 2021

<sup>60</sup> *U.S. v. Coinbase, Inc.*, No. 17-cv-01431-JSC, 2017 WL 5890052 (N.D. Cal. 2017) at 3

<sup>61</sup> John T. Woodruff & Stephen A. Rutenberg, *The Tax Man Cometh: IRS Issues Sends Letters to Over 10,000 Taxpayers with Cryptocurrency Transactions Without Providing Anticipated Guidance*, 2021, at 3

<sup>62</sup> *Id*

since an exchange one cryptocurrency for another may also be considered a barter exchange.<sup>63</sup>

This alignment reinforces the odd treatment of cryptocurrencies as property by equating cryptocurrency traders to professionals like lawyers and architects who accept payments for services, freelancers compensated via PayPal and Etsy sellers, affiliates, eBay merchants and other small businesses who accept credit cards, debit card or PayPal as payment.<sup>64</sup>

Businesses around the world are looking to leverage cryptocurrencies and blockchain technology to optimize their supply chains. However, the record-keeping burden needed to keep track of tax basis and gains or losses for each transaction are too onerous and effectively slowing down the adoption of the new technology.

### C. Cryptocurrencies in eCommerce

When a consumer buys something online, there is no need to do anything beyond the exchange of money.<sup>65</sup> However, when cryptocurrency is involved, the buyer has to also consider that if the fair market value of the property received is different than the taxpayer's tax basis of the cryptocurrency used, there may be a taxable gain or loss that must be reported.<sup>66</sup> For example, if a taxpayer uses Bitcoin he or she previously bought for \$50.00 to buy a \$55.00 item, he or she is required to recognize \$5 in his or her gross income as a taxable capital gain.

On the other hand, when a merchant sells something in exchange for cryptocurrency, instead of fiat money, it must then calculate the fair market value of the cryptocurrency received in the transaction.<sup>67</sup> If the value of the items sold is different than the fair market value of the cryptocurrency received, based on the listed price across multiple exchanges, the merchant may have

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<sup>63</sup> *Id* at 4

<sup>64</sup> Kelly P. Erb, *Credit Cards, The IRS Form 1099-K And The \$19,399 Reporting Hole*, <https://www.forbes.com/sites/kellyphillipserb/2014/08/29/credit-cards-the-irs-form-1099-k-and-the-19399-reporting-hole/?sh=576702b31ae8>, last visited on April 12, 2021

<sup>65</sup> See Liedel, *supra* note 42 at 118

<sup>66</sup> *Id*

<sup>67</sup> *Id* at 119

a taxable gain or loss that must be reported.<sup>68</sup> In the example above, the merchant that sold the \$55.00 item must then ascertain the fair market value of the cryptocurrency received, which at the time could be \$56.00, and and recognize \$1 as a taxable capital gain in addition to the operating income that resulted from the sale of the item.

The current tax treatment of cryptocurrencies unnecessarily complicates their use as means of exchange in commercial transactions. The need to establish a tax basis for each transaction so that gains or losses can be recognized overcomplicates record keeping and adds costs and friction to commercial transactions.

#### **IV. Conclusion**

Today, the IRS treats all cryptocurrencies the same way, as if the term cryptocurrency described a specific financial asset with a single intended use. But as we saw above, cryptocurrencies are financial assets that have been encrypted rather than digitized. And as such their intended use may be similar to traditional financial assets or unique to cryptocurrencies.

We have also seen how the IRS has created special rules to promote certain investments. These rules are sometimes based on a financial asset itself, like precious metals, but are mostly focused on the intended use of the financial asset. Tax policy, in these cases, promotes a behavior rather than the asset itself or the form in which the asset is kept (paper or digital).

To promote tax compliance among cryptocurrency users, the IRS should transform its policies and base the tax treatment of gross income derived from cryptocurrencies on either the intended or the actual use of the cryptocurrency, and not on the fact that cryptography was used

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<sup>68</sup> *Id*

to create, store and transfer the financial asset.

Gross income derived from cryptocurrencies whose values are tokenized representations of a precious metal, and hence used in the same way as the precious metal, should be subject to the same tax treatment as the precious metal, since the cryptographic representation of the asset should not be a matter for taxation.

When validators or merchants receive payments or when consumers use cryptocurrency for everyday commerce, they should all treat such payments the same as if they were made in foreign currency and allow for the de-minimis foreign currency gain exclusion.

And cryptocurrencies used for investing or trading purposes should be treated as any other financial asset used for that same purpose. The tax treatment of the gross income derived from investment or trading activities should always be based on the intended use of the asset, regardless of the technology that made the asset possible. Investors and traders of cryptocurrencies should be allowed to take advantage of Section 475. Thus, cryptocurrency exchanges trading cryptocurrencies with a primary intended use as an investment contract should follow the Broker Dealers rules in the same way that cryptocurrency exchanges trading cryptocurrencies with an primarily intended use as commodities or property should follow the Barter Exchanges rules. In either case, cryptocurrency exchanges should be obligated to produce an IRS Form 1099-B for each transaction, reducing their client's record keeping burden and eliminating the confusion currently being created by the IRS Form 1099-K.

In conclusion, the IRS should not base its tax policy on the technology a financial asset uses to take form. Instead it should base it on the intended use of the financial asset with a bias for simplicity of record keeping and reporting in order to promote compliance.