

Governments are Pulling Back the Crypto-Currency Curtain

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Wednesday, December 13, 2017

Coinbase Inc., a virtual currency exchange platform, was recently ordered by the United States District Court for the Northern District of California to provide the Internal Revenue Service (IRS) with 2013-2015 transaction data for thousands of Coinbase accounts. *See United States v. Coinbase Inc., et al.*, No. 17-CV-01431-JSC, 2017 WL 5890052, (N.D. Cal. Nov. 28, 2017). The IRS, citing references to 5.9 million customers and more than \$6 billion of bitcoin transactions on Coinbase's website, identified a potential reporting gap, since only 800-900 taxpayers have identified bitcoin transactions on their tax returns in the past few years. (Coinbase's website currently references 10 million customers and \$50 billion in transactions.) Although the IRS narrowed the scope of the third-party record keeper summons it had originally issued to Coinbase under Code Sections 7602, 7603 and 7609 (aka, a "John Doe Summons"), the parties could not reach agreement on what was to be produced, and the government initiated enforcement proceedings earlier this year.

For each account with at least the equivalent of \$20,000 in any one transaction type (buy, sell, send or receive), the court ordered Coinbase to provide the IRS with: (1) the name, taxpayer ID number and birth date of the account holder; (2) account

records (including transaction activity, account balances and counterparty identity); and (3) account statements or invoices. Coinbase has not publicly indicated whether it will appeal the court's order. Nonetheless, it is highly likely the IRS will continue to seek this information as it develops a data set on bitcoin transactions. For example, since Coinbase represented that most of the accounts had not executed a single transaction that met the value threshold identified in the summons, expect the IRS to lower that figure or replace it with an account balance metric.

The IRS is not the only government agency considering responses to the cryptocurrency phenomenon. European leaders are moving towards adding virtual currency exchange platforms and virtual currency "wallet" providers to the anti-money-laundering know-your-customer regulations for financial institutions and non-bank institutions. The recent boom in bitcoin valuation and activity is motivating authorities to move quickly to ensure the fledgling markets are not becoming vehicles for tax evasion, money laundering and other nefarious activities—a significant concern for all public and private stakeholders.

Practice Point: As the Coinbase case demonstrates, taxing authorities around the world are gaining interest and expertise in virtual currency transactions, and as in any fledgling industry, tax compliance may be an area of dispute. For those participating in virtual currency transactions of any kind (*i.e.*, purchasing, selling, receiving, sending), it is important to inform tax return preparers and other tax advisors so that these transactions can be properly accounted.

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