U.S. Treasury proposes new cryptocurrency tax compliance rules

By Adam Williams, CPA

On Aug. 10, 2021, the U.S. Senate passed the Infrastructure Investment and Jobs Act ("Infrastructure Act") by an unusual bipartisan vote in the modern era of 69-30. To partially pay for the $1 trillion in new infrastructure investment, the Senate plan adopted cryptocurrency reporting policies from the Treasury department's report on the American Families Plan (AFP) and the Biden administration's General Explanations of the Administration's Fiscal Year 2022 Revenue Proposals, commonly referred to as "The Green Book."

These two documents include a set of proposed cryptocurrency tax compliance initiatives. The Senate bill would provide these rules through legislation and the Treasury proposal would do this through the regulatory rule-making process. These new measures work to close a "tax gap" created by nonreporting of cryptocurrency transactions. Cryptocurrencies have gained market acceptance rapidly and the government is determined to establish rules for reporting cryptocurrency transactions.

The proposed new rules also would enable the IRS and Treasury to detect money laundering and tax evasion by providing detailed information on cryptocurrency income received by businesses. Currently, the IRS has limited ability to see cryptocurrency transactions because exchanges, businesses, and financial institutions have no reporting obligations under current law.

The proposed rules would require banks and other financial institutions to report information about transactions to the IRS to enable the agency to detect unreported income. The rules would mandate businesses to file a current transaction report, similar to a Form 1099, when they receive cryptocurrency payments over $10,000. This requirement would parallel the current requirement to file FinCEN reports when cash transactions exceed this threshold.

The Senate bill has an expansive definition of broker that would include anyone "responsible for regularly providing any service effectuating transfers of digital assets on behalf of another person." This definition does not exclude miners, software developers, "crypto stakers," and other individuals in the cryptocurrency industry. On the legislative front, the cryptocurrency industry is lobbying the House to revise this language to narrow the scope of the definition.

Although the Treasury Department has not yet established its final rules as part of the rule-making process, and the Senate bill has not been passed by the House, businesses that accept Bitcoin and other cryptocurrencies are advised to establish tracking and reporting systems to ensure these payments are recorded properly as income. Under current law, although the information is not reported to IRS, the IRS has the power to request the information as part of the normal examination process.

If you have any questions on the proposed rules for cryptocurrency tax compliance, please reach out to your Rehmann advisor or contact us.

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Adam Williams, a principal at Rehmann, helps closely held businesses, pass-through entities, and high net worth individuals achieve their goals by working with them on foreign and domestic corporate taxation, pass-through taxation, accounting for income taxes, mergers and acquisitions, and tax planning and structuring.

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