MSP #24 DIGITAL CURRENCY: The IRS Should Issue Guidance to Assist Users of Digital Currency

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DEFINITION OF PROBLEM

The use of digital currencies, such as bitcoin, is growing. In the four months between July and December 2013, bitcoin usage has increased by over 75 percent — from about 1,700 transactions per hour to over 3,000.[1] Over the same period, the market value of bitcoins in circulation increased more than ten-fold from about $1.1 billion to $12.6 billion.[2] Over 10,000 businesses reportedly accept payment in bitcoins.[3]

The IRS has not issued specific guidance addressing the tax treatment or reporting requirements applicable to digital currency transactions. Differing opinions are available on the Internet. People who are trying to comply with their federal income tax reporting obligations have complained that they are unsure about the rules.[4] Thus, IRS-issued guidance would promote tax compliance, particularly among those who want to comply. Moreover, it would eliminate the ambiguity that may encourage some digital currency users to avoid taxation and information reporting.

ANALYSIS OF PROBLEM

Digital currency is different from government-backed currency.

Unlike the U.S. dollar, a digital currency does not rely on a banking network for payment processing and is not backed or controlled by a government. Bitcoin is an example of a digital currency.

Bitcoin relies on cryptography and a peer-to-peer network to process and verify payments.[5] People can purchase bitcoins on an exchange or "mine" a limited amount by solving cryptographic problems — an activity that facilitates commerce by verifying or clearing transactions in the public ledger (called a "block

1 Bitcoin Watch, www.bitcoinwatch.com (visited July 23 and Dec.2, 2013). Wikipedia, the online encyclopedia, lists eight digital currencies. *See* http://en.wikipedia.org/wiki/Digital_currency (last visited Nov. 8, 2013). This discussion will focus on bitcoin because it appears to be the most widely used digital currency.

2 Bitcoin Watch, www.bitcoinwatch.com (visited July 23, 2013, and Nov. 8, 2013).

3 Bitpay, www.bitpay.com (last visited Nov. 8, 2013).

4 *See, e.g.*, David Steward, *Digital Currency: A New Worry for Tax Administrators?*, 2012 TNT 209-4 (Oct. 17, 2012); Trace Mayer, *A Lawyer's Take on Bitcoin and Taxes* (Jan. 18, 2012).

5 Satoshi Nakamoto, *Bitcoin: A Peer-to-Peer Electronic Cash System* (Oct. 31, 2012), https://en.bitcoin.it/wiki/Bitcoin:A_Peer-to-Peer_Electronic_Cash_System.

chain").[6] If a customer wants to send bitcoins to a merchant, the merchant gives the customer a public key.[7] The customer completes the transaction by signing with his or her public and private keys.

Digital currency is not subject to government manipulation, and facilitates quick, anonymous, irreversible, low-cost transactions.

Bitcoin appeals to those who do not trust banks or other financial institutions, who want to make quick, irrevocable transfers without paying for currency conversion, or who value privacy.[8] The supply of bitcoins is limited and controlled by an algorithm.[9] Unlike government-backed currency, no central authority can devalue bitcoins by printing more. Created in 2009, the supply of bitcoins will gradually increase, as they are minted (*i.e.*, "mined") at a controlled rate, until approximately 2140 when about 21 million are in circulation.[10] Thus, it is less likely to lose value as a result of government intervention or mismanagement than a government-backed currency. Indeed, turmoil in Cyprus reportedly led to a sharp increase in the price of bitcoins as people sought refuge in the digital currency as a kind of cyber gold.[11]

Bitcoin is convenient. International buyers and sellers can conduct transactions without the expense of having an intermediary clear them or convert funds into a national currency.

Bitcoin promotes anonymity because it uses peer-to-peer technology to operate with no central authority or clearinghouse. Although every transaction is open to the public, the identity of the parties is not. A person's bitcoins exist only on his or her computer, rather than on a centralized server that could be monitored and linked to an identity.[12]

Bitcoin is also convenient. International buyers and sellers can conduct transactions without the expense of having an intermediary clear them or convert funds into a national currency. Certain automated teller machines (ATMs), which went

6 *See, e.g.*, Government Accountability Office (GAO), *Virtual Economies and Currencies: Additional IRS Guidance Could Reduce Tax Compliance Risks*, GAO-13-516 (May 2013); Anthony Faiola, *The Rise of the Bitcoin: Virtual Gold or Cyber-Bubble?* Washington Post (Apr. 4, 2013), http://articles.washingtonpost.com/2013-04-04/world/38280106_1_bitcoin-satoshi-nakamoto-monetary-policy.

7 The public key is like an account number and the private key is like a password or PIN. The network uses these numbers to update the block chain, but they are not actually associated with any particular person. An e-wallet is a file on the owner's computer or similar device where bitcoin is stored. If the bitcoin keys are lost, so is the bitcoin. Thus, bitcoin stored in an e-wallet is more analogous to currency than to an account.

8 *See, e.g.*, Maureen Farrell, *Bitcoin Prices Surge Post-Cyprus Bailout*, CNN Money (Mar. 28, 2013), http://money.cnn.com/2013/03/28/investing/bitcoin-cyprus/index.html?iid=HP_LN. For these very reasons, the Federal Bureau of Investigation (FBI) is concerned about the illicit use of bitcoin by criminals, the European Central Bank (ECB) is concerned about the risk it could pose to the financial system, and the Treasury Department's Financial Crimes Enforcement Network (FinCEN) is concerned about its potential to circumvent Bank Secrecy Act (BSA) reporting requirements. *See* FBI, *Bitcoin Virtual Currency Unique Features Present Distinct Challenges for Deterring Illicit Activity*, Intelligence Assessment (Apr. 24, 2012), http://www.wired.com/images_blogs/threatlevel/2012/05/Bitcoin-FBI.pdf; ECB, *Virtual Currency Schemes* (Oct. 2012), http://www.ecb.int/pub/pdf/other/virtualcurrencyschemes201210en.pdf; FIN-2013-G001, *Application of FinCEN's Regulations to Persons Administering, Exchanging, or Using Virtual Currencies* (Mar.18, 2013), http://www.fincen.gov/statutes_regs/guidance/pdf/FIN-2013-G001.pdf.

9 Jon Matonis, *How Cryptocurrencies Could Upend Banks' Monetary Role*, American Banker (Mar. 15, 2013), http://www.americanbanker.com/bankthink/how-cryptocurrencies-could-upend-banks-monetary-role-1057597-1.html.

10 About Bitcoin, http://bitcoin.org/en/about (last visited Nov. 8, 2013). Bitcoins are created each time a miner solves an algorithm to "discover" a new "block" of bitcoin. The rate of block creation is approximately six per hour. *See* Bitcoin, *Controlled supply*, https://en.bitcoin.it/wiki/Controlled_Currency_Supply (last visited Nov. 8, 2013). The number of bitcoins generated per block is set to decrease geometrically, with a 50 percent reduction every four years. *Id*. Bitcoin supply will eventually decline as bitcoins are lost.

11 *See, e.g.*, Hibah Yousuf, *Bitcoins are a Bubble*, CNN Money (Apr. 5, 2013), http://buzz.money.cnn.com/2013/04/05/bitcoin-bubble/?section=money_topstories&utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3a+rss/money_topstories+%28Top+Stories. A significant reduction in the rate at which new bitcoin was awarded to miners in 2013 also could have contributed to the recent run-up. *Id*.

12 Anonymous hackers reportedly demanded a ransom paid in bitcoins in exchange for the tax returns of former Republican presidential nominee, Mitt Romney. David Steward, *Digital Currency: A New Worry for Tax Administrators?*, 2012 TNT 209-4 (Oct. 17, 2012).

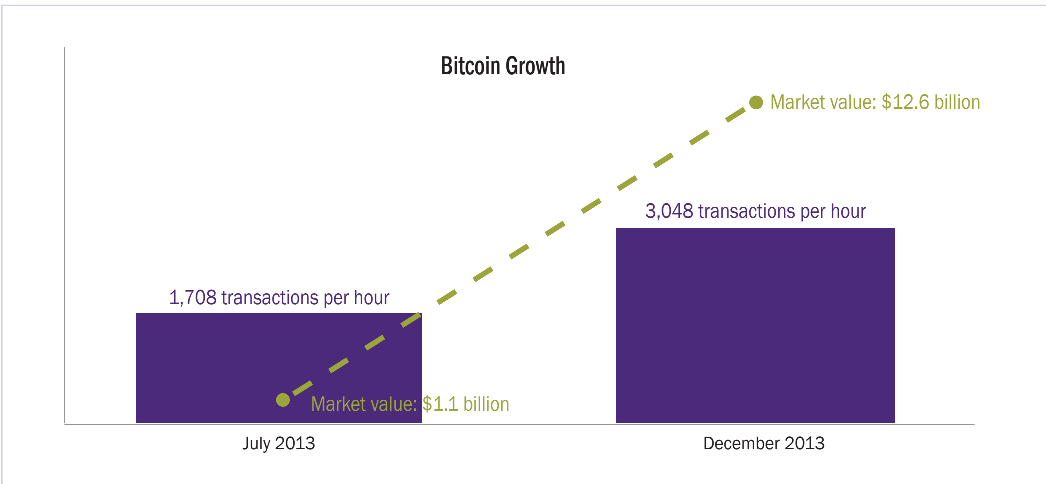
on sale in 2013, can convert between dollars and bitcoins, and bitcoins can be spent via computer or mobile phone.[13]

Among the potential benefits to merchants of bitcoin transactions are that they usually clear relatively quickly, are irreversible, carry low processing fees, and may avoid information reporting.[14] By comparison, credit card transactions generally take longer to clear, can be reversed, and are frequently subject to higher fees and greater information reporting.[15]

Bitcoin is growing.

As noted above, in the five months between July and December 2013, bitcoin usage has increased by over 75 percent — from about 1,700 transactions per hour to over 3,000.[16] Over the same period, the market value of bitcoins in circulation increased more than ten-fold from about $1.1 billion to $12.6 billion.[17] Traders at major banks reportedly keep watch on the bitcoin exchange rate.[18] Over 10,000 businesses reportedly accept payment in bitcoins.[19] BitPay, a business that helps merchants accept bitcoins, reports that over 10,000 businesses accept them.[20] About 60 percent of its clients are in the United States.[21]

FIGURE 1.24.1, Growth in Bitcoin Usage and Market Value



13 *See* BitcoinATM, https://bitcoinatm.com/ (last visited Nov. 8, 2013); Maureen Farrell, *Bitcoin ATMs Coming Soon*, CNN Money (Apr. 4, 2013), http://money.cnn.com/2013/04/04/investing/bitcoin-atms/index.html?source=cnn_bin.

14 About Bitcoin, http://bitcoin.org/en/about (last visited Nov. 8, 2013).

15 *See, e.g.*, Emily Jane Fox, *The New York Bar that Takes Bitcoins*, CNNMoney (Apr. 8, 2013), http://money.cnn.com/2013/04/08/investing/bitcoin-bar-new-york-city/index.html?source=cnn_bin.

16 Bitcoin Watch, www.bitcoinwatch.com (visited July 23, 2013, and Dec. 2, 2013).

17 *Id*.

18 Naomi O'Leary, *Bitcoin, the City traders' Anarchic New Toy*, Reuters (Apr. 1, 2012).

19 Bitpay, www.bitpay.com (last visited Nov. 8, 2013).

20 *Id*.

21 Brian Browdie, *BitPay Signs 1,000 Merchants to Accept Bitcoin Payments*, American Banker, Bank Technology News (Sept. 11, 2012), http://www.americanbanker.com/issues/177_176/bitpay-signs-1000-merchants-to-accept-bitcoin-payments-1052538-1.html. BitPay features merchants in the following categories: software, hardware, IT services, bars/restaurants, publishing, games, transportation, food delivery, dental services, metal dealers, and political campaign contributions. BitPay, *Featured Merchants*, https://bitpay.com/featured-merchants (last visited Aug. 6, 2013).

The IRS has not issued specific guidance addressing the tax treatment or reporting requirements applicable to digital currency transactions. People who are trying to comply with their federal income tax reporting obligations have complained that they are unsure about the rules.

Recent developments could increase bitcoin acceptance. The World Wide Web Consortium (W3C), a web browser standard-setting body, recently took steps that will allow most browsers to recognize bitcoin payment links.[22] For example, a website could have a "purchase with bitcoin" button, making it easier for consumers to use bitcoins for Internet purchases.

In addition, pending sales tax legislation could increase the use of bitcoins. Several bills would allow states to require out of state vendors to collect sales tax on sales to in-state residents.[23] These bills only provide for sales tax collection when the seller knows the purchaser's address. Unlike credit card sales that transmit the customer's billing address, a bitcoin sale does not identify the residence of the buyer, potentially allowing purchasers to avoid sales tax if they use bitcoins to pay for property that does not require a shipping address (*e.g.*, software or music).[24] For all of these reasons, bitcoins could become more popular as a result of this legislation.

Moreover, if digital currency establishes itself as a new asset class that is not correlated with other asset classes, then investors who want a diversified portfolio may begin to purchase it as an investment rather than as a medium of exchange. Thus, the use of bitcoin and similar digital currencies is likely to increase.

Taxpayers want to know the tax consequences of digital currency transactions.

Legitimate businesses — those who want to comply with the rules and do not want to be associated with tax evaders or criminal enterprises — have urged the government to issue clear rules about the tax consequences of digital currency transactions.[25] Following a 2008 recommendation by the National Taxpayer Advocate to issue guidance on the tax treatment of the transfer of digital items and currency,[26] the IRS created a web page that says it has already "provided guidance on the tax treatment of bartering, gambling, business and hobby income — issues that are similar to activities in online gaming worlds."[27] It suggests that existing guidance covers digital currency transactions, but does not explain when these transactions are sufficiently analogous to the transactions described in the guidance to be covered by existing rules.[28]

To fill the void left by the IRS's lack of specific guidance, interested parties are posting answers to "frequently asked questions" on the Internet about the tax treatment of digital currency transactions, some of

22 Christopher Mims, *Bitcoin Takes An Important Step Toward Becoming Part of Every Web Browser on the Planet*, Quartz (Apr. 25, 2013), http://qz.com/78014/bitcoin-is-now-part-of-the-web-sort-of/.

23 These various bills are generally titled the "Marketplace Fairness Act of 2013." *See e.g.*, S. 743; S. 336; and H.R. 684.

24 *See* Brian Fung, *What an Internet Sales Tax Could Mean for Your Bitcoin Stash,* National J. (Apr. 25, 2013), http://www.nationaljournal.com/tech/what-an-internet-sales-tax-could-mean-for-your-bitcoin-stash-20130425.

25 *See, e.g.*, David Steward, *Digital Currency: A New Worry for Tax Administrators?*, 2012 TNT 209-4 (Oct. 17, 2012). Representatives of the Cryptocurrency Legal Advocacy Group (CLAG), a nonprofit organization based at the University of Mississippi School of law, have also called for the IRS to issue guidance. *Id*.

26 National Taxpayer Advocate 2008 Annual Report to Congress 213.

27 IRS, *Tax Consequences of Virtual World Transactions* (Aug. 3, 2012), http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Tax-Consequences-of-Virtual-World-Transactions.

28 The IRS's posting does not fully address the concerns raised by the National Taxpayer Advocate. *See* National Taxpayer Advocate 2008 Annual Report to Congress 213. At a recent hearing before Congress, government officials indicated the IRS is "actively working" on rules for bitcoin. Nathaniel Popper, *Regulators See Value in Bitcoin, and Investors Hasten to Agree*, N.Y. Times B1 (Nov. 19. 2013).

which may be incorrect, incomplete, or misleading.[29] For example, a popular tax preparation company's blog describes bitcoin as "The Taxless Currency."[30] Scholarly papers and at least one digital book are also available on the subject.[31] These materials often raise more questions than they answer.

For example, a U.S. resident generally does not recognize gain or loss when using dollars to purchase goods and services. As a result, some people may be surprised to learn that using bitcoins to purchase goods or services could trigger taxable gains or losses on the bitcoins themselves. Moreover, the character of any such gains or losses is not readily apparent. If a bitcoin is deemed property, then spending it could produce capital gains or losses.[32] On the other hand, if a bitcoin is a "nonfunctional currency" for tax purposes,[33] then spending it could produce ordinary income or loss under Internal Revenue Code (IRC) § 988(a)(1).[34]

Transactions involving digital currency may trigger information reporting, but the IRS is unlikely to get many reports unless it explains the rules.

U.S. citizens and residents who hold more than $10,000 in foreign accounts are required to report the accounts on Form 114, *Report of Foreign Bank and Financial Accounts* (FBAR).[35] Those with certain foreign financial assets in excess of $50,000 must also report foreign accounts (and certain other foreign financial asset information) on Form 8938, *Statement of Specified Foreign Financial Assets*.[36] Like cash, bitcoins that are not held in an "account" may not be subject to these reporting requirements. However, some have speculated about whether bitcoins in e-wallets located on servers in foreign countries should be

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29 *See, e.g.*, GAO, *Virtual Economies and Currencies: Additional IRS Guidance Could Reduce Tax Compliance Risks*, GAO-13-516 (May 2013) (discussing unanswered questions and misinformation available on the Internet). *See also* Bitcoin, *Tax Compliance*, https://en.bitcoin.it/wiki/Tax_compliance (last visited Nov. 8, 2013); Bitcoin Forum, *Bitcoin Accounting and taxes*, https://bitcointalk.org/index.php?topic=14334.0 (last visited Nov. 8, 2013); Cryptocurrency Legal Advocacy Group, Inc., CM#1001: *Staying Between the Lines: A Survey of U.S. Income Taxation and its Ramifications on Cryptocurrencies* (Apr. 15, 2012), http://theclag.org/CM%231001Final.pdf; Trace Mayer, *A Lawyer's Take on Bitcoin and Taxes* (Jan. 18, 2012).

30 Josh Ritchie, Bitcoins: *The Taxless Currency*, TurboTax blog (July 18, 2011), http://blog.turbotax.intuit.com/2011/07/18/bitcoins-the-taxless-currency/. Some people may be attracted to bitcoin because they want to avoid taxes. *See, e.g.*, Emily Corwin, *Early Champions of Bitcoin Reap Unexpected Windfall*, NPR (Nov. 29, 2013), http://www.npr.org/2013/11/29/247765501/some-n-h-bitcoin-adopters-favor-cryptocurrency-economy ("The idea here is to create a currency that circumvents both the government and taxes; and avoids banks and transaction fees. As Anarchist Curt Howland puts it...").

31 *See, e.g.*, Lowy and Abraham, *Taxation of Virtual Currency*, 2013 TNT 219-10 (Nov. 13, 2013); Adam Chodorow, *Tracing Basis Through Virtual Spaces*, 95 Cornell L. Rev. 283 (2010); Nell Beekman, *Virtual Assets, Real Tax: The Capital Gains/Ordinary Income Distinction in Virtual Worlds*, 11 Colum. Sci. & Tech. L. Rev. 152 (2012); Steven Chung, *Real Taxation of Virtual Commerce*, 28 Va. Tax. Rev. 733 (2009); Leandra Lederman, *EBay's Second Life: When Should Virtual Earnings Bear Real Taxes?*, 118 Yale L.J. 136 (2009); Theodore P. Seto, *When Is a Game Only a Game?: The Taxation of Virtual Worlds*, 77 U. Cin. L. Rev. 1027 (2009); Bryan T. Camp, *The Play's the Thing: A Theory of Taxing Virtual Worlds*, 59 Hastings L. J. 1 (2007); Leandra Lederman, *"Stranger than Fiction:" Taxing Virtual Worlds*, 82 NYU L. Rev. 1620 (2007); Trace Mayer, *A Lawyer's Take on Bitcoin and Taxes* (Jan. 18, 2012).

32 *See, e.g., Philip Morris Inc. v. Comm'r*, 71 F.3d 1040 (2d Cir. 1995), *aff'g* 104 T.C. 61 (1995); *National-Standard Company v. Comm'r*, 749 F.2d 369 (6th Cir. 1984), *aff'g* 80 T.C. 551 (1983)). However, if bitcoin were deemed personal use property, then taxpayers could not claim losses. IRC § 165(c). A different information-reporting regime may apply if bitcoin is treated as barter exchange credits or scrip. *See generally* Treas. Reg. §§ 1.6045-1(a)(4); 1.6045-1(e), 1.6045-1(f). Because there is no centralized clearinghouse for bitcoins, barter-exchange information reporting would be impractical.

33 In general, a nonfunctional currency is a currency other than the dollar. *See, e.g.*, Treas. Reg. § 1.988-1(c) (defining nonfunctional currency as a currency other than a taxpayer's (or qualified business unit's) functional currency); IRC § 985 (generally defining a taxpayer's (or qualified business unit's) functional currency as the dollar unless it uses another currency in the economic environment in which a significant part of its activities are conducted and in keeping its books and records).

34 IRC § 988(c)(1)(C). However, personal transactions (*i.e.*, those not related to a trade or business or the production of income) by an individual generally trigger capital gains (rather than ordinary income). *See* IRC § 988(e); Treas. Reg. § 1.988-1(a)(9). A limited exception provides that an individual recognizes no gain upon the disposition of a nonfunctional currency in a personal transaction unless the gain exceeds $200. *See* IRC § 988(e)(2). Other unanswered questions may arise in connection with bitcoin "mining."

35 *See generally* 31 U.S.C. § 5321(a)(5); 31 C.F.R. § 1010.350; Internal Revenue Manual (IRM) 4.26.16 (July 1, 2008). The FBAR is now filed on Form 114, which recently replaced Form TD F 90–22.1. *See* Form 114 (2013), http://www.fincen.gov/forms/bsa_forms/.

36 IRC § 6038D and 1298(f); Notice 2011-55, 2011-29 I.R.B. 53 (July 18, 2011). An FBAR is due on June 30 if the aggregate value of the foreign accounts exceeded $10,000 during the prior calendar year. 31 C.F.R. § 1010.306(c).

reported on these forms.[37] Moreover, when a business receives more than $10,000 in cash, it is generally required to report the transaction on Form 8300, *Report of Cash Payments Over $10,000 Received in a Trade or Business*, but it is not clear that the receipt of $10,000 in bitcoins would trigger this reporting requirement.[38]

In addition, bitcoin transactions are not necessarily subject to the information reporting that applies to credit cards and other payment cards under IRC § 6050W. Under this provision, a "payment settlement entity" is required to report the amount paid to those who receive more than 200 payments, provided they receive more than $20,000 in total.[39] A payment settlement entity generally must have a contractual obligation to make a payment in settlement of a transaction.[40] However, bitcoin transactions use a peer-to-peer network that does not depend on a contractual settlement mechanism. For this reason, it is not clear that they would trigger a reporting requirement. Thus, it would be helpful for the government to provide examples illustrating the extent to which each of these reporting regimes apply to common digital currency transactions.

CONCLUSION

It is the government's responsibility to inform the public about the rules they are required to follow.[41] The lack of clear answers to basic questions such as when and how taxpayers should report gains and losses on digital currency transactions probably encourages tax avoidance.

Many law-abiding taxpayers want to comply and to distinguish themselves from tax evaders.[42] Some are frustrated by the IRS's lack of guidance. According to the summary of a book that purports to identify bitcoin-related tax issues:

> The IRS is famous for expecting people to comply with tax rules that aren't even written yet. And, they have given no indication that they are going to help Bitcoin users out any time soon…. Because Bitcoin is new technology and not easily defined, in a legal sense, this will allow you to be much more creative and flexible and legally reduce your tax liability.[43]

37 The TD F 90-22.1 Form for Bitcoin, https://bitcointalk.org/index.php?topic=55260.msg657831 (last visited Aug. 6, 2013). Some guidance also suggests that persons who receive money for bitcoins may be required to file Form 104, *Currency Transaction Report*. FIN-2013-G001, *Application of FinCEN's Regulations to Persons Administering, Exchanging, or Using Virtual Currencies* (Mar. 18, 2013), http://www.fincen.gov/statutes_regs/guidance/html/FIN-2013-G001.html. However, a merchant who accepts and transmits funds only as part of the sale of goods or services (other than money transmission services) is apparently excluded. *See id*. n. 10 (citing the exception provided by 31 CFR § 1010.100(ff)(5)(ii)(F)). Comments and articles posted to various websites suggest that some taxpayers are confused about what level of information reporting applies to them. Patrick Murck, *Today, We Are All Money Transmitters… (No, Really!)* (Mar. 19, 2013), https://bitcoinfoundation.org/blog/?p=152.

38 IRC § 6050I; Treas. Reg. § 1.6050I-1. *See also* 31 C.F.R. § 1010.330.

39 IRC § 6050W(a), (e).

40 IRC § 6050W(b).

41 The IRS mission is to "[P]rovide America's taxpayers top quality service by helping them understand and meet their tax responsibilities…" IRM 1.1.1.1 (Mar. 1, 2006). Notwithstanding the National Taxpayer Advocate's 2008 recommendations, the IRS has still declined to help taxpayers "understand and meet their tax responsibilities" in connection with virtual economies and currencies. *See* National Taxpayer Advocate 2008 Annual Report to Congress 213.

42 *See generally* David J. Mack, ITAX: *An Analysis of the Laws and Policies Behind the Taxation of Property Transactions in a Virtual World*, 60 Admin. L. Rev. 749, 759 (Summer 2008) (urging the IRS to issue guidance on the taxation of virtual transactions, in part, to avoid creating "a society of unintentional tax cheats").

43 Trace Mayer, *A Lawyer's Take on Bitcoin and Taxes* (Jan. 18, 2012).

Promulgating guidance would make it more difficult for taxpayers to be "creative," allow law-abiding taxpayers to keep up with the times without undue burden, reduce traps for the unwary, and make it easier for IRS employees to enforce the law.

RECOMMENDATIONS

The IRS has not explained how existing rules apply to digital currency transactions with enough specificity to allow taxpayers to be sure they are following them or for IRS employees to enforce them.[44] The National Taxpayer Advocate recommends that the IRS issue guidance that at least answers the following questions:[45]

1. When will receiving or using digital currency trigger gains and losses?
2. When will these gains and losses be taxed as ordinary income or capital gains?
3. What information reporting, withholding, backup withholding, and recordkeeping requirements apply to digital currency transactions?
4. When should digital currency holdings be reported on an FBAR or Form 8938, *Statement of Specified Foreign Financial Assets*?

44 Without additional guidance, it will be very difficult for the government to determine (or prove) if a failure to report digital currency income or transactions is inadvertent or willful.

45 The GAO recently made similar recommendations. *See* GAO, *Virtual Economies and Currencies: Additional IRS Guidance Could Reduce Tax Compliance Risks*, GAO-13-516 (May 2013).