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26 CFR 1.61-1: Gross income.
(Also §§ 61, 451, 1011.)

Rev. Rul. 2019-24

ISSUES

(1) Does a taxpayer have gross income under § 61 of the Internal Revenue Code (Code) as a result of a hard fork of a cryptocurrency the taxpayer owns if the taxpayer does not receive units of a new cryptocurrency?

(2) Does a taxpayer have gross income under § 61 as a result of an airdrop of a new cryptocurrency following a hard fork if the taxpayer receives units of new cryptocurrency?

BACKGROUND

Virtual currency is a digital representation of value that functions as a medium of exchange, a unit of account, and a store of value other than a representation of the United States dollar or a foreign currency. Foreign currency is the coin and paper money of a country other than the United States that is designated as legal tender, circulates, and is customarily used and accepted as a medium of exchange in the country of issuance. See 31 C.F.R. § 1010.100(m).

Cryptocurrency is a type of virtual currency that utilizes cryptography to secure transactions that are digitally recorded on a distributed ledger, such as a blockchain. Units of cryptocurrency are generally referred to as coins or tokens. Distributed ledger technology uses independent digital systems to record, share, and synchronize transactions, the details of which are recorded in multiple places at the same time with no central data store or administration functionality.

A hard fork is unique to distributed ledger technology and occurs when a cryptocurrency on a distributed ledger undergoes a protocol change resulting in a permanent diversion from the legacy or existing distributed ledger. A hard fork may result in the creation of a new cryptocurrency on a new distributed ledger in addition to the legacy cryptocurrency on the legacy distributed ledger. Following a hard fork, transactions involving the new cryptocurrency are recorded on the new distributed ledger and transactions involving the legacy cryptocurrency continue to be recorded on the legacy distributed ledger.

An airdrop is a means of distributing units of a cryptocurrency to the distributed ledger addresses of multiple taxpayers. A hard fork followed by an airdrop results in the distribution of units of the new cryptocurrency to addresses containing the legacy cryptocurrency. However, a hard fork is not always followed by an airdrop.

Cryptocurrency from an airdrop generally is received on the date and at the time it is recorded on the distributed ledger. However, a taxpayer may constructively receive cryptocurrency prior to the airdrop being recorded on the distributed ledger. A taxpayer does not have receipt of cryptocurrency when the airdrop is recorded on the distributed ledger if the taxpayer is not able to exercise dominion and control over the

cryptocurrency. For example, a taxpayer does not have dominion and control if the address to which the cryptocurrency is airdropped is contained in a wallet managed through a cryptocurrency exchange and the cryptocurrency exchange does not support the newly-created cryptocurrency such that the airdropped cryptocurrency is not immediately credited to the taxpayer's account at the cryptocurrency exchange. If the taxpayer later acquires the ability to transfer, sell, exchange, or otherwise dispose of the cryptocurrency, the taxpayer is treated as receiving the cryptocurrency at that time.

FACTS

Situation 1: *A* holds 50 units of *Crypto M*, a cryptocurrency. On *Date 1*, the distributed ledger for *Crypto M* experiences a hard fork, resulting in the creation of *Crypto N*. *Crypto N* is not airdropped or otherwise transferred to an account owned or controlled by *A*.

Situation 2: *B* holds 50 units of *Crypto R*, a cryptocurrency. On *Date 2*, the distributed ledger for *Crypto R* experiences a hard fork, resulting in the creation of *Crypto S*. On that date, 25 units of *Crypto S* are airdropped to *B*'s distributed ledger address and *B* has the ability to dispose of *Crypto S* immediately following the airdrop. *B* now holds 50 units of *Crypto R* and 25 units of *Crypto S*. The airdrop of *Crypto S* is recorded on the distributed ledger on *Date 2* at *Time 1* and, at that date and time, the fair market value of *B*'s 25 units of *Crypto S* is \$50. *B* receives the *Crypto S* solely because *B* owns *Crypto R* at the time of the hard fork. After the airdrop, transactions involving *Crypto S* are recorded on the new distributed ledger and transactions involving *Crypto R* continue to be recorded on the legacy distributed ledger.

LAW AND ANALYSIS

Section 61(a)(3) provides that, except as otherwise provided by law, gross income means all income from whatever source derived, including gains from dealings in property. Under § 61, all gains or undeniable accessions to wealth, clearly realized, over which a taxpayer has complete dominion, are included in gross income. See Commissioner v. Glenshaw Glass Co., 348 U.S. 426, 431 (1955). In general, income is ordinary unless it is gain from the sale or exchange of a capital asset or a special rule applies. See, e.g., §§ 1222, 1231, 1234A.

Section 1011 of the Code provides that a taxpayer's adjusted basis for determining the gain or loss from the sale or exchange of property is the cost or other basis determined under § 1012 of the Code, adjusted to the extent provided under § 1016 of the Code. When a taxpayer receives property that is not purchased, unless otherwise provided in the Code, the taxpayer's basis in the property received is determined by reference to the amount included in gross income, which is the fair market value of the property when the property is received. See generally §§ 61 and 1011; see also § 1.61-2(d)(2)(i).

Section 451 of the Code provides that a taxpayer using the cash method of accounting includes an amount in gross income in the taxable year it is actually or constructively received. See §§ 1.451-1 and 1.451-2. A taxpayer using an accrual method of accounting generally includes an amount in gross income no later than the taxable year in which all the events have occurred which fix the right to receive such amount. See § 451.

Situation 1: *A* did not receive units of the new cryptocurrency, *Crypto N*, from the hard fork; therefore, *A* does not have an accession to wealth and does not have gross income under § 61 as a result of the hard fork.

Situation 2: *B* received a new asset, *Crypto S*, in the airdrop following the hard fork; therefore, *B* has an accession to wealth and has ordinary income in the taxable year in which the *Crypto S* is received. See §§ 61 and 451. *B* has dominion and control of *Crypto S* at the time of the airdrop, when it is recorded on the distributed ledger, because *B* immediately has the ability to dispose of *Crypto S*. The amount included in gross income is \$50, the fair market value of *B*'s 25 units of *Crypto S* when the airdrop is recorded on the distributed ledger. *B*'s basis in *Crypto S* is \$50, the amount of income recognized. See §§ 61, 1011, and 1.61-2(d)(2)(i).

HOLDINGS

(1) A taxpayer does not have gross income under § 61 as a result of a hard fork of a cryptocurrency the taxpayer owns if the taxpayer does not receive units of a new cryptocurrency.

(2) A taxpayer has gross income, ordinary in character, under § 61 as a result of an airdrop of a new cryptocurrency following a hard fork if the taxpayer receives units of new cryptocurrency.

DRAFTING INFORMATION

The principal author of this revenue ruling is Suzanne R. Sinno of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding the revenue ruling, contact Ms. Sinno at (202) 317-4718 (not a toll-free number).