

Office of Chief Counsel
Internal Revenue Service
Memorandum

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(Small Business/Self-Employed)

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subject: Bitcoin (BTC)/Bitcoin Cash (BCH) Hard Fork

This Chief Counsel Advice responds to your request for advice regarding the tax consequences for an individual who received Bitcoin Cash (BCH) as a result of the Bitcoin (BTC) hard fork on August 1, 2017. This advice may not be used or cited as precedent.

ISSUE

Does a taxpayer who received Bitcoin Cash as a result of the August 1, 2017, Bitcoin hard fork have gross income under section 61 of the Internal Revenue Code (Code)?

CONCLUSION

Yes. A taxpayer who received Bitcoin Cash as a result of the August 1, 2017, Bitcoin hard fork has gross income because the taxpayer had an accession to wealth under section 61 of the Code. See Revenue Ruling 2019-24. The date of receipt and fair market value to be included in income will be dependent on when the taxpayer obtained dominion and control over the Bitcoin Cash.¹

¹ Some taxpayers holding Bitcoin through hosted wallets at cryptocurrency exchanges did not have dominion and control of the new Bitcoin Cash at the time of the hard fork. For example, the cryptocurrency exchange, Coinbase, began supporting Bitcoin Cash on December 19, 2017. Prior to that date Coinbase's customers were unable to buy,

BACKGROUND

On August 1, 2017, at 9:16 a.m., EDT (13:16, UTC), block 478,558 on the Bitcoin block chain was mined.² This was the last common block shared by both the Bitcoin and Bitcoin Cash distributed ledgers.³ Immediately following the mining of block 478,558, Bitcoin miners began mining a block that continued to follow Bitcoin's protocols but was incompatible with Bitcoin Cash's protocols. At the same time, Bitcoin Cash miners began mining a block that followed the Bitcoin Cash protocol but was no longer compatible with Bitcoin's protocols.⁴ Beginning at this date and time, holders of Bitcoin Cash were, in general, able to engage in Bitcoin Cash transactions that would not be reflected in the Bitcoin distributed ledger and would have no effect on their Bitcoin holdings.

FACTS

Situation 1

A had sole control over the private key to a distributed ledger address that, as of August 1, 2017, at 9:16 a.m., EDT, held 1 unit of Bitcoin. Following the hard fork, A's distributed ledger address continued to hold 1 unit of Bitcoin while also holding 1 unit of Bitcoin Cash. At that time, A had the ability to initiate a transaction to dispose of some or all of A's Bitcoin Cash holdings.

Situation 2

B is a customer of CEX, a cryptocurrency exchange that provides hosted wallet services. As of August 1, 2017, at 9:16 a.m., EDT, B owned 1 unit of Bitcoin, which was held by CEX in a hosted wallet. CEX had sole control over the private key to a distributed ledger address that, as of August 1, 2017, at 9:16 a.m., EDT, held 100 units of Bitcoin. According to CEX's off-chain, internal ledger, one unit of the 100 units of Bitcoin was owned by B.

sell, receive, transfer, or exchange Bitcoin Cash through their Coinbase accounts. See Buy, sell, send and receive Bitcoin Cash on Coinbase, COINBASE (Dec. 20, 2017), available at <https://blog.coinbase.com/buy-sell-send-and-receive-bitcoin-cash-on-coinbase-65f1b2c7214b>.

² Block 478558, BLOCKCHAIN.COM, available at <https://www.blockchain.com/btc/block/0000000000000000011865af4122fe3b144e2cbeea86142e8ff2fb4107352d43>.

³ The Birth of BCH: The First Crazy Days of "Bitcoin Cash", BITCOIN MAGAZINE (Aug. 2, 2017), available at <https://bitcoinmagazine.com/articles/birth-bch-first-crazy-days-bitcoin-cash>.

⁴ Id.

After the hard fork, *CEX*'s distributed ledger address continued to hold 100 units of Bitcoin while also holding 100 units of Bitcoin Cash. *CEX*, however, was uncertain of Bitcoin Cash's security and long-term viability and chose not to support Bitcoin Cash at the time of the hard fork. As a result, *B* was unable to buy, sell, send, receive, transfer, or exchange any Bitcoin Cash through *B*'s account with *CEX*, and *CEX* did not update its internal ledger to reflect that *B* owned any Bitcoin Cash. On January 1, 2018, at 1:00 p.m., EDT, *CEX* initiated support for Bitcoin Cash, allowing *B* to buy, sell, send, receive, transfer, or exchange Bitcoin Cash, including part or all of the 1 unit in *B*'s account.

DISCUSSION

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). A taxpayer owning a cryptocurrency that undergoes a hard fork has received gross income under § 61 if the hard fork results in a new cryptocurrency and the taxpayer actually or constructively receives the new cryptocurrency as a result of the hard fork. I.R.C. § 61; Treas. Reg. § 1.451-2; Rev. Rul. 2019-24.

Revenue Ruling 2019-24 applies the general principles of § 61 to conclude that the receipt of a new cryptocurrency following a hard fork results in income. Specifically, the ruling includes in the facts an airdrop following a hard fork as an example of how a taxpayer could receive new cryptocurrency from a hard fork. The specific means by which the new cryptocurrency is distributed or otherwise made available to a taxpayer following a hard fork does not affect the Revenue Ruling's holding.⁵

Bitcoin underwent a hard fork on August 1, 2017, which resulted in the creation of a new cryptocurrency, Bitcoin Cash. The developers of Bitcoin Cash designed the Bitcoin Cash protocol in such a way that holders of Bitcoin received Bitcoin Cash in a 1:1 ratio based on the transaction history recorded in the shared portion of the Bitcoin/Bitcoin Cash distributed ledger, i.e., blocks 1 through 478,558.⁶ Thus, at the time the new

⁵ "Contentious hard forks," "persistent chain splits," and "schism hard forks" are all terms that have been used to describe situations in which a cryptocurrency holder might receive new cryptocurrency as the result of a hard fork. Cryptocurrency terminology often changes and lacks uniformity.

⁶ As demonstrated in other hard forks, a cryptocurrency protocol may provide that the new cryptocurrency be issued in a ratio other than 1:1. For example, on October 20, 2017, Bitcoin holders received .5 units of Bitcore for every Bitcoin they held; and, on November 24, 2017, Bitcoin holders received 10 units of Bitcoin Diamond for each Bitcoin they held. See Harsh Agrawal, All Bitcoin Forked Coins List with Dates & Tips to Claim Them, COINSUTRA (Aug. 11, 2019), available at <https://coinsutra.com/bitcoin-forked-coins-list-dates-claim>.

Bitcoin Cash protocols went into effect, Bitcoin Cash was effectively distributed to all distributed ledger addresses that held Bitcoin as of block 478,558.

Situation 1

A received 1 unit of Bitcoin Cash at the time of the hard fork and had dominion and control over that unit as evidenced by *A*'s ability to sell, exchange, or transfer the Bitcoin Cash. *A* has ordinary income in the 2017 taxable year equal to the fair market value of the Bitcoin Cash as of August 1, 2017, at 9:16 a.m., EDT. *A* can determine the Bitcoin Cash's fair market value using any reasonable method, such as adopting the publicly published price value at a cryptocurrency exchange or cryptocurrency data aggregator.

Situation 2

B did not have dominion and control over any Bitcoin Cash at the time of the hard fork, and therefore did not receive any income from the hard fork at that time. On January 1, 2018, at 1:00 p.m., EDT, *CEX* initiated support of Bitcoin Cash, allowing *B*—for the first time—to sell, transfer, or exchange *B*'s 1 unit of Bitcoin Cash. *B* has ordinary income in the 2018 taxable year equal to the fair market value of the Bitcoin Cash as of January 1, 2018, at 1:00 p.m., EDT. *B* can determine the fair market value by consulting *CEX*'s pricing data. If *CEX* lacks such information, *B* can use any other reasonable method.

Please contact James Yu at (202) 317-4718 if you have any questions.