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In 2014, the IRS classified cryptocurrency as property, and not currency. How property is taxed is that if you hold an asset for less than a year, and you sell it, you pay ordinary income tax at your ordinary tax rate. If you hold that asset for a year and one day, and sell it you pay capital gains tax at a rate of 0%, 15%, or 20%, depending on your filing status and adjusted gross income (AGI). However, with the classification of property for crypto, what opened up was a loophole.

An important concept to understand when it comes to coin[1] is that every coin is

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another owner. However, in the real world, a 1031 usually accomplished with the help of a Qualified Intermediary[2] (QI). The first asset is sold, and proceeds of the sale are held onto by the QI. The person that sold the asset, now has 45 days to identify up to three replacement properties, Then they have 180 days or the due date of the tax return, including extensions, to take possession of the new property. Because coin was classified as property, and there was no guidance from the IRS either way, and no case law, some savvy tax advisors were recommending that their clients in cryptocurrency do these exchanges to avoid the tax associated with the exchange of one coin to another.

However, the new tax law, shut that loophole down. A 1031 exchange can only be done with real estate. That's not to say that their aren't different ways to avoid the tax on the exchange of coin today, its just that particular strategy is no longer open to miners[3].

Bitcoin, the coin that started it all, has been in news recently because the price of it has shot up so high. The publicity has opened the door to new miners. However, eventually when you have been mining long enough, you will realize that the real money is in Initial Coin Offerings (ICO). Keep in mind that the draw to coin is that it isn't regulated in the sense that no government controls the coin. That being said, anyone can write a whitepaper, and do an ICO.

I know that I have consulted with several miners that are doing ICOs, and usually the strategy is to form the company overseas, and then do the ICO in the US. The reason this is a horrible idea with the new tax law, is that there is a one time repatriation tax of 15%, for any company bringing currency[4] to the US. Not to mention that if you are incorporated overseas and you are operating in the US, you have created a nexus, whereby the US will have a right to tax the income. So, in effect if you incorporate overseas, and do an ICO in the US, you have potentially set up a tax situation where

the ICO will be taxed three times. Once in the country you incorporated in, again in

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However, there are some ICO's that are truly for charitable reasons. Those can be 501(c)3 organizations. However, the new tax law de incentivizes charitable contributions, because the standard deduction is so high, that most people won't be itemizing their deductions.

The architects of these ICO's need to be careful when seeking the help of a professional. First of all, cryptocurrency is something that you need to know inside and out to be able to consult with these companies. The strategy I outlined above, is just one strategy, your particular situation may be different. Then the money that is perceived to be involved in the industry causes those that support cryptocurrency to charge double to triple what they would ordinarily charge. So, look out for sharks. Not to mention the popularity of coin has drawn so many professionals to it now, that one may appear to be the same as the other.

For example, I got into coin by accident five years ago. I was referred to a company, which was the largest cryptocurrency investor company in the US at the time. I learned everything there was to know about coin, and this was before their was any guidance from the IRS. I worked with this company for three years, and they brought 25 coins to market.

As I stated in this article, cryptocurrency has come of age, and lately has been all over the news. The new tax law that just went into effect changes the way that these transactions are taxed, but there are still loopholes for those looking to do ICOs.

[1] A slang term for cryptocurrency

[2] In the 1031 Exchange realm a qualified intermediary can be anyone except your lawyer or accountant

[3] Investors in cryptocurrency

[\[4\]](#) The IRS classified cryptocurrency as property, but has recently been treating it

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