Doe Summonses[2] to Coinbase, which was the same thing the IRS did to foreign bank accounts, seemingly treating coin as currency. However the taxation of coin works ...

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First of all, I cut my teeth in coin[1], before the IRS had guidance. I was hired as a tax consultant and adviser for a company, that was the biggest at the time, that brought several coin to market. So, even before the IRS issued guidance, the taxation of coin was common sense to me.

The IRS classifies cryptocurrency as property, then they turn around and issue John Doe Summonses[2] to Coinbase, which was the same thing the IRS did to foreign bank accounts, seemingly treating coin as currency. However the taxation of coin works like this, when you exchange one coin for another coin, that is a taxable event. Each coin is pegged to the US Dollar, and the difference in value is taxable. Most people think it is only taxable when you take the money out in cash, but each trade between coin is taxable. How does the IRS know? Well the John Doe Summonses.

Before the Tax Cuts and Jobs Act of 2017, an argument could be made that the exchanges from one coin to another could be an IRC §1231 Exchange, or a non-taxable like-kind exchange. However, after the tax law only real estate can be used in a 1231 Exchange. So that loophole is closed.

Also under the tax law the way that some professionals, and I use that term lightly would structure an initial coin offering[3] (ICO) we set up were through foreign companies. I get hired a lot to consult on these ICO's and I feel that part of my job is to protect my client. So, let me explain why this is a bad idea. I had a company that wanted to set up in Singapore, which had a 15% tax, and the actual ICO would take place in the US with US investors.

It’s important to understand that the US has tax treaties with various countries.

However, there is no reason for all of this, and I am going to show you how your ICO can be tax-free.

These days, it seems that everyone is writing a white-paper, and doing an ICO. However, I have been in practice for 24 years, and I know IRC §501(c) very well. This Code Section is the not-for-profit code section. The hardest exemption to get is 501(c)3, because the donations to that organization are tax deductible. However 501(c)6, is also a tax exempt organization for business leagues.

If you think about what you are doing with an ICO, is you are bringing business people together, for the purpose of exchanging other coin for the new coin, or cash for the coin. That is exactly the purpose of a 501(c)6 organization. The transaction is tax-exempt, and you don’t have to spent tens of thousands of dollars to go offshore.

There are many rules and steps that have ti be followed in setting up a Sect 501(c)6. First, you have to pick a state to incorporate in. It can be any state but is usually Delaware. The articles of formation, as they are called in DE, have to say specific things in them to satisfy the IRS. Then you have to do Bylaws, which also need to say certain things. Once that is complete, you need to file with the IRS to become exempt, which could take up to six months for approval, and send a ton of documents with the application. Then you will be accepted by the IRS as a tax exempt organization. As long as the organization earns income that is part of their exempt function, it is tax free. In this case the exempt function would be the ICO.

This strategy isn’t cheap, but certainly not tens of thousands of dollars, which are frankly charged by the sharks in this industry that think there is a ton of money to make in coin, and then they disappear. For instance, I have been dealing with coin for so long that I charge a consulting fee, a fee to form the corporation, do the bylaws, pay the fee to the IRS, complete the application for exemption. We will be here to do the accounting for the ICO, work with the principles advising them, and

[1] Slang term for cryptocurrency

[2] In the context of Tax laws, John Doe summons is one issued by the Internal Revenue Service to a third party to provide information on an unnamed, unknown taxpayer with potential tax liability.

[3] Similar to an initial stock offering, but not regulated

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