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Currently, I'm in daily contact with companies that are offering Initial Coin Offerings (ICOs). There is a disconnect stemming from the fact that most of them think about the structure of their company about 45-60 days before actual ICO begins. Most of them want to set up a US based company that works in tandem with an offshore company, usually in a country where the US does not have a tax treaty. They say that this is done mainly because of regulation. However, today ICOs are not regulated. I am of the opinion that the Securities Exchange Commission will have regulations in place in about a year. When this happens, they will regulate as of that date and not go backwards. In essence, what these companies are setting up is a Controlled Foreign Corporation (CFC) with Subpart F Income.

Income from a CFC is not taxed until it is repatriated to the US. In crypto, this would happen when the money is sent to the US based company. Let's say the US company sells widgets to the foreign corporation at cost. The foreign corporation is set up in a tax haven like the Cayman Islands, which has no tax. The widget is marked up and sold, and theoretically has no tax obligation in the Caymans. To avoid these types of transactions, the US enacted something call Subpart F Income. Under IRC §951, when the money is repatriated to the US company (CFC), you have Subpart F Income.

The Tax Cuts and Jobs Act of 2017 makes it clear that Subpart F Income which is repatriated to the US has a flat tax of 15%. Not to mention the CFC is also taxed on the same income as if the ICO happened in the US. This directly affects US people involved in the ICO; defined as citizens, subjects, residents, domestic corporations, partnerships, and trusts. These people or entities, MUST include the pro-rata share of their income in their gross income. So the question remains, what have you



time and needs to be started early on.

While you are waiting for IRS approval, we recommend you submit for pre-qualification at TruDex, a company who has been making a name for itself as the trusted source of cryptocurrency and ICO data. Once pre-qualified, your ICO will be independently reviewed and scored using the TruDex comprehensive evaluation process. By the time your review at TruDex is complete, the IRS should have approved your not-for-profit status.

Does all of this take time? Yes, it does. But just like anything else, to have a successful ICO, it takes planning. But when your ICO launches, not only will you have the evaluation (with recommendations) from TruDex, but you'll also have a tax-free vehicle for investors to invest in. All of this will set your ICO apart from the competition.

The reason that I think crypto will soon be regulated by the SEC is related to the fact that in December, the Chicago Mercantile Exchange began offering Bitcoin Futures to the public. Futures are highly volatile, and an investor can lose their shirt betting on what the price of a Bitcoin Contract will be in the future. The trading of futures contracts is heavily regulated by the SEC. It is a logical conclusion that the SEC will eventually get involved in the regulation of ICOs.

The Internal Revenue Service made a huge mistake on the guidance they issued in 2014 regarding crypto. They didn't want to legitimize crypto as a currency, so they classified it as property. When you exchange one property for another, especially when that property is tied to US currency, you have a taxable gain. For example, if you exchange one cryptocurrency coin[1] for another, that is a taxable event. Before the tax law changed, you could exchange these currencies tax free because of the way the IRS classified crypto. The new tax law changed this loophole, and the IRS has begun serving John Doe Summonses[2] on the biggest crypto marketplace, Coinbase.

The scope of these summonses was limited by Congress but the IRS will soon obtain



immediately and got the ICO reviewed by TruDex. If you are late to the party, we can still set your ICO up this way – in the most tax advantageous way, to pay the least amount of taxes and have the ICO evaluated by the expert team at TruDex.

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[1] Slang term for cryptocurrency

[2] A John Doe Summons is an IRS summons authorized by Internal Revenue Code Section 7609(f). Unlike other IRS summonses it does not list the name of the taxpayer under investigation because the taxpayer is unknown to the IRS. The term John Doe summons achieved notoriety in July 2008 when the procedure was used to crack the back of Swiss secrecy laws and ultimately ended up in UBS turning over the names of about 4,500 holders of Swiss bank accounts to the IRS.

[3] A subject is a person that has been in the US long enough to file Form 1040

[4] Those that invest in crypto

Digital Currency