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foreign wallet, why should property be subject to the strict FBAR rules. It's property, just like a house, car, TV, or anything else. It would be a slippery slope ...

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Cryptocurrency has been a literal quagmire for the IRS. Not wanting to legitimize crypto as an actual currency, in 2014 the IRS issued [Notice 2014-21](#), stating that crypto was property, and not a currency. In 2017, the IRS issued John Doe Summons against the largest crypto wallet Coinbase. The last time these summonses were issued was in the early 2000's against foreign banks. The point was to curb money laundering, and to get US citizens or subjects[\[1\]](#) to report the foreign bank accounts that had a cumulative balance of \$10,000 or more. There is confusion among tax professionals on whether crypto wallets fall under FBAR or if they don't.

There is no requirement to report property to the IRS. If I had several properties overseas, those properties are not reported under FBAR. Among tax professionals, the confusion arises when a US citizen or subject, holds their crypto in a wallet[\[2\]](#) that is overseas.

On one hand, the IRS can't have their cake and eat it to. The US government didn't want to legitimize crypto as a currency, so they simply took the easy way out and deemed it property. There is no doubt that when one coin or token[\[3\]](#), is exchanged for another there is a taxable effect. Each coin or token has a US dollar value, and those exchanges are subject to either long term or short term capital gains tax. Just like any other property. Even if crypto is exchanged for a recognized monetary unit a tax is due. However, no matter where a taxpayer, be it in the US or overseas, holds their crypto should report the value of their wallet to the IRS.

In all fairness, there is a dark side to crypto. Because of its anonymous nature, crypto is used for drug deals, money laundering, and a way to hide assets from the Federal

Government. However, every crypto transaction is logged in the block chain[4], if the

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We are on the verge of the Securities and Exchange Commission (SEC) of regulating ICOs[5], perhaps when that comes, the IRS might have a leg to stand on requiring crypto to be reported for FBAR purposes. However, to do that the SEC and IRS would have to legitimize crypto as an actual currency if the government wants to regulate it. It is my opinion that the SEC will begin regulating ICOs before year end. All that will happen is that ICOs will move overseas, away from SEC regulation. However, will the IRS follow suit and finally deem crypto as a currency?

The main draw to crypto is that it isn't regulated. Of course there is a public block chain, but when someone opens a wallet they are given a long password, so that they can access the wallet. However, no one has that password except the account holder. If the password is lost, there is no way to retrieve the crypto in the wallet.

This is a case where the IRS gave guidance on something way too early in the game. It will now have to back track, and frankly legitimize crypto if they want it to fall under FBAR

[1] A person that has a green card, or has satisfied the requirements to file Form 1040

[2] A wallet in Cryptocurrency acts like a bank account for lack of a better word

[3] Slang term for Cryptocurrency

[4] An open ledger detailing every crypto transaction that is made

[5] Initial Coin Offerings

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Some memory, and he has been interviewed and appeared as a featured guest on numerous radio shows and podcasts. Craig can be reached at [craig@craigwsmalleyea.com](mailto:craig@craigwsmalleyea.com).

Digital Currency

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