



## Convertible Virtual Currency

### **TAM – 2015-1(R) – Issued: March 21, 2022** **Tax: Corporation Business Tax, Sales and Use Tax,** **Gross Income Tax, Inheritance Tax**

This TAM concerns New Jersey's tax treatment of transactions involving convertible virtual currency, such as Bitcoin.

Convertible virtual currency has an equivalent value in real currency or acts as a substitute for real and legally recognized currency. It can be used as a medium of exchange or as a form of digitally stored value. Taxpayers may use it to pay for goods or services, or hold it for investment purposes.

#### **CORPORATION BUSINESS TAX AND GROSS INCOME TAX**

For both Corporation Business Tax and Gross Income Tax purposes, New Jersey conforms to the federal tax treatment of convertible virtual currency as detailed in [Notice 2014-21](#); [Rev. Rul. 2019-24](#); and [IRS Chief Counsel Memorandum 202114020](#) issued by the IRS. Because transactions using virtual currency must be reported in U.S. dollars for federal tax purposes, taxpayers are required to determine the fair market value of the convertible virtual currency in U.S. dollars as of the date of payment or receipt.

Since virtual currency is intangible property rather than tangible personal property, the nexus safe harbor protections afforded by the Federal Interstate Income Act (Public Law 86-272) do not apply to a company that sells virtual currency to customers in New Jersey. Therefore, an out of state company that sells virtual currency to customers in this State is considered to be doing business in New Jersey for Corporation Business Tax purposes.

The New Jersey Gross Income Tax Act follows the federal treatment of the gain or loss from the sale or exchange of property. In addition, the fair market value of convertible virtual currency paid as wages is subject to New Jersey Gross Income Tax withholding. An independent contractor that receives convertible virtual currency for services performed must determine the fair market value of the currency in U.S. dollars as of the date received. A payment made using convertible virtual currency is subject to information reporting requirements to the same extent as any other payment made in property.

#### **SALES AND USE TAX**

New Jersey imposes Sales or Use Tax on receipts from the retail sales of tangible personal property, specified digital products, and enumerated services, unless a valid exemption exists. [N.J.S.A. 54:32B-3](#).

For Sales Tax purposes, convertible virtual currency is treated as intangible property. As such, the purchase of this currency for investment purposes is not subject to Sales Tax. However,

when a person uses convertible virtual currency as payment for taxable goods or services, New Jersey Sales or Use Tax applies. Any seller and/or retailer of taxable goods or services that accepts convertible virtual currency as payment must determine the fair market value of the currency in U.S. dollars as of the date of payment and charge the purchaser Sales Tax on the underlying transaction.

In addition to complying with all other registration and recordkeeping requirements, sellers that accept virtual convertible currency as payment for taxable property or services must:

- Record in their books and records the value of the convertible virtual currency accepted at the time of each transaction, converted to U.S. dollars;
- Record in their books and records the amount of Sales Tax collected at the time of each transaction, converted to U.S. dollars; and
- Report such sales and remit any Sales Tax due in U.S. dollars when filing their periodic Sales Tax returns.

## **INHERITANCE TAX**

The New Jersey Inheritance Tax is levied on a beneficiary's right of succession to a taxpayer's tangible and intangible property upon the taxpayer's death. N.J.S.A. 54:34-1.

For New Jersey Inheritance Tax purposes, convertible virtual currency owned by a decedent is intangible property of the decedent's estate. The estate is required to determine the fair market value of the convertible virtual currency and report on the Inheritance Tax Return its fair market value in U.S. dollars as of the decedent's date of death per N.J.A.C. 18:26-8.8. New Jersey Inheritance Tax follows federal tax guidelines for determining the fair market value of convertible virtual currency as outlined in IRS [Notice 2014-21](#).

For more information, see the publications and notices published by the IRS:

- [Notice 2014-21](#)
- [Rev. Rul. 2019-24](#)
- [IRS Chief Counsel Memorandum Number: 202114020](#)
- [Frequently Asked Questions on Virtual Currency Transactions](#)

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