

# Monthly Case Discussion

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## Cryptocurrency (Ethereum) Case

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June 17, 2021

# True Story

- Cleanest cryptocurrency case I could imagine
- Credible and probative evidence submitted all along
- Many advantages: U.S. employers, U.S. taxes, U.S. banks, and well-known cryptocurrency
- Clean and complete bank statements and taxes

# Introduction

- Petitioner - Indian national educated and employed in the U.S. (on F-1 and H1B visas)
- Made an investment in February 2018 into NCE.
- Initial file challenges: related A-file and TECS hit.

# Background and Review

- NCE/Project-side for luxury apartment complex was completed and approved.
- SOF review in March 2020 revealed \$480,000 in cryptocurrency.
- Cryptocurrency on BOLO, later STAD status in PIERS.
- Annotated findings regarding cryptocurrency (ETH) and sent to Cryptocurrency Hold Shelf in File Room in August 2020.

# Background and Review (cont.)

- Litigation picked up the case in November 2020.
- Instructed to review the crypto aspect thoroughly and report back with findings.
- In close communication with Cryptocurrency Working Group and Operations Management, providing the Interim Guidance for Review of Cryptocurrency in the Source or Path of Funds in Adjudication of Form I-526 .

# Crypto details and claims

- Petitioner used accumulated savings (about \$45,000) from his employment/income (tech/financial companies) in the U.S. to purchase Ethereum (ETH) cryptocurrency between 2016 and 2018.
- Between late January and February 2018, Petitioner sold ETH with incredible gains of over \$800,000. That's EIGHT HUNDRED THOUSAND dollars in GAINS!
- Claimed to have paid “a requisite amount of taxes” in a Declaration.

# Submitted evidence

- Declaration explaining crypto purchase and sale between 2016 and 2018, stating that “portion of the sale was used to pay the requisite amount of taxes”
- Petitioner’s U.S. joint tax returns for 2014 – 2018 (first 2 pages of Form 1040, no schedules)
- W2s from all employers (2014-2018)
- Bank of America and Capital One complete account statements (2014-2018); payroll deposits shown
- ETH purchase history statements on Coinbase platform (2016-2018)
- Complete ETH sale history statement on Coinbase (Jan-Feb 2018)

# Evidence (cont.)

- Petitioner's Declaration and assertion of paying taxes on crypto gains

**Sub: Declaration of source of investment funds and amount of investment**

Dear Madam/Sir,

The intent of this letter is to declare

[Redacted]

(b)(6)



# Evidence (cont.)

- 2018 U.S. taxes (Form 1040); claim of taxes paid on crypto gains without tax schedules

(b)(6)

Joint return? See instructions. Keep a copy for your records.  **Joint return**  **Separate returns**

Your signature \_\_\_\_\_ Date \_\_\_\_\_ Your occupation \_\_\_\_\_

Spouse's signature. If a joint return, **both** must sign. \_\_\_\_\_ Date \_\_\_\_\_

If the IRS sent you an Identity Protection PIN, enter it here (see inst.) [ ] [ ] [ ] [ ] [ ] [ ]

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**Paid Preparer Use Only**

Preparer's name \_\_\_\_\_ Preparer's signature \_\_\_\_\_ PTIN \_\_\_\_\_ Firm's EIN \_\_\_\_\_

Firm's name \_\_\_\_\_ Phone no. \_\_\_\_\_

Firm's address \_\_\_\_\_

Check if:  
 3rd Party Designee  
 Self-employed

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see separate instructions. Form **1040** (2018)

Form 1040 (2018)

1	Wages, salaries, tips, etc. Attach Form(s) W-2	1
2a	Tax-exempt interest	2b
3a	Qualified dividends	3b
4a	IRAs, pensions, and annuities	4b
5a	Social security benefits	5b
6	Total income. Add lines 1 through 5. Add any amount from Schedule 1, line 22	6
7	Adjusted gross income. If you have no adjustments to income, enter the amount from line 6; otherwise, subtract Schedule 1, line 36, from line 6	7
8	Standard deduction or itemized deductions (from Schedule A)	8
9	Qualified business income deduction (see instructions)	9
10	Taxable income. Subtract lines 8 and 9 from line 7. If zero or less, enter -0-	10

Attach Form(s) W-2. Also attach Form(s) W-2G and 1099-R if tax was withheld.

**Standard Deduction for—**  
 • Single or married filing separately, \$12,000  
 • Married filing jointly, \$24,000

(b)(6)

# Review the Guidance

- Parts of Interim Cryptocurrency Guidance that needed to be analyzed in this case:

(b)(7)(E)



If applicable, petitioners must provide tax returns filed within 5 years to demonstrate the lawful provenance of their capital investment.<sup>4</sup> The tax returns submitted may contain information that is relevant and probative with respect to the petitioner's asserted use of cryptocurrency (e.g. the value and timing of the petitioner's acquisition, ownership, and exchange of the cryptocurrency).

# Positive aspects

(b)(7)(e)

# Negative aspects

(b)(7)(e)

## Action - RFE

- After extensive consultation and collaboration with Branch Chief, Cryptocurrency Working Group, Policy, Operations Management, and OCC, Petitioner was asked to corroborate his assertions about taxes being paid on crypto gains in 2018.
- RFE was issued in March 2021

(b)(6)

# Response

- Petitioner responded with complete tax returns, including all tax schedules and related documents, for 2018 and beyond.
- Petitioner corroborated his claims with sufficient evidence and demonstrated he paid taxes on crypto gains in 2018.

(b)(6)

- In RFE response, Petitioner met all requirements at preponderance of evidence.
- Cryptocurrency case approved in April 2021, after concurrence from CCWG, Management, Policy, and OCC.

# Summary or my takeaways

- Anxious about cryptocurrency at first
- Realization that crypto is manageable (hint: follow the interim guidance)
- It is possible to approve crypto! 😊

# Questions?

- Thank you for continued support from all parties involved  
&
- Do you have experience with crypto case(s)? Please share.