

Note: this was originally posted on the "Planned Giving Design Center" website as part of the Community Foundation for Greater Atlanta. This site is no longer live.

Charitable Gifts of Bitcoin: Tax, Appraisal, Legal and Processing Considerations

Article posted in Intangible Personal Property *by Randy Fox* on 4 November 2014 | comments
audience: National Publication, Bryan K. Clontz, CFP®, CLU, ChFC, CAP, AEP | last updated: 4 November 2014

Print | | ?

Rate:

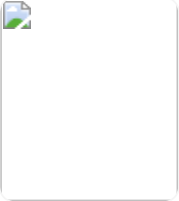
Summary

Contributing author Bryan Clontz explores the implications of gifts of Bitcoin and other virtual currencies.

By: *Bryan Clontz, CFP®, CAP®*

Introduction

The popular virtual currency, Bitcoin, has been a news fixture since its introduction in 2009.[1] Bitcoin is the world’s leading virtual currency, with a market capitalization currently approaching \$5 billion.[2] Donors and their advisors are now exploring various charitable giving opportunities using virtual currencies. The Internal Revenue Service (“IRS”) describes virtual currency as “a digital representation of value that functions as a medium of exchange, a unit of account, and/or a store of value.”[3] It is designed to operate like legal tender, and serve as a medium of exchange, although it is not currently recognized as legal tender anywhere in the world.[4]



Currently, Bitcoin and other virtual currencies, such as Ripple and Litecoin, represent a total market capitalization of nearly \$6 billion.[5] Many large charities are eager to tap into this market or have already received virtual donations, such as United Way Worldwide, which recently began accepting donations of Bitcoins.[6] Smaller nonprofits have begun accepting the currency as well.[7] This article discusses charitable donations of virtual currencies, including tax, appraisal, legal, and processing considerations.

Tax Considerations

In March 2014, the IRS issued a Notice on the tax treatment of transactions involving virtual currency.[8] Most importantly, the IRS stated that, for tax purposes, virtual currencies are property and not currency.[9] This means that traditional gain and loss principles will apply; the IRS treats these assets as securities or business property. A party selling, spending, or otherwise disposing of virtual currency may be subject to capital gains or ordinary income tax. Since the charity will be selling the currency, exempt organizations are not generally taxed on income, even from the sale of appreciated property.[10]

The major tax implications for donations of virtual currency, therefore, involve the donor. The main consideration for donors is the charitable income tax deduction received. The gain can be ordinary or capital, depending on the source of the virtual currency to the donor. The determination on the type of gain or loss recognized depends on whether the donated virtual currency was held as a capital asset for investment purposes.[11] If the property was not held as an investment, it would be subject to ordinary gain or loss treatment - this is more likely to be the case if the donor is a so-called “miner” or where the virtual currency is otherwise income.[12]

These possibilities lead to three potential tax results for donors of virtual currency. First, a donor giving virtual currency held short term (ie: less than one year) as a capital asset will be able to deduct the lesser of cost basis or fair market value up to 50% of adjusted gross income.[13] However, if the donor held the Bitcoin or other currency for more than a year as a capital asset, the deduction would be the fair market value of the gift up to 30% of adjusted gross income.[14] Finally, if the currency is subject to ordinary gain or loss treatment in the hands of the donor, the donor may deduct the cost basis of the gift up to 50% of her adjusted gross income.[15] If Bitcoin was received as ordinary income as payment for services rendered or property sold, the donor may only deduct the cost basis. The IRS defines the cost basis of the virtual currency as its fair market value when it was received.[16] So if the donor was paid Bitcoin worth \$500 for professional services, and that Bitcoin later appreciated to \$1,000 USD, the donor’s charitable income tax deduction would be limited to \$500, or cost basis.

These rules are very favorable to donors holding appreciated virtual currency as capital assets, allowing them to avoid incurring a tax for capital gains on the Bitcoins or other currency.[17] Note that this donation would also allow the donor to avoid the 3.8% Medicare surcharge on investment income.

Appraisal Considerations

A major concern for potential donors of virtual currencies will be complying with IRS appraisal requirements. The Service requires that donors claiming total deductions of over \$500 on noncash donations file Form 8283.[18] Due to the IRS ruling that virtual currency is property, donors of such currencies must therefore file Form 8283 if their deductions exceed the statutory threshold.

More importantly, however, is that the IRS requires a qualified appraisal for donated property over \$5,000 in value.[19] Although there is an exception for publicly traded securities, it seems improbable that virtual currency would be deemed qualified appreciated stock. This is because the IRS defines a “publicly traded security” as one that is “[l]isted on a stock exchange in which quotations are published on a daily basis,” or “regularly traded in a national or regional over-the-counter market for which published quotations are available.”[20] Although there are online virtual currency exchanges, these are not stock exchanges, and hence do not qualify under the first category. The second category is a closer case, because although price information about virtual currencies is easily located online, it is difficult to say that virtual currencies fit within the sort of market described. Hence, virtual currencies probably do not fall within the IRS definition of “publicly traded security” for noncash donation purposes.

This means that anyone planning to donate more than \$5,000 worth of virtual currencies should arrange for an appraisal of the currency’s value from a qualified appraiser. [Disclaimer: The author’s firm, Charitable Solutions, LLC, offers appraisal services.] This may prove difficult, given the IRS requirements that the appraiser be “qualified” - that is, possessing “verifiable education and experience in valuing the type of property being appraised.”[21] This requirement poses a difficulty to donors considering large gifts of virtual currency, because virtual currencies were only recently introduced. As a result, “it may be difficult to find a qualified appraiser” with the requisite education and experience.[22] For this reason, it may be wise for potential donors to limit their total contributions to all charities in virtual currency form to less than \$5,000.[23]

Legal Considerations

When examining the legal considerations of virtual currency as a charitable gift, it is important to remember that Bitcoins and any other such currency are - for the moment, at least - simply property in the eyes of the IRS. Although virtual currencies share characteristics with both legal tender and more traditional securities, they lack the regulation that both those forms of property are subject to. In fact, it may be better to think of the virtual currencies as collectible property which fluctuates - often wildly - in value. This is because the lack of regulatory oversight does not provide the sort of guarantees that exist with currency regulation (a guarantee of value) or securities regulation (a guarantee of compliance with reporting procedures and standards).

However, if charities are not careful, they may have to navigate SEC and state security licensing requirements. The SEC considers virtual currencies to be securities if they are held for investment purposes.[24] Theoretically, this means a charity selling virtual currencies held for investment purposes may have to deal with the potential complications of federal and state securities regulations.[25]

With that basic framework of legal character in mind, the primary legal consideration for donors and charities considering the potential of Bitcoin and its counterparts is the unsettled regulatory environment. The state of New York, always influential in financial matters, recently proposed regulations for virtual currencies under its Department of Financial Services.[26] Perhaps the biggest change the regulations would put in place is that they would “require digital currency companies operating within the state to record the identity of their customers, including their name and physical address.”[27] This would jeopardize the anonymity of virtual currency transactions, which is the feature that many prize most about them.[28] Should state agencies adopt the proposed regulations in New York and beyond, it could drive people away from the currency. Further, it would likely hinder anonymous donations, as the virtual currency exchange operations enabling them would need to be licensed and report those transactions.[29]

Conversely, for charities receiving donations of virtual currency, the potential for increased regulation may assuage some fears about the less-than-legitimate uses the currencies are so often associated with. Proponents of virtual currency regulation cite a host of illegal activities publicly tied to Bitcoin and other cryptocurrencies, including the drug trade, money laundering, Ponzi schemes, and theft of the currency itself.[30] Charities wary of accepting virtual currency, because of its association with crime, may be more willing to accept donations when there is a regulatory framework minimizing the presence of such elements. Fortunately or unfortunately, it appears that increased regulatory oversight is only a matter of time.[31]

Process Considerations

Most charities have similar questions: What is the donation process? How does the charity convert the virtual currency to cash? What are the acknowledgment, compliance and substantiation requirements? This section outlines a hypothetical donation of virtual currency from planning by the donor to liquidation by the charity.

Step 1: Donor has decided to donate \$50,000 of Bitcoin to charity (recall substantiation thresholds of less than \$5,000 in value).

Step 2: Donor consults with tax/legal advisor to determine the tax characterization of the holding - i.e., a short-term capital asset, a long-term capital asset or an ordinary income asset. This classification will determine the charitable income tax deduction implications.[32]

Step 3: Donor proceeds with donating Bitcoin to the charity through a processor, such as BitPay to immediately convert the donation to cash, or to a “wallet” if the organization wishes to hold the Bitcoin. A virtual currency wallet is an account on a platform that allows access to virtual currency.[33] The potential problem is that the wallet - and hence, the Bitcoin it holds - can be accessed by anyone who has the private key to it.[34] A processor, on the other hand, handles virtual currency transactions for businesses and charities, and will also convert virtual currency to legal tender.[35] BitPay, one of the most popular payment processors, will process payments for registered 501(c)(3) organizations for free.[36] This is likely the best and most cost-effective option for charities that wish to accept virtual currencies.

Similar to receiving publicly traded securities, most Bitcoin gift acceptance policies should encourage automatic conversion because of price volatility. In early December 2013, Bitcoin was valued at around \$1,000, and then dropped to approximately \$500 in April 2014 and then \$365 in October 2014.[37] Many payment processors, including Bitpay, can provide immediate liquidation automatically and will directly deposit the value of the Bitcoin in the charity’s bank account.[38] Otherwise, the charity would have to go through a virtual currency exchange to sell the donated Bitcoin in exchange for legal tender, which can be a complicated process.[39]

Each charity, of course, must weigh the convenience (Bitcoin can be accepted from any source worldwide), set-up process, and the legal and tax considerations to determine whether it wishes to receive virtual currency directly. One emerging option is to partner with an existing charity that raises funds in virtual currency. The BitGive Foundation, a new 501(c)(3) for example, is a charitable investment fund that partners with public health and environmental organizations to raise funds in Bitcoin.[40]

Conclusion

Virtual currencies like Bitcoin represent an exciting possibility for both charities and donors. Although the unsettled legal, tax, and regulatory framework may give some organizations pause, the charitable potential of the currencies is clear. Charities should be open to the speed and ease of donation that virtual currencies allow, as well

as the ability to receive such donations from any source worldwide. Donors, meanwhile, should be aware of the tax advantages that can come with donating appreciated virtual currencies, while remaining mindful of potential filing and appraisal requirements. Even with the situation in a state of flux, the donation process itself is increasingly streamlined, which indicates a promising future for donations of virtual currency.

[1] Davis, J. (2011, October 10). The Crypto-Currency. *The New Yorker*. Retrieved from <http://www.newyorker.com/magazine/2011/10/10/the-crypto-currency>.

[2] Coin Telegraph. (2014, October). Crypto-Currency Market Capitalizations. Retrieved from <http://coinmarketcap.com/>.

[3] Internal Revenue Service. (2014, March 25). IRS Notice 2014-21. Washington, DC. Retrieved from <http://www.irs.gov/pub/irs-drop/n-14-21.pdf>.

[4] *Id.*

[5] Crypto-Currency Market Capitalizations.

[6] Vigna, P. & Casey, M.J. (2014, September 15). BitBeat: United Way Adds Bitcoin as Conduit for Donations. *Wall Street Journal*. Retrieved from <http://blogs.wsj.com/moneybeat/2014/09/15/bitbeat-united-way-adds-bitcoi...>

[7] Hicks, J. (2014, August 17). Safello Enables Charitable Donations with Bitcoins. *Forbes*. Retrieved from <http://www.forbes.com/sites/jenniferhicks/2014/08/17/safello-enables-cha...>

[8] IRS Notice 2014-21.

[9] *Id.*

[10] Internal Revenue Service. (2014, August 28). Exempt Organizations - Required Filings. Retrieved from <http://www.irs.gov/Charities-&-Non-Profits/Exempt-Organizations-Required-Filings>.

[11] *Id.*

[12] *Id.*

[13] (2014, August 1). Donating Virtual Currency. *Gift Planning*. Retrieved from <http://www.giftplanning.com/?pageID=41&docID=199>.

[14] *Id.*

[15] *Id.*

[16] IRS Notice 2014-21.

[17] The rules are also largely the same for corporate donors of virtual currencies, except that the deduction is capped at 10% of the corporation's contribution base - the "taxable income computed without regard to charitable deductions and certain losses and loss carryovers." Teitell, C. (2014, May 27). Charitable Gifts of 'Virtual Currency.' *Wealth Management*. Retrieved from <http://wealthmanagement.com/blog/charitable-gifts-virtual-currency-bitcoins>.

[18] Internal Revenue Service. (2013, December). Form 8283 - Noncash Charitable Deductions. Washington, DC. Retrieved from <http://www.irs.gov/pub/irs-pdf/f8283.pdf>.

[19] Internal Revenue Service. (2007, April). Publication 561 - Determining the Value of Donated Property 9. Washington, DC. Retrieved from <http://www.irs.gov/pub/irs-pdf/p561.pdf>.

[20] *Id.*

[21] *Id.* at 10-11.

[22] Donating Virtual Currency.

[23] Note that the aggregate donated value of like property is what triggers the IRS qualified appraisal requirement. Even if multiple small gifts of Bitcoin are given to a number of charities, if the sum total is over 5,000 USD, the donor must get the property appraised. Teitell, C. Charitable Gifts of 'Virtual Currency.'

[24] Securities and Exchange Commission. (2013, July). Investor Alert: Ponzi Schemes Using Virtual Currencies. Retrieved from http://www.sec.gov/investor/alerts/ia_virtualcurrencies.pdf.

[25] *Id.*

[26] Davidson, J. (2014, July 18). New York Proposes Bitcoin Regulations. *Money*. Retrieved from <http://time.com/money/3004751/new-york-bitcoin-regulations-benjamin-lawsky/>.

[27] *Id.*

[28] Smith, J., IV. (2014, October 21). New York State's Bitcoin Laws Could Ruin Everything Good About Bitcoin. *Betabeat*. Retrieved from <http://betabeat.com/2014/10/new-york-states-bitcoin-laws-could-ruin-everything-good-about-bitcoin/>.

[29] Hajdarbegovic, N. (2014, October 21). BitLicense Comment Period Closes with Final Input from Circle, BitPay. *CoinDesk*. Retrieved from <https://www.coindesk.com/bitlicense-comment-period-closes-final-input-circle-bitpay/>.

[30] Hage, J. and Wertman T. (2014, May 21). Drugs, Charity and Patio Furniture? How Digital Currencies are Changing the Way We Look at Money. *Thomson Reuters*. Retrieved from <http://blog.thomsonreuters.com/index.php/drugs-charity-and-patio-furniture-how-digital-currencies-are-changing-the-way-we-look-at-money/>.

[31] Tillier, M. (2014, September 30). Bitcoin Looks More Like a “Real” Currency Every Day. *Nasdaq*. Retrieved from <http://www.nasdaq.com/article/bitcoin-looks-more-like-a-real-currency-every-day-cm396552>.

[32] Donating Virtual Currency.

[33] Tanzarian, A. (2014, July 7). How Businesses Can Start Accepting Bitcoins. *Coin Telegraph*. Retrieved from <http://cointelegraph.com/news/112021/how-businesses-can-start-accepting-bitcoins>.

[34] Some Bitcoin Words You Might Hear. Bitcoin Foundation. Retrieved from <https://bitcoin.org/en/vocabulary>.

[35] How Businesses Can Start Accepting Bitcoins.

[36] Bitcoin for Charities. Bitpay. Retrieved from <https://bitpay.com/bitcoin-for-charities>.

[37] Coin Telegraph. (2014, October). Crypto-Currency Market Capitalizations - Bitcoin Charts. Retrieved from <http://coinmarketcap.com/currencies/bitcoin/#charts>.

[38] Bit-Pay Solutions for Charities and Non-Profits. (2011, August 29). BitPay. Retrieved from <https://bitpay.com/press/2011-08-29-01>.

[39] DeMartino, I. (2014, June 7). How to Trade Bitcoin. *Coin Telegraph*. Retrieved from http://cointelegraph.com/news/111717/how_to_trade_bitcoin.

[40] BitGive Foundation. (August 25, 2014). Press Release: BitGive First Bitcoin Charity to Receive 501(c)(3) Designation. Retrieved from http://bitgivefoundation.org/wp-content/uploads/2014/08/Press-Release_8.25.142.pdf.

| | ? Rate:

audience: National Publication, Bryan K. Clontz, CFP®, CLU, ChFC, CAP, AEP | last updated: 4 November 2014
 Article posted in Intangible Personal Property by Randy Fox on 4 November 2014 | comments

Add comment

Login or register to post comments

Comments

Related

7520 Rates: August 1.4% July 1.8% June 1.8%

Already a member?

Email or Username:

Password:

• [Request new password](#)

Learn, Share, Gain Insight, Connect, Advance

Join the PGDC community and...

[Join Today For Free!](#)

- Learn through thousands of pages of content, newsletters and forums
- Share by commenting on and rating content, answering questions in the forums, and writing
- Gain insight into other disciplines in the field
- Connect - Interact - Grow
- Opt-in to Include your profile in our searchable national directory. By default, your identity is protected

...Market yourself to a growing industry

Email or Username:

Password:

Popular

- [IRS and Other News from Around the Web](#)
- [Charities in Financial Distress: The Impact of Bankruptcy on Donor-Restricted Funds](#)
- [6. Income Limitations on Charitable Deductions, Part 2 of 3](#)
- [How to Make Charity Begin at Home](#)
- [6. Income Limitations on Charitable Deductions, Part 1 of 3](#)

By Category

- [General](#)
- [Government](#)
- [Management](#)
- [Marketing](#)
- [Planning](#)

Resources

- [Think Tank](#)
- [Research center](#)
- [Forms, rates & tables](#)
- [Locate a professional](#)
- [Contact us](#)

Subscribe to our FREE newsletter:

Email: *

☒ Subscribe ☐ Unsubscribe

Copyright © 2016 Planned Giving Design Center, LLC. All rights reserved.

This material cannot be reproduced without the express permission of Planned Giving Design Center, LLC.

[Terms](#) | [Privacy Statement](#) | [Report a Problem](#)