

Income/Franchise:

New York Attorney General Reminds that Taxes May be Owed on Cryptocurrency/Virtual Investments

Press Release – Taxpayer Notice: Attorney General James Reminds Crypto Investors to Pay Taxes on Virtual Investments, N.Y. Attorney General (3/23/22). New York Attorney General Letitia James (AG) issued a “warning” to virtual currency investors and their tax advisors to make sure that they accurately declare and pay applicable New York taxes on their virtual investments, or else they may be subject to civil or criminal violations of state tax law, as well as violations of tax provisions under the New York False Claims Act. In doing so, the AG explains that transactions involving the acquisition, sale or exchange of cryptocurrency may have tax consequences which may trigger tax liability – reminding that as set forth in IRS Notice 2014-21 and related New York Department of Taxation and Finance (Department) guidance, “convertible virtual or cryptocurrency is treated as property rather than a currency for U.S. federal tax purposes” and thus “general tax principles applicable to property transactions apply to transactions using virtual currency.” The AG also highlights that taxpayers who receive “virtual currency as payment for goods or services, must, in computing gross income, include the fair market value of virtual currency, measured in US dollars, as of the date that virtual currency was received,” and that “an exchange of virtual currency for other property results in either a gain or loss that must be reported by taxpayers.”

URL: <https://ag.ny.gov/press-release/2022/taxpayer-notice-attorney-general-james-reminds-crypto-investors-pay-taxes-virtual>

Furthermore, the AG reminds that with respect to retailers and purchasers spending or accepting cryptocurrency, “sales tax is owed on transactions involving the use of convertible virtual currency to pay for taxable goods or services delivered in New York State.” Lastly, the AG announces that “ensuring that taxpayers appropriately declare and pay taxes on cryptocurrency transactions is a priority,” and she encourages whistleblowers to come forward with any information about noncompliance in this area using a special online portal. Please contact us with any questions.

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