

Estate Planning Update – 08.17.21

Section 1.01 Tax and Estate Planning for Cryptocurrency

By: David Hunter & [Nick Nester](#)

In the past year, the global market capitalization of cryptocurrency has grown exponentially, reaching a high of \$2.56 trillion on May 11, 2021. [Coinbase](#), the largest cryptocurrency exchange, has more than 68 million verified users. By comparison, [TD Ameritrade](#) has 11 million accounts, [Charles Schwab](#) has 14.1 million accounts, and [Fidelity](#) has 83.4 million accounts.

Although opinions on cryptocurrency differ, this massive gain has led to some investment experts recognizing cryptocurrency as a legitimate asset class. [Warren Buffett](#) has referred to Bitcoin (the most significant cryptocurrency) as “rat poison squared.” [Suze Orman](#) has said cryptocurrency should be part of your investment portfolio as long as you can afford to lose that money and you are going to keep it for a reasonably long time.

In recent months, there has been a wide-scale acceptance of cryptocurrency among large financial institutions, including [Fidelity](#), [Goldman Sachs](#), and [Morgan Stanley](#). In addition, [PayPal](#) now allows users to make transactions in cryptocurrency.

Although cryptocurrency is gaining steam within the financial industry, many still see it as a valueless asset. Whether you are bullish on cryptocurrency or think it is a fad — there is no denying that cryptocurrency has become more mainstream, and consideration should be given to estate and tax consequences.

Income Tax Treatment

In [IRS Notice 2014-21](#), the IRS took the position that cryptocurrency is property and should be taxed as such. This position has not changed. Accordingly, a taxable event has occurred whenever one disposes of cryptocurrency, whether for a good, service, another coin, or fiat currency (e.g., U.S. dollar). That is, the taxpayer disposing of cryptocurrency will generally have either a capital gain or loss on the transaction.

Much like other types of property, capital gains and losses apply to cryptocurrency; however, the biggest benefit to the tax treatment of cryptocurrency is that the wash-sale rules arguably do not apply. While the IRS has not officially taken a position on this treatment, many commentators have interpreted the IRS’ silence as such. As a result, they effectively allow a taxpayer to harvest losses and eliminate a portion of the taxpayer’s gains.

Cryptocurrency is a highly volatile asset. Charitable remainder trusts, such as a charitable remainder unitrust (CRUT), may be used by taxpayers holding highly appreciated cryptocurrency to address cryptocurrency volatility, spread the income tax hit from the sale of cryptocurrency over a number of years, and possibly receive a charitable income tax deduction. A CRUT is a trust designed to pay the grantor a payment based on a fixed percentage of the trust value yearly for a term of years or the lifetime of the CRUT beneficiary. CRUTs allow a taxpayer to receive an immediate charitable deduction upon their transfer of cryptocurrency into the CRUT. The CRUT can then sell the cryptocurrency and reinvest in a more stable asset, such as stocks, bonds, mutual funds, etc. A CRUT does not pay income tax, but the beneficiary will *only on the distributed income*. Upon termination of the CRUT, the balance of the CRUT assets are paid out to charity. In effect, a CRUT allows a taxpayer to stretch out a capital gain tax hit over several years.

Tax Compliance

The United States government has recently taken a strong interest in tax compliance as it relates to cryptocurrency.

In fact, the [infrastructure bill](#) recently passed in the Senate contemplates financing a large portion of the bill's cost with increased compliance on crypto tax issues.

Cryptocurrency is significantly underreported to the IRS. The laws are new, and many who operate in this space do not realize that the transactions are taxable. Even if every individual who had a taxable cryptocurrency transaction wanted to report such transaction, the reporting documents issued by the popular cryptocurrency exchanges are not user-friendly. To increase compliance with proper reporting of cryptocurrency, a higher audit rate will likely follow.

Please click [Read More](#) for more information on cryptocurrency and how it relates to estate planning and gifting.

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Estate Planning Resources



An Introduction to Supplemental Security Income (SSI)

Supplemental Security Income (SSI) is a federal program that helps people with disabilities and very low incomes pay for food, clothing, and shelter. It also is a key avenue to Medicaid coverage...

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Britney Spears Case Puts Renewed Focus on Guardianships and Less Restrictive Alternatives

Britney Spears' legal fight to wrest back control over her personal and financial affairs has flooded the issue of guardianship in Klieg lights. While a full guardianship may be necessary for many individuals who are incapable of managing their own affairs due to dementia or intellectual, developmental, or mental health disabilities, the Spears case underlines the option of more limited alternatives...

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Six Things to Ask Before Agreeing to Be a Trustee

Being asked to serve as the trustee of the trust of a family member is a great honor. It means that the family member trusts your judgment and is willing to put the welfare of the beneficiary or beneficiaries in your hands. But being a trustee is also a great responsibility. Here are six questions to ask before saying "yes"...

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Also check out...

[Stay Informed — Protect Yourself from the COVID-19 Delta Variant](#)

As Tennesseans continue to enjoy summer activities, public health experts remind everyone, especially the unvaccinated, to remain vigilant against COVID-19. The Centers for Disease Control and Prevention (CDC) and area health departments are carefully watching the Delta variant of COVID-19. Read more from the [Tennessee Health Department](#).

[COVID-19: Persistent Cognitive Effects, Uptick in Alzheimer's Biomarkers](#)

Cognitive impairment was correlated with persistent anosmia in older adults recovering from SARS-CoV-2 infection, initial findings from the 2021 Alzheimer's Association International Conference showed. [MedPage Today](#) and [NPR](#) wrote about the reports and research being shared at the recent conference.

[Disney Reverses Policy, Will Require Masks Indoors at Theme Parks Regardless of Vaccination Status](#)

Planning a trip to Disney? Take your mask. The policy change comes after the CDC revised its mask guidance, advising people in areas of high transmission to wear masks indoors. Read the [U.S. News article](#) to learn more about the recent face-covering policy.

[A Medical Resident's COVID-19 Diary](#)

Siobhan Deshauer, MD, recounts the past year and a half, from working in the emergency department and caring for critically ill patients in the ICU, to getting sick with COVID herself, finally getting vaccinated, and giving out vaccinations to others. Watch the video on [MedPage Today's site](#) detailing Dr. Deshauer's account from getting the virus to giving out the vaccine.

[COVID-19 Long Haulers Gain Access to Federal Disability Protections](#)

President Joe Biden said people who are dealing with long-term effects of COVID-19 will have access to disability protections. Biden made the [announcement](#) on the 31st anniversary of the Americans with Disabilities Act.

[Most COVID Infections Are Not Occurring in Vaccinated People](#)

Misinformation and misunderstanding about vaccine efficacy have abounded recently. This was potentially sparked by what seemed to be worrying data out of Provincetown, Massachusetts. Katelyn Jetelina, PhD, MPH, an epidemiologist at the University of Texas Health Science Center at Houston explains how the Provincetown [statistic is being misinterpreted](#).

Just for Fun

Altruistic August Calendar

Altruism is vital for the human race to survive and thrive; and each of our lives is supported by countless kind acts from other people. Yet in our world today, so much is directing us to think only about ourselves — and we

often forget the happiness that comes by caring for others. Action for Happiness wants to change that. This August, they are asking everyone to take one kind act per day. Let's create a wave of kindness to spread around the world.

Altruistic August 2021

SUN	MON	TUE	WED	THUR
1 Set an intention to be kind to others (and yourself) this month	2 Send an uplifting message to someone you can't be with	3 Be kind and supportive to everyone you interact with	4 Ask someone how they feel and really listen to their reply	5 Spend time wishing for other people to be happy and well
8 Make some tasty food for someone who will appreciate it	9 Thank someone you're grateful to and tell them why	10 Check in with someone who may be lonely or feeling anxious	11 Share an encouraging news story to inspire others	12 Contact a friend to let them know you're thinking of them
15 No plans day! Be kind to yourself so you can be kind to others too	16 Make a thoughtful gift as a surprise for someone	17 Be kind online. Share positive and supportive comments	18 Today do something to make life easier for someone else	19 Be thankful for your food and the people who made it possible
22 Give people the gift of your full attention	23 Share an article, book or podcast you found helpful	24 Forgive someone who hurt you in the past	25 Give your time, energy or attention to help someone in need	26 Find a way to 'pay it forward' or support a good cause
29 Do something kind to help in your local community	30 Give away something to help those who don't have as much as you	31 Share Action for Happiness with other people today		

ACTION FOR HAPPINESS

Happier · Kinder · Together

Source: actionforhappiness.org