

Expanded Voluntary Disclosure Form Offers Noncompliant Virtual Currency Holders Chance to Avoid Criminal Consequences

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With the closure of the Offshore Voluntary Disclosure Program(s) (OVDP), IRS Form 14457, Voluntary Disclosure Practice Preclearance Request and Application, has been the initial step for those willfully noncompliant taxpayers trying to voluntarily disclose previously unreported income and unfiled returns via the IRS's Criminal Investigation Voluntary Disclosure Program (CI VDP). On February 15, 2022, the IRS announced revisions to Form 14457 and its accompanying instructions. Significantly, among the revisions is the expanded section for reporting virtual currency. This means that taxpayers who hold (or held) virtual currencies and previously failed to report them to the IRS now have the chance to voluntarily disclose their omission(s) and avoid potential criminal prosecution.

Brief Look at Key Revisions

According to the newly revised Form 14457 instructions, the definition of “financial account,” interpreted broadly, includes “any type of relationship with a third party established to provide or engage in deposit-type services or other financial services . . . [including] . . . virtual currency. Additionally, the instructions now state that for preclearance purposes an account is considered a “noncompliant financial account” if it:

- generated income and the income was not reported for federal income tax purposes,
- received previously untaxed funds, or
- was required to be reported on an information return or report (e.g., Form 8938 or FBAR) and was not reported.

Furthermore, the IRS is clear that it considers the term “virtual currency” to include “assets beyond what many define as virtual currencies.” And the instructions further explain that for preclearance

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purposes, the term “noncompliant virtual currency” means “an asset that should have been reported on a federal income tax return or other required federal information return and was not previously reported.” The revised instructions continue by requiring that applicants:

Provide details for all noncompliant virtual currency you owned or controlled or were the beneficial owner of, either directly or indirectly. The listings must cover the entire disclosure period, including assets acquired or disposed of during the disclosure period and including those held through entities. Additionally, if you used a “mixer” or “tumbler” in connection with your virtual currency or any virtual currency transaction, identify the mixer or tumbler used and explain why you used it.

Conclusion

Taxpayer virtual currency usage has increasingly captivated the IRS’s attention in recent years. And all indicators point to further increasing IRS resources and attention devoted to monitoring this area. As such, willful taxpayers who still need to disclose virtual currency transaction federal income tax consequences should avail themselves of this expanded opportunity to report their virtual currencies via the IRS CI VDP and avoid potential criminal liability. Contact our team today at (410) 497-5947 or schedule a confidential consultation to discuss your options to avoid potential criminal liability.

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