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June 10, 2021

Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue N.W.
Washington, D.C. 20224

Dear Commissioner Rettig,

Virtual currencies are important technologies and Americans are increasingly participating in their usage. As a result, the need for clearer virtual currency tax policy grows. In April of 2019, Congress wrote to the IRS asking for updated guidance on a range of virtual currency tax questions. After that guidance was issued, we wrote again in November of 2019 seeking clarification on the tax status of forked assets, which had remained unclear. Today, however, we write to bring to your attention an ambiguity regarding appraisals for charitable donations.

In the recently updated IRS FAQ on virtual currencies, the IRS allows taxpayers to provide evidence of fair market value at the time of sale or receipt by citing “the amount the cryptocurrency was trading for on the exchange [if the transfer has taken place on an exchange platform]”¹ or the price quoted in “worldwide indices”² provided by various “blockchain explorer(s)” at the date and time of the transaction. This is a reasonable approach.

This approach, however, is inconsistent with the rules determining virtual currency fair market value for purposes of a deductible donation where the IRS directs a taxpayer to comply with Form 8283 (Noncash Charitable Contributions). If the donation is greater than \$5,000, Form 8283 does not allow the taxpayer to report the fair market value by reference to the exchange price or price quoted in worldwide indices as described by the IRS FAQ. Instead, it directs the taxpayer to complete Section B, which demands that the taxpayer include “a written qualified appraisal by a qualified appraiser”³ to determine the value of the donated property.

This contradiction can be easily reconciled by amending Form 8283 such that a taxpayer making a charitable contribution using virtual currency can report the donation value under Section A as

¹ United States Department of the Treasury. Internal Revenue Service. “Frequently Asked Questions on Virtual Currency Transactions.” [Frequently Asked Questions on Virtual Currency Transactions | Internal Revenue Service \(irs.gov\)](#). (Accessed: June 4, 2021). See Question 26.

² Ibid. See Question 27

³ United States Department of the Treasury. Internal Revenue Service. “Form 8283.” <https://www.irs.gov/pub/irs-pdf/f8283.pdf>. (Accessed: June 4, 2021).

they would securities or other assets with readily available price indices. I urge the IRS to simplify this unnecessarily, and potentially unintended, complex reporting requirement for cryptocurrency donations by modifying Form 8283 to eliminate the appraisal requirement in the case of virtual currencies with easy to establish exchange or index prices.

If it is determined that the IRS does not have the authority to amend Form 8283, you can relax the rules by regulation under the authority granted in Section 170(f)(11)(H). Alternatively, the IRS can provide relief by adopting a special definition of “qualified appraisal” under section 170(f)(11)(E)(i) or qualified appraiser under section 170(f)(11)(E)(ii).

Ideally the IRS will swiftly clarify and ameliorate the contradiction so as to not further disincentivize charitable giving using these important new payment technologies.

Sincerely,



Tom Emmer
Member of Congress



Darren Soto
Member of Congress



David Schweikert
Member of Congress



Bill Foster
Member of Congress



Ted Budd
Member of Congress



Ro Khanna
Member of Congress



Josh Gottheimer
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