

115TH CONGRESS 2D SESSION

H. R. _____

To provide temporary safe harbor for the tax treatment of hard forks of convertible virtual currency in the absence of administrative guidance.

IN THE HOUSE OF REPRESENTATIVES

Mr. Emmer introduced the following bill; which was referred to the Committee on _____

A bill to provide temporary safe harbor for the tax treatment of hard forks of convertible virtual currency in the absence of administrative guidance.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Safe Harbor for Taxpayers with Forked Assets Act.”

SEC. 2. SAFE HARBOR PERIOD FOR PENALTIES RELATING TO TAX TREATMENT OF HARD-FORKED VIRTUAL CURRENCY.

- a. IN GENERAL.—In the case of a taxpayer who during the applicable period receives forked convertible virtual currency--
- (1) no penalties or additions to tax under part II of subchapter A of chapter 68 of the Internal Revenue Code of 1986 shall apply with respect to any portion of an understatement of tax that is attributable the taxpayer’s attempt during such period to comply with the tax treatment under such Code of the receipt of such virtual currency (or any disposition of such currency during such period).
 - (2) no penalties or additions to tax under sections 6651, 6654, 6655, 6656, 6698 and 6699, shall apply for any failure during the applicable period to file a return or report or make a payment of tax to the extent such failure is attributable to filing or payment requirements relating to the receipt of such virtual currency (or any disposition of such currency during such period).
- b. DEFINITIONS AND SPECIAL RULES.—For purposes of this section—
- (1) APPLICABLE PERIOD.—The term “applicable period” means the period beginning on January 1, 2017, and ending on the date the Secretary issues regulations or guidance, or legislation is enacted, that prescribes each of the following:
 - (A) The tax treatment of receiving forked convertible virtual currency.

- (B) Rules for calculating and allocating the basis of forked convertible virtual currency.
 - (C) Rules for calculating the fair market value of forked convertible virtual currency at any given time.
 - (D) Rules for determining the holding period of forked convertible virtual currency.
- (2) FORKED CONVERTIBLE VIRTUAL CURRENCY.
- (A) IN GENERAL.—The term “forked convertible virtual currency” means, with respect to any taxpayer, any convertible virtual currency to which the taxpayer becomes entitled by reason of a hard fork.
 - (B) CONVERTIBLE VIRTUAL CURRENCY.—The term “convertible virtual currency” means any digital representation of value —
 - i. that functions as a medium of exchange, a unit of account, or a store of value,
 - ii. that does not have legal tender status, and
 - iii. that has an ascertainable equivalent value in legal tender or is used as a substitute for legal tender.
 - (C) HARD FORK.—The term “hard fork” means, with respect to any convertible virtual currency, any material change in the shared digital ledger which is used to verify by consensus transactions in such currency if such change results in the maintenance of independent shared digital ledgers with respect to such currency.
- (3) CONSTRUCTIVE RECEIPT.—Receiving forked virtual currency shall include any right to receive (or other constructive of) such virtual currency.