



## **Tax Department Policy on Transactions Using Convertible Virtual Currency**

This memorandum explains the Tax Department's policy regarding transactions involving convertible virtual currency for sales tax, corporation tax, and personal income tax purposes.

### **Background**

On March 25, 2014, the Internal Revenue Service (IRS) issued [Notice 2014-21](#) detailing how existing general tax principles apply to transactions using convertible virtual currency. *Convertible virtual currency* is virtual currency that has an equivalent value in real currency, or that acts as a substitute for real currency. *Virtual currency* is a digital representation of value that functions as a medium of exchange, a unit of account, and/or a store of value. The IRS notice provides that convertible virtual currency is treated as *property* for U.S. federal tax purposes.

This memorandum explains the Tax Department's policy for transactions in, or that use, convertible virtual currency.

### **Sales tax policy**

New York state and local sales taxes are imposed on the receipts from retail sales of tangible personal property and sales of certain services delivered by a seller to a purchaser or to the purchaser's designee in New York State. The term *sale* includes a barter transaction in which tangible personal property or services are given by one person in consideration for tangible personal property or services received in return from another. See 20 NYCRR 526.7(d). State and local use taxes are imposed on the use in this state by a resident of property and certain services that the resident purchased outside the state and then brought into the state for use here. The term *purchase* likewise includes a barter transaction.

A barter transaction is actually comprised of two separate sale transactions. Each party to a barter transaction gives something of value to the other party in order to receive something of value in return. In a barter transaction, sales or use tax (sales tax) is due from each party based on the value of the property or services given in trade if what is received in exchange is subject to sales tax. Services given in trade are taxed based upon a party's normal charge for the service it provides.

The use of convertible virtual currency by a customer to pay for goods or services delivered in New York State is treated as a barter transaction. For sales tax purposes, convertible virtual currency is intangible property. Since the purchase or use of intangible property is not subject to sales tax, any convertible virtual currency received by a party to a barter transaction is not subject to sales tax.

However, if the party that gives convertible virtual currency in trade receives in exchange goods or services that are subject to sales tax, that party owes sales tax based on the market value of the convertible virtual currency at the time of the transaction, converted to U.S. dollars. If the party that trades property or services in exchange for receiving convertible virtual currency gives the other party a sales slip, invoice, or receipt, the first party must separately state the sales tax due in U.S. dollars on the sales slip, invoice, or receipt.

A seller making sales in New York State that accepts convertible virtual currency in exchange for taxable goods or services must:

- register for sales tax purposes;
- record in its books and records the value of the convertible virtual currency accepted at the time of each transaction, converted to U.S. dollars;
- record in its books and records the amount of sales tax collected at the time of each transaction, converted to U.S. dollars; and
- report such sales and remit any sales tax due in U.S. dollars when filing its periodic sales tax returns.

*Example 1: An online retailer registered for New York State sales tax purposes accepts convertible virtual currency from a customer as payment for home décor items that will be delivered to the customer's location in New York State. In effect, the customer has purchased the home décor items in exchange for the convertible virtual currency, and the retailer has purchased the convertible virtual currency in exchange for the home décor items.*

*Because home décor items are taxable, the customer owes sales tax based on the taxable receipt for the purchase of the items. The taxable receipt is the fair market value of the convertible virtual currency in U.S. dollars at the time of the transaction. However, because convertible virtual currency is intangible property, the retailer does not owe any sales tax on its exchange of home décor items for the convertible virtual currency.*

*The retailer must record in its books and records the amount of the sale and the sales tax collected in U.S. dollars, and report the sale and remit the sales tax due in U.S. dollars when filing its periodic sales tax returns.*

*Example 2: A vendor in New York State that accepts convertible virtual currency as payment creates custom computer software for sale to a client. The custom software is delivered to a New York location. Since the sale of custom software is not subject to sales tax, this barter transaction is an exchange of a non-taxable product for non-taxable convertible virtual currency. No sales tax is due on this transaction.*

*Example 3: A New York State resident sends her watch to be repaired at a New York repair shop that accepts convertible virtual currency for its services. Since watch repair services are subject to sales tax, the resident owes sales tax based on the taxable receipt for the purchase of the service.*

*The taxable receipt for the repair service is the fair market value of the convertible virtual currency at the time of the sale. The repair shop must collect the sales tax and must separately state the tax from the fair market value of the convertible virtual currency on any sales slip, receipt, or invoice provided to the customer. The repair shop must also record in its books and records the amount of the sale and the sales tax collected in U.S. dollars, and report the sale and remit the sales tax due in U.S. dollars when filing its periodic sales tax returns.*

### **Corporation tax and personal income tax policy**

For corporation tax and personal income tax purposes, New York State Tax Law conforms to the federal treatment of convertible virtual currency as detailed in IRS [Notice-2014-21](#). The notice provides that convertible virtual currency is treated as property for U.S. federal tax purposes. General tax principles that apply to property transactions apply to transactions using convertible virtual currency. For more information, see IRS [Notice 2014-21](#).

NOTE: A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.