

116TH CONGRESS
1ST SESSION

H. R. 3650

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

JULY 9, 2019

Mr. EMMER introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Safe Harbor for Tax-
5 payers with Forked Assets Act of 2019”.

1 **SEC. 2. SAFE HARBOR PERIOD FOR PENALTIES RELATING**
2 **TO TAX TREATMENT OF HARD-FORKED VIR-**
3 **TUAL CURRENCY.**

4 (a) IN GENERAL.—In the case of a taxpayer who dur-
5 ing the applicable period receives forked convertible virtual
6 currency—

7 (1) no penalties or additions to tax under part
8 II of subchapter A of chapter 68 of the Internal
9 Revenue Code of 1986 shall apply with respect to
10 any portion of an underpayment or understatement
11 of tax that is attributable to the taxpayer's attempt
12 during such period to comply with the tax treatment
13 under such Code of the receipt of such virtual cur-
14 rency (or any disposition of such currency during
15 such period); and

16 (2) no penalties or additions to tax under sec-
17 tions 6651, 6654, 6655, 6656, 6698, and 6699 shall
18 apply for any failure during the applicable period to
19 file a return or report or make a payment of tax to
20 the extent such failure is attributable to filing or
21 payment requirements relating to the receipt of such
22 virtual currency (or any disposition of such currency
23 during such period).

24 (b) DEFINITIONS AND SPECIAL RULES.—For pur-
25 poses of this section—

1 (1) APPLICABLE PERIOD.—The term “applica-
2 ble period” means any period beginning before the
3 date of the enactment of this Act and ending on the
4 date the Secretary issues regulations or guidance, or
5 legislation is enacted, that prescribes each of the fol-
6 lowing:

7 (A) The tax treatment of receiving forked
8 convertible virtual currency.

9 (B) Rules for calculating and allocating
10 the basis of forked convertible virtual currency.

11 (C) Rules for calculating the fair market
12 value of forked convertible virtual currency at
13 any given time.

14 (D) Rules for determining the holding pe-
15 riod of forked convertible virtual currency.

16 (2) FORKED CONVERTIBLE VIRTUAL CUR-
17 RENCY.—

18 (A) IN GENERAL.—The term “forked con-
19 vertible virtual currency” means, with respect
20 to any taxpayer, any convertible virtual cur-
21 rency to which the taxpayer becomes entitled by
22 reason of a hard fork.

23 (B) CONVERTIBLE VIRTUAL CURRENCY.—
24 The term “convertible virtual currency” means
25 any digital representation of value that—

1 (i) functions as a medium of ex-
2 change, a unit of account, or a store of
3 value;

4 (ii) does not have legal tender status;
5 and

6 (iii) has an ascertainable equivalent
7 value in legal tender or is used as a sub-
8 stitute for legal tender.

9 (C) HARD FORK.—The term “hard fork”
10 means, with respect to any convertible virtual
11 currency, any material change in the shared
12 digital ledger which is used to verify by con-
13 sensus transactions in such currency if such
14 change results in the maintenance of inde-
15 pendent shared digital ledgers with respect to
16 such currency.

17 (3) CONSTRUCTIVE RECEIPT.—Receiving forked
18 virtual currency shall include any right to receive (or
19 other constructive of) such virtual currency.

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