

117TH CONGRESS  
1ST SESSION

# H. R. 3273

To provide for the tax treatment of forked convertible virtual currency.

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IN THE HOUSE OF REPRESENTATIVES

MAY 17, 2021

Mr. EMMER (for himself and Mr. SOTO) introduced the following bill; which  
was referred to the Committee on Ways and Means

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## A BILL

To provide for the tax treatment of forked convertible virtual  
currency.

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 2021”.

6 **SEC. 2. TAX TREATMENT OF FORKED CONVERTIBLE VIR-**  
7 **TUAL CURRENCY.**

8 (a) EXCLUSION FROM GROSS INCOME.—Part III of  
9 subchapter B of chapter 1 of the Internal Revenue Code  
10 of 1986 is amended by inserting after section 139H the  
11 following new section:

1 **“SEC. 139I. EXCLUSION OF CONVERTIBLE VIRTUAL CUR-**  
2 **RENCY RECEIVED IN A HARD FORK.**

3 “(a) IN GENERAL.—No amount shall be included in  
4 gross income by reason of the receipt of any forked con-  
5 vertible virtual currency.

6 “(b) FORKED CONVERTIBLE VIRTUAL CURRENCY.—  
7 For purposes of this section—

8 “(1) FORKED CONVERTIBLE VIRTUAL CUR-  
9 RENCY.—The term ‘forked convertible virtual cur-  
10 rency’ means, with respect to any taxpayer, any con-  
11 vertible virtual currency to which the taxpayer be-  
12 comes entitled by reason of a hard fork.

13 “(2) CONVERTIBLE VIRTUAL CURRENCY.—The  
14 term ‘convertible virtual currency’ means any digital  
15 representation of value that—

16 “(A) functions as a medium of exchange, a  
17 unit of account, or a store of value;

18 “(B) does not have legal tender status; and

19 “(C) has an ascertainable equivalent value  
20 in legal tender or is used as a substitute for  
21 legal tender.

22 “(3) HARD FORK.—The term ‘hard fork’  
23 means, with respect to any convertible virtual cur-  
24 rency, any material change in the shared digital  
25 ledger which is used to verify by consensus trans-  
26 actions in such currency if such change results in

1 the maintenance of independent shared digital ledg-  
2 ers with respect to such currency.

3 “(4) CONSTRUCTIVE RECEIPT.—Receiving  
4 forked virtual currency shall include any right to re-  
5 ceive (or other constructive of) such virtual cur-  
6 rency.”.

7 (b) SAFE HARBOR PERIOD FOR PENALTIES RELAT-  
8 ING TO TAX TREATMENT OF HARD-FORKED VIRTUAL  
9 CURRENCY.—

10 (1) IN GENERAL.—In the case of a taxpayer  
11 who during the applicable period receives forked con-  
12 vertible virtual currency—

13 (A) no penalties or additions to tax under  
14 part II of subchapter A of chapter 68 of the In-  
15 ternal Revenue Code of 1986 shall apply with  
16 respect to any portion of an underpayment or  
17 understatement of tax that is attributable to  
18 the taxpayer’s attempt during such period to  
19 comply with the tax treatment under such Code  
20 of the receipt of such virtual currency (or any  
21 disposition of such currency during such pe-  
22 riod); and

23 (B) no penalties or additions to tax under  
24 sections 6651, 6654, 6655, 6656, 6698, and  
25 6699 shall apply for any failure during the ap-

1 plicable period to file a return or report or  
2 make a payment of tax to the extent such fail-  
3 ure is attributable to filing or payment require-  
4 ments relating to the receipt of such virtual  
5 currency (or any disposition of such currency  
6 during such period).

7 (2) DEFINITIONS AND SPECIAL RULES.—For  
8 purposes of this subsection—

9 (A) APPLICABLE PERIOD.—The term “ap-  
10 plicable period” means any period beginning be-  
11 fore the date of the enactment of this Act and  
12 ending on the date the Secretary issues regula-  
13 tions or guidance, or legislation is enacted, that  
14 prescribes each of the following:

15 (i) Rules for calculating and allocating  
16 the basis of forked convertible virtual cur-  
17 rency.

18 (ii) Rules for calculating the fair mar-  
19 ket value of forked convertible virtual cur-  
20 rency at any given time.

21 (iii) Rules for determining the holding  
22 period of forked convertible virtual cur-  
23 rency.

24 (B) OTHER TERMS.—Terms used in this  
25 subsection which are also used in section 139I

1 of the Internal Revenue Code of 1986 shall  
2 have the same meaning as when used in such  
3 section 139I.

4 (c) CLERICAL AMENDMENT.—The table of sections  
5 for part III of subchapter B of chapter 1 of such Code  
6 is amended by inserting after the item relating to section  
7 139H the following new item:

“Sec. 139I. Exclusion of convertible virtual currency received in a hard fork.”.

8 (d) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to forked convertible virtual cur-  
10 rency (as defined in section 139I of the Internal Revenue  
11 Code of 1986 as added by this section) received after the  
12 date of the enactment of this Act.

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