

FinCEN Regulations on Virtual Currency

Cross References

- FinCEN RIN 1506-AB47

The Financial Crimes Enforcement Network (FinCEN) is a bureau of the United States Department of the Treasury that collects and analyzes information about financial transactions in order to combat domestic and international money laundering, terrorist financing, and other financial crimes, such as tax evasion. The question on line 7a and 7b of the 2020 Schedule B (Form 1040) determines whether the taxpayer is required to file FinCEN Form 114. A willful failure to file FinCEN Form 114 carries a penalty of up to the greater of \$100,000 or 50% of the account balance.

FinCEN has recently issued proposed regulations that would require banks and money service businesses to submit reports, keep records, and verify the identity of customers who have transactions involving convertible virtual currency (CVC), or digital assets with legal tender status held in un-hosted wallets, or in wallets hosted in a jurisdiction identified by FinCEN.

According to FinCEN, U.S. authorities have found that CVCs are being used to finance international terrorists, weapons proliferation, sanctions evasion, and transnational money laundering, as well as to buy and sell controlled substances, stolen and fraudulent identification documents and access devices, counterfeit goods, malware and other computer hacking tools, firearms, and toxic chemicals. CVCs are also used for ransomware attacks and associated demand for payment.

The proposed regulations seek to establish appropriate controls to protect against such threats. Taxpayers who use cryptocurrency should take note of the new question at the top of the 2020 Form 1040 which asks: "At any time during 2020, did you receive, sell, send, exchange, or otherwise acquire any financial interest in any virtual currency?" Answering this question incorrectly could subject the taxpayer to fraud penalties. The proposed FinCEN regulations are designed to make it more difficult for individuals to hide virtual currency transactions from the IRS.

For more information on virtual currency, see *Virtual Currency*, Tab 14, in *TheTaxBook Occupations and Oddities*, 2020 Tax Year Edition.