

Virtual Currency: What should my states position be as far as its use?

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Agenda

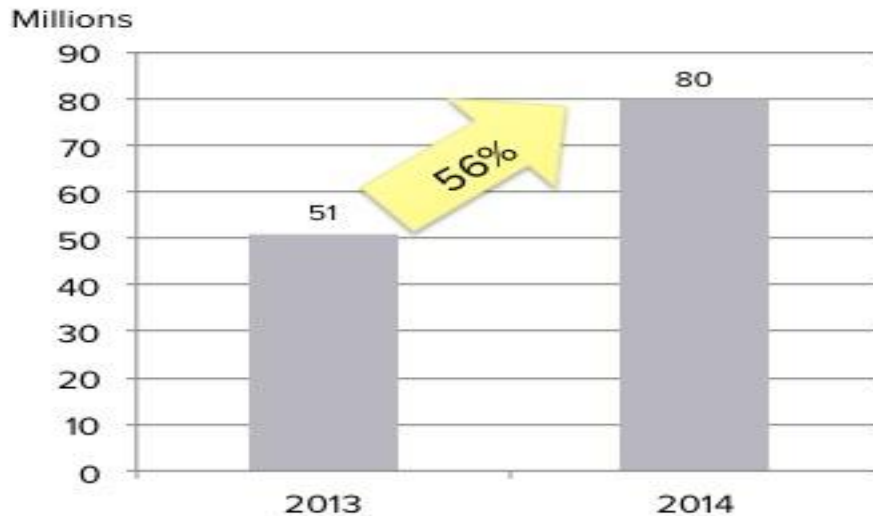
- Discuss the rapid increase in its use in the marketplace,
- Discuss Federal Government Ruling,
- Discuss Guidance provided to date by State Governments,
- Issues Legislators should consider when shaping tax legislation for your state.

Virtual Currency: Rapid Increase in the Marketplace

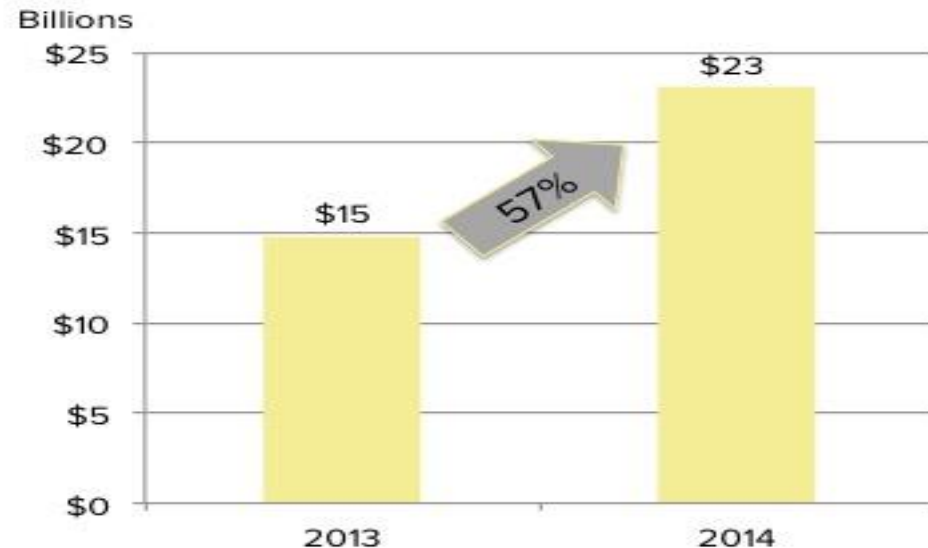
Virtual Currency: Increase in Trading Volume

Total Exchange Trading Volume Increased by Over 50%

Total Bitcoin Trading Volume (BTC)



Total Bitcoin Trading Volume (\$bn)



Sources: CoinDesk, [Blockchain.info](#), [Bitcoinity](#)

Virtual Currency: Larger Companies now accepting Bitcoin

Companies Representing >\$180 Billion in Annual Revenue Now Accept Bitcoin

Top 10 Largest Bitcoin-Accepting Retailers

Rank	Company	Annual Revenue (\$bn)
1	Microsoft	86.8
2	Dell	56.9
3	Dish Network	13.9
4	Expedia	5.0
5	Intuit	4.5
6	Monprix*	4.3
7	Time Inc.**	3.4
8	NewEgg	2.8
9	Overstock	1.3
10	TigerDirect*	1.0
	Total	\$179.9

*Monprix is a private company; most recent revenue data is from 2005. TigerDirect estimate provided by parent company investor relations. Other divisions that are part of a larger parent organization, but do not break out individual divisional revenues, are excluded.

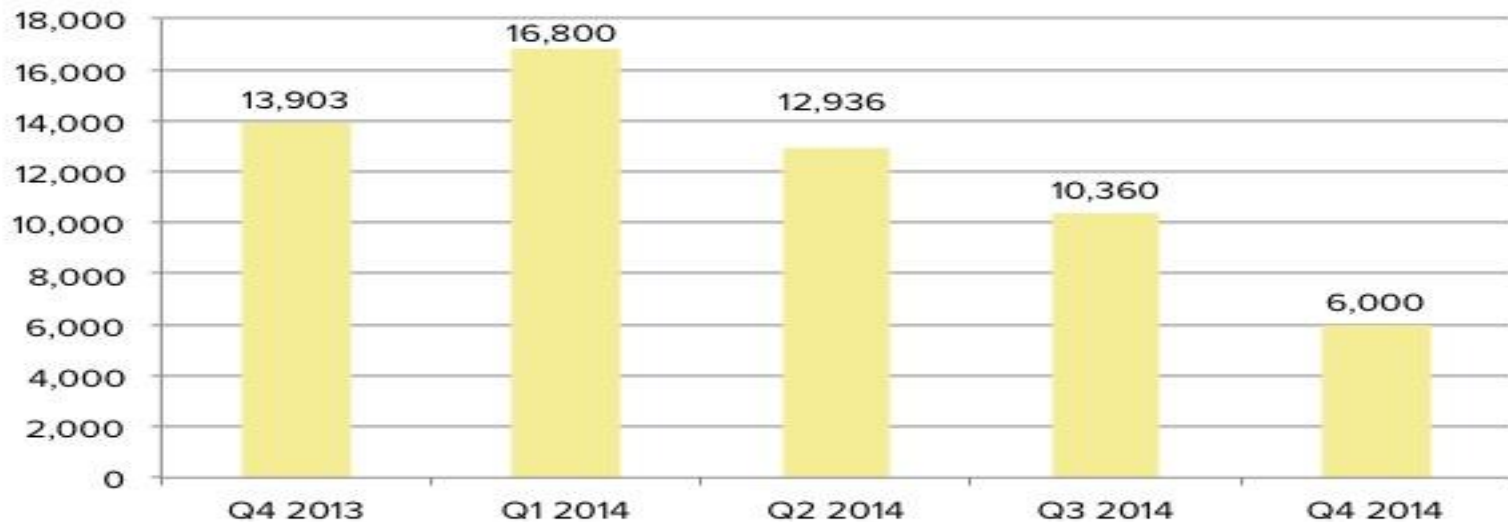
**The revenue is Time Inc. FY 2013 revenue

Sources: CoinDesk, Coinbase, BitPay, companies' annual reports

Virtual Currency: Increase in Businesses Acceptance

Growth in Bitcoin-Accepting Businesses Slowed Throughout 2014

Number of New Bitcoin-Accepting Businesses Added Each Quarter



Sources: CoinDesk, [Bitcoinity](#)

Virtual Currency: Federal Government Notice

March 25, 2014

Virtual Currency: Federal Government Notice

How is virtual currency treated for federal tax purposes?

For Federal Tax Purposes, virtual currency is treated as property, and general tax principles applying to property transactions apply to virtual currency transactions.

Virtual Currency: Federal Government Notice

What is the basis of virtual currency received as payment for goods or services?

The basis of virtual currency that a taxpayer receives as payment for goods or services is the fair market value of the virtual currency in U.S. dollars as of the date of receipt. See Publication 551, Basis of Assets, for more information on the computation of basis when property is received for goods or services.

Virtual Currency: Federal Government Notice

Does a taxpayer have gain or loss upon an exchange of virtual currency for other property?

Yes. If the fair market value of property received in exchange for virtual currency exceeds the taxpayer's adjusted basis of the virtual currency, the taxpayer has taxable gain. The taxpayer has a loss if the fair market value of the property received is less than the adjusted basis of the virtual currency.

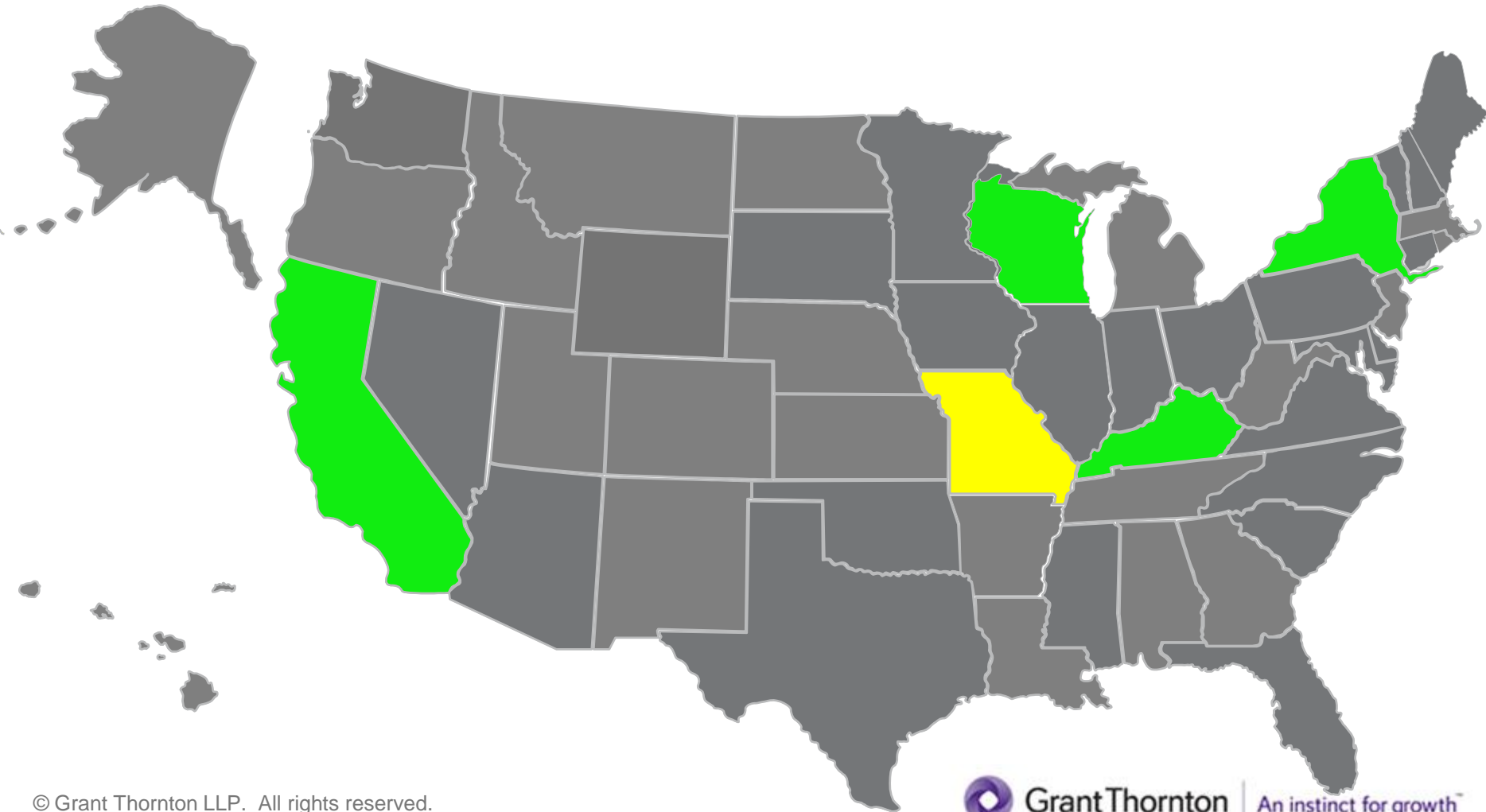
Virtual Currency: Federal Government Notice

What type of gain or loss does a taxpayer realize on the sale or exchange of virtual currency?

The character of the gain or loss generally depends on whether the virtual currency is a capital asset in the hands of the taxpayer. A taxpayer generally realizes capital gain or loss on the sale or exchange of virtual currency that is a capital asset in the hands of the taxpayer. (e.g., stocks, bonds) A taxpayer generally realizes ordinary gain or loss on the sale or exchange of virtual currency that is not a capital asset in the hands of the taxpayer. Inventory and other property held mainly for sale to customers in a trade or business.

Virtual Currency: State Guidance Not many Volunteers

Virtual Currency: States Providing Guidance



Virtual Currency: State Guidance California

Publication 388 Tax Information Bulletin (September 1, 2014)

The measure of tax is the total amount of the sale, lease or rental price as the case may be, valued in U.S. dollars, whether received in U.S. dollars or otherwise. The measure of tax from a barter or exchange transaction includes any amount allowed by a retailer to the customer for property or services of any kind. Therefore, when a sale is made where the consideration is virtual currency, the measure of tax from the sale of the product is the amount allowed by the retailer in exchange for the virtual currency (generally, the retailer's advertised selling price of the product).

Virtual Currency: State Guidance California (cont'd)

Publication 388 Tax Information Bulletin (September 1, 2014)

- *Example:* A restaurant sells a taxable meal to a customer with an advertised menu price of \$50. The customer pays the restaurant 0.065 Bitcoin for the meal. The measure of tax from the sale of the meal is \$50, which is the amount allowed by the retailer for the 0.065 Bitcoin at the time of the sale. Similarly, the restaurant sells a taxable meal to a customer with the menu price of \$50. The customer pays the restaurant 1 Bitcoin for the meal. The measure of tax from the sale of the meal is still \$50. The restaurant should retain a copy of the menu in its records to document the measure of tax from its virtual currency transactions.

Virtual Currency: State Guidance California (cont'd)

Publication 388 Tax Information Bulletin (September 1, 2014)

Retailers accepting virtual currencies as payment should retain documentation on the amount for which they regularly sell the same or similar property to their customers when payment is made in US Dollars.

Virtual Currency: State Guidance Kentucky

Kentucky Sales Tax Facts, Kentucky Department of Revenue (June 2014)

For Kentucky sales and use tax purposes, Bitcoins are the “consideration” provided by the purchaser in the transaction. Any business that accepts Bitcoins as a form of payment must convert the Bitcoin into U.S. dollars, and charge 6 percent Kentucky sales and use tax on any taxable transaction for which Bitcoin represents the financial instrument of consideration. Documentation must be maintained to verify the value of Bitcoin at the time of the transaction.

Virtual Currency: State Guidance Missouri

Letter Ruling No. LR 7411, Missouri Department of Revenue, September 12, 2014

ISSUE:

- Is Applicant required to collect and remit sales or use tax upon the transfer of Bitcoins through Applicant's ATM?

RESPONSE:

- No. Applicant is not required to collect and remit sales or use tax upon the transfer of Bitcoins through Applicant's ATM.

Virtual Currency: State Guidance New York

TSB-M-14(5)C, (7)I, (17)S Dec 5, 2014

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.

Virtual Currency: State Guidance New York

TSB-M-14(5)C, (7)I, (17)S Dec 5, 2014

Example 1: An online retailer registered for NYS sales tax purposes accepts virtual currency from a customer as payment for home décor items that will be delivered in New York State. In effect, the customer has purchased the home décor items in exchange for the virtual currency, and the retailer has purchased the 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 virtual currency in U.S. dollars at the time of the transaction.

Virtual Currency: State Guidance New York

TSB-M-14(5)C, (7)I, (17)S Dec 5, 2014

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.

Virtual Currency: State Guidance New York

TSB-M-14(5)C, (7)I, (17)S Dec 5,2014

Example 3: A NYS resident sends her watch to be repaired at a NY repair shop that accepts 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 virtual currency at the time of the sale. The repair shop must collect the sales tax and must separately state the tax on any receipt 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.

Virtual Currency: State Guidance Wisconsin

Wisconsin Sales and Use Tax Report No. 1-14 (March 1, 2014))

The sales price from the sale of virtual currency is not subject to Wisconsin sales and use tax because the virtual currency represents an intangible right. When the virtual currency is redeemed for a taxable product, the transaction is completed and the retailer's tax liability accrues at that time. The tax is computed on the value of the consideration received by the seller, measured in US dollars, as of the date the virtual currency is received.

Virtual Currency: What issues should states consider?

What issues should be considered?

- If Virtual Currency is property as ruled by the IRS, should your state tax its purchase?
- How should your state calculate the tax base on transactions when Virtual Currency is used to purchase a taxable good or service?
- Does your state have existing laws that deal with barter transactions? Do these historical laws agree with your preferred position concerning taxation of Virtual Currency?



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