New Jersey: Department of Taxation Issues Guidance on the Tax Treatment of Virtual Currency

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In March, the New Jersey Department of Taxation released Technical Advisory Memorandum (Memorandum) that addresses the tax treatment of transactions involving convertible virtual currency, such as Bitcoin and other cryptocurrencies. Last fall, we described how a different state, Missouri, handles Bitcoin. We wrote that its Department of Revenue considers Bitcoin to be intangible property, and as such, its transfer was not subject to sales and use taxes.

In contrast, virtual currency is taxable in New Jersey. The Memorandum describes virtual currency as “a form of electronic/digital money that can be used as a medium of exchange or as a form of digitally stored value. Taxpayers may use it to pay for goods or services, or hold it for investment. In some environments, virtual currency may operate like real currency (i.e. coin and paper money of the United States). Generally, virtual currencies can be digitally traded and purchased for, or exchanged into real or other virtual currencies, but do not yet have legal tender status in the United States.”

The Memorandum further explains that convertible virtual currency is treated as property for federal tax purposes. Convertible virtual currency is currency that has an equivalent value in real currency or that acts as a substitute for real currency. The sale or exchange of convertible virtual currency, or the use of convertible virtual currency to pay for goods or services, may have tax consequences that result in a tax liability.

New Jersey considers barter transactions to be included in the definition of a sale for tax purposes. When one uses convertible virtual currency to pay for property, that transaction is considered to be a barter transaction, and is therefore subject to the 7 percent New Jersey sales tax. A prominent feature of the barter transaction is that there are two taxable events because each party owes sales or use tax based on the value of trade.

Proponents of virtual currency oppose this tax treatment because Bitcoin is not recognized as legal tender, and as Cryptocoinsnews.com opines, should not be “just another revenue stream for the state.”