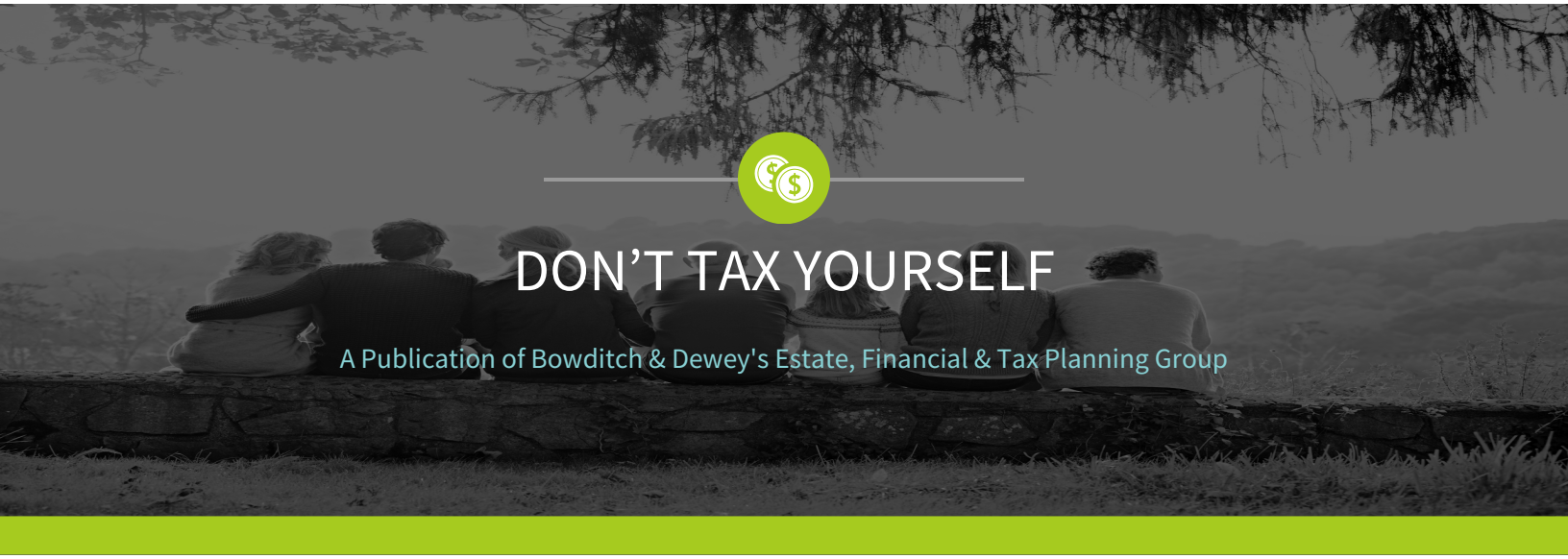


DON'T TAX YOURSELF

A Publication of Bowditch & Dewey's Estate, Financial & Tax Planning Group

The Year of Bitcoin: Gains Subject to Tax by the IRS

DECEMBER 13, 2017

The year 2017 could be described as the year of the Bitcoin and other "virtual currencies," with Bitcoin having appreciated 1800% since the beginning of the year and Ethereum, at one point, having appreciated 8,000% since the beginning of the year.

Whether this appreciation can continue or not is up for debate. However, for those lucky enough to have realized gains from virtual currency transactions during the year, it is worth reminding those taxpayers that those gains are subject to tax. The IRS issued guidance in 2014 that outlines how general federal tax principles apply to transactions using virtual currencies. See Notice 2014-21.

For federal tax purposes, virtual currency is treated as property. A taxpayer may have a gain or loss upon the exchange of virtual property for other property (including U.S. Dollars). The type of gain will depend on whether the virtual currency is a capital asset in the hands of the taxpayer. For many taxpayers, virtual currency will be a capital asset and any resulting gains or losses will be capital and either short or long using federal tax principles. For those lucky enough to have bought an early position in a virtual currency, these gains may generate significant tax liability.

Investors received a reminder that the tax man cometh in a recent, widely-watched case in San Francisco in which the IRS appears to have been successful in compelling Coinbase, a large digital currency exchange, to turn over customer information. The fallout from this decision is unknown, but it is worth noting that the IRS has indicated that only 800-900 transactions with bitcoin gains were reported in 2013-2015, while Coinbase has indicated as many as 14,000 customers may have engaged in 8.9 million transactions during the relevant time period. The implication being that not all virtual currency investors have been reporting their gains.

Taxpayers who have invested in virtual currencies are well advised to consult their tax advisors to see whether they have reportable virtual currency transactions.

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