

113TH CONGRESS
2^D SESSION

H. R. 5777

To protect cryptocurrencies.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 1, 2014

Mr. STOCKMAN introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To protect cryptocurrencies.

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 title may be cited as the “Cryptocurrency Pro-
5 tocol Protection and Moratorium Act” (also,
6 “CryptPMA”).

7 **SEC. 2. MORATORIUM.**

8 (a) Neither the Federal Government nor any State
9 or political subdivision thereof shall impose any statutory
10 restrictions or regulations specifically identifying and gov-

1 urning the creation, use, exploitation, possession or trans-
2 fer of any algorithmic protocols governing the operation
3 of any virtual, non-physical, algorithm or computer source
4 code-based medium for exchange (collectively, “crypto-
5 currency” as defined herein) for a period beginning June
6 1, 2015, and extending five years after the enactment of
7 this Act (such period, the “moratorium period”), except
8 for statutes already enacted and effective prior to the date
9 of enactment of this Act, and further suspending the en-
10 actment and effectiveness of any and all pending statutes
11 and regulations until the end of the aforementioned mora-
12 torium period, except as otherwise provided in this section.

13 (b) Nothing in this Act shall prevent, impair or im-
14 pede the operation of any government agency, authority
15 or instrumentality, whether of the Federal Government or
16 of any State or political subdivision thereof, to enforce cur-
17 rently existing criminal, civil or taxation statutes and reg-
18 ulations.

19 **SEC. 3. DEFINITIONS.**

20 (a) “Algorithm” is defined as a procedure for solving
21 a mathematical problem in a finite number of steps per-
22 formed by a computer.

23 (b) “Algorithmic chain” is a series or chain of bits
24 of data comprising a unique string of data which is the
25 basis for the cryptographic proof of a valid transfer or

1 transaction of cryptocurrencies. The algorithmic chain for
2 a cryptocurrency is commonly referred to as a
3 “blockchain”.

4 (c) The “cryptographic proof” for each transaction
5 or transfer is based on one unique algorithmic chain, dis-
6 tinct from all previously existing algorithms and neither
7 replicable nor reusable yet sharing with all other units at
8 least one common source code element in the algorithmic
9 chain (or “blockchain”) in the transferor’s existing bitcoin
10 or bitcoins.

11 (d) “Protocol” refers to procedures or guidelines gov-
12 erning the creation, development and operation of a
13 cryptocurrency.

14 (e) “Service” is defined as the Internal Revenue Serv-
15 ice.

16 (f) The phrase “using the Internet or other elec-
17 tronic, non-physical medium” means by placement of ma-
18 terial in a computer server-based file archive so that it
19 is publicly accessible, on, through, or over the Internet,
20 using hypertext transfer protocol, file transfer protocol, or
21 other similar protocols.

22 (g) “Cryptocurrency” is a popular term encom-
23 passing code-based protocols supporting an electronic,
24 non-physical media for the exchange of value, and for the
25 sake of both clarity and the avoidance of confusion in the

1 mind of the public, based on the prior use of this term
2 by the Internal Revenue Service in its initial guidance (see
3 Notice 2014–21, released March 26, 2014) this term is
4 used herein. However, it is believed “cryptocurrency” en-
5 compasses the same protocols as those covered by terms
6 such as “digital currency”, “virtual currency” or “elec-
7 tronic currency”.

8 **SEC. 4. DECLARATION OF MORATORIUM.**

9 (a) IN GENERAL.—It is the sense of Congress that
10 no new statutes, regulations or advisory opinions be
11 passed, implemented, enforced or issued governing the cre-
12 ation, use, possession or taxation of cryptocurrencies, the
13 protocols governing each and the data, codes, algorithms
14 or other calculations comprising each, until the expiration
15 of the moratorium as provided in this Act.

16 (b) PUBLIC INTEREST.—It is further the sense of
17 Congress that the development and use of any media for
18 exchange which possesses the characteristic of cryp-
19 tographic proof of and for a transaction of cryptocurrency
20 without the need for or reliance upon third-party inter-
21 mediaries or verification is a circumstance that is likely
22 to result in economic and other efficiencies for the Amer-
23 ican people and other participants in the domestic econ-
24 omy, and as such may be crucial to overall economic

1 growth, will enhance the economic well-being of the Amer-
2 ican people and will otherwise be in the public interest.

3 **SEC. 5. DECLARATION OF NEUTRAL TAX TREATMENT.**

4 (a) IN GENERAL.—It is the sense of Congress that
5 the production, possession or use of cryptocurrency,
6 whether in trade, commerce or personal non-commercial
7 transfers, should not be disfavored or discouraged by the
8 Federal tax code or other Federal or State statute or regu-
9 lation.

10 (b) TAX TREATMENT.—It is the sense of Congress
11 that the current guidance just promulgated and released
12 by the Service in its Notice 2014–21 is advisory, subject
13 to public comment and not in final form pending the expi-
14 ration of the comment period. As such, Congress believes
15 that the current guidance is less than optimal for the
16 American people and economy, and directs the Service to
17 issue or revise interim regulations consistent with the fol-
18 lowing.

19 (c) TREATMENT AS CURRENCY.—It is the sense of
20 Congress that virtual currencies should be treated as cur-
21 rency instead of property in order to foster an equitable
22 tax treatment and prevent a tax treatment that would dis-
23 courage the use of any cryptocurrency. Tax treatment of
24 cryptocurrency as property does not account for the sub-
25 stantial illiquidity and highly limited acceptance and use

1 of cryptocurrency, and substantially and unfairly discour-
2 ages taxpayers engaging in a trade or business from using
3 cryptocurrency in commerce. This circumstance is likely
4 to discourage economic activity and stifle innovation and
5 growth. At present, a taxpayer accepting cryptocurrency
6 for goods or services will be taxed on the fair market value
7 of the cryptocurrency despite the fact that exchange rates
8 (from cryptocurrency to conventional currency) are both
9 highly volatile and published or available only on a small
10 number of proto-exchanges in the early stages of develop-
11 ment, acceptance and awareness by cryptocurrency users.
12 As a result, current tax treatment will measure income
13 on the basis of an illiquid and likely inaccurate fair market
14 value that exceeds the taxpayer's true fair market value
15 and hence income, resulting in the risk of a consistent
16 overtaxation or overpayment that will act as a strong de-
17 terrent to or penalty for accepting cryptocurrency in pay-
18 ment. Such tax treatment is inconsistent with the tax
19 treatment of secured notes for payment in trade or com-
20 merce, which recognizes a discount from the face value
21 of the note due to the illiquid nature of the payment.
22 (Note: See IRS Pub. 525 at 4.)

23 (d) REVENUE IN TRADE OR BUSINESS; TAXATION
24 UPON MONETIZING EVENT.—It is the sense of Congress
25 that taxpayers accepting cryptocurrency in trade or com-

1 merce should be deemed to realize actual income only
2 when cryptocurrency is monetized through conversion or
3 exchange into dollars or any official government currency,
4 and that fair market value should be calculated as net pro-
5 ceeds from the conversion. (Note: This treatment seeks to
6 achieve the most accurate and fair measure of actual in-
7 come received, as distinguished from theoretical income in
8 the form of cryptocurrency which, until its conversion to
9 dollars, remains under substantial risk of diminution from
10 illiquidity or other conversion risks or inefficiencies. This
11 treatment is consistent with tax treatment of statutory
12 stock options where the taxable event is not the receipt
13 or exercise of the option, but the sale of the underlying
14 stock for proceeds in cash. The goal here is to have income
15 taxed when the income is actual instead of theoretical and
16 subject to substantial if not total risk of loss through li-
17 quidity problems, exchange problems or other barriers to
18 monetization.) Accordingly, as it is the further sense of
19 Congress that income on cryptocurrency received in trade
20 or business should be defined as the net proceeds from
21 conversion of the received cryptocurrency into dollars, the
22 Service is hereby directed to revise or issue interim regula-
23 tions consistent herewith.

24 (e) REVENUE FROM MINING OR CREATION OF
25 CRYPTOCURRENCY.—It is the sense of Congress that the

1 Service’s guidance that taxpayers should have the fair
2 market value of the cryptocurrency they successfully
3 “mine” or produce included in gross income is inequitable,
4 overstates actual income by overstating fair market value
5 by not accounting for the liquidity risk or the risk that
6 substantial effort may yield no production, and strongly
7 and unfairly penalizes or discourages such income pro-
8 ducing efforts and deters economic growth, activity and
9 innovation. Accordingly, as it is the further sense of Con-
10 gress that mined produced cryptocurrency should be taxed
11 as income only when actual income is realized by a trans-
12 fer and conversion of proceeds into dollars, the Service is
13 hereby directed to revise or issue interim regulations con-
14 sistent herewith.

15 **SEC. 6. SEVERABILITY.**

16 If any provision of this title, or any amendment made
17 by this title, or the application of that provision to any
18 person or circumstance, is held by a court of competent
19 jurisdiction to violate any provision of the Constitution of
20 the United States, then the other provisions of that title,
21 and the application of that provision to other persons and
22 circumstances, shall not be affected.

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