

Mutual Fund Directors Forum

Registered Funds and Investments in Digital Assets

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Introduction to Digital Assets

- Blockchain
 - › Immutable ledger of transactions
- Bitcoin
 - › Store of value
- Bitcoin Cash
 - › Transactional
 - › Alternative for cash
- Ethereum
 - › Smart contracts

Ways to Invest

- Direct Holdings
- Futures, Swaps, Options and Other Derivatives
- Publicly Traded Investments
 - › US Grantor Trusts (i.e. Greyscale Bitcoin Trust)
 - › “Publicly” Traded Partnerships (i.e. Bitwise 10 Crypto Index Fund)
 - › Offshore corporations taxed as PFICs (i.e. Grayscale Digital Large Cap Fund)
 - › Onshore corporations
- Private Investment Funds

Operational and Accounting Issues to Consider

- Custody Issues
- Valuation
 - › Timing
 - › Principal Market
- Accounting Treatment
 - › Little current guidance specific to investment funds
 - › Analogizing to existing investments/guidance

Tax Treatment of Digital Assets

- Notice 2014-21
 - › Virtual currency is treated as property for tax purposes, not currency
 - › Conversion of virtual currency to cash is generally capital gain
 - › Mining is self-employment income
- Rev. Rul. 2019-24 and FAQs
 - › Taxability of hard fork and airdrops
 - › Focus on dominion and control
 - › “Lot” selection is FIFO unless specific identification of units
 - › Charitable contributions rules are identical to those of other property

RIC Qualification Considerations

- Rules date back to 1942
- 90% Qualified Income Test
 - › A RIC must derive 90% of its “gross” income from qualified income:
 - Dividends
 - Interest (including tax-exempt interest income)
 - Realized gains from the sale of securities
 - Payments from securities loaned
 - Gains from options, futures, or forward contracts
 - Net income from an interest in a qualified PTP
 - › 2005 - Qualified Publicly Traded Partnership is qualified income
 - › Rev. Rul. 2006-1 - commodity-linked investments do not give rise to qualified income. “Look through” to underlying exposures.
 - › Use of onshore or offshore blockers (CFCs or PFICs)

RIC Qualification Considerations cont.

- 50% Qualified Asset Test – Section 851(b)(3)
 - › At the end of each quarter of the tax year at least 50% of the value of a fund's total assets must be:
 - Cash and cash items
 - Receivables
 - U.S. government securities
 - Securities of other RICs
 - Other qualifying securities
 - Securities of any one issuer that are no more than 5% of the value of the fund's total assets
 - Securities of any one issuer that are no more than 10% of the issuer's outstanding voting securities
 - › Any digital assets would be treated as nonqualified assets

Questions:



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