

IRS Waves White Flag in Lawsuit Over Taxability of Cryptocurrency Staking Rewards

Taxpayer lawsuit demands confirmation of tax treatment of staking rewards

February 3, 2022 – Today, the Proof of Stake Alliance (POSA), a leading blockchain industry association, celebrated important news: as part of ongoing federal litigation (*Jarrett v. United States*, No. 3:21-cv-00419 (M.D. Tenn.)), the government has offered to refund plaintiff Joshua Jarrett for the taxes he paid when he created new property through staking, a sign that the IRS may no longer attempt to tax tokens created through staking moving forward. Despite this initial victory, Jarrett is refusing the refund and continuing with his case, as without such a ruling there will be nothing to prevent the IRS from challenging him again on this issue.

Jarrett paid income tax for 2019 on new tokens he created through staking. Contending that property that is created—like bread baked by a baker or a novel written by an author—is only taxed when it is sold, Jarrett filed for a refund in August 2020. The IRS ignored Jarrett’s refund claim, forcing him to pursue the matter in federal court. Today, court filings reveal that the government has offered to grant this refund, an early sign suggesting that the IRS will not tax property created through staking until it is sold.

POSA, and the broad coalition it represents, applauds Jarrett’s decision to continue his lawsuit. He has rejected the IRS’s offer of a refund, opening up the possibility of a court ruling that will give him, and millions of other taxpayers in the same position, the ability to confidently plan for the future. The importance of this issue has been raised by many, including Coin Center, the Blockchain Association, and several Members of Congress.

Proof of stake has skyrocketed in popularity as a blockchain consensus mechanism, with the market capitalization of the top 30 proof of stake tokens [approaching \\$600 billion](#) at the end of Q3 2021. Ethereum, which alone has a market cap of over \$260 billion, is [fully transitioning to proof of stake](#) later this year. Other popular blockchains including Solana, Cosmos, Avalanche, Cardano, and Tezos have long utilized the more environmentally friendly consensus method. In recent years, many of the largest US-based crypto-exchanges, including [Coinbase, Gemini, and Kraken](#), have started offering staking services to their retail customers, allowing millions of Americans to participate in securing blockchains and earning staking rewards—all of whom have the potential to run up against the same ambiguity with the IRS that Jarrett did. There is also a growing industry, including the two largest staking providers and US-based companies, [Bison Trails](#) (acquired by Coinbase) and [Blockdaemon](#) (now valued at over \$3.25B), that are focused on serving the staking ecosystem that would benefit from clear guidance from the IRS.

Abraham Sutherland, one of Jarrett’s lawyers, said, “While I appreciate the IRS’s offer, Jarrett needs a definitive ruling that the property he created through staking is not income.”

Evan Weiss, Founder of POSA added, “Proof of stake tokens will only increase in popularity in the coming years as web3 becomes mainstream, and the IRS must signal that it’s prepared for innovations in the space. Back in 2019, we briefed officials at the Treasury Department as well as other policy makers on Capitol Hill about the need for a clear statement that staking rewards are not taxable income. Today we continue to urge the department to put forth an advisory that makes it clear that staking rewards will only be taxed when sold. We cannot risk making the US a second-rate market for staking, pushing the burgeoning multi-billion dollar staking industry to inevitably take those dollars elsewhere.”

“The IRS doesn't just lay down in court, especially in cases that could affect millions of taxpayers on a very basic point of law. It means they've got a losing argument. For the sake of fair tax administration, and American innovation, I hope the IRS follows this up quickly with clear guidance that staking rewards aren't taxable income. As more and more blockchains use Proof of Stake to come to consensus and more and more American taxpayers participate in these networks, the government needs to catch up and apply years of settled tax law to the new property created by using this new technology,” said Alison Mangiero, Board Member and acting Executive Director of POSA.

As Jarrett’s legal battle continues, POSA hopes the IRS will affirm the existing legal status of staking rewards so that American taxpayers are not overtaxed or deterred from participating in this new technology.

Source: Proof of Stake Alliance

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