



What Happens When You're Paid in Crypto?

OVERVIEW:



How do you pay people in Crypto
Payments to employees and contractors
Reporting W-2 interplay / 1099-DA interplay
Payroll / Information reporting
Fed/State tax rules & thresholds
Restricted Token Units – RTU's vs. RSU's
Legal Issues & Labor Laws
Contracts for employment

Securities LAW / SEC's view of crypto
Volatility Issues
Valuation & Liquidity Timing Issues
Administrative issues
Accounting Considerations
Tech involved
Other Topics / Practical Realities

Tax Implications of Crypto Payments to Employees and Contractors

Q-7: Character of gain/loss dependent

Reporting W -2 Interplay / 1099- DA Interplay

When does income from digital assets get reported on a W-2, 1099-MISC, or 1099-DA?

Independent contractor vs employee distinction

Income sourcing rules

Sales of digital assets







Are payroll providers up to speed on ability to report digital assets?



Does it make it any easier if employees are paid with USDC or other stablecoins as opposed to non-stablecoin digital assets?



Restricted Token Units - RTU's vs. RSU's

- What are RTUs? 
- Are RTUs the same/similar to Restricted Stock Units (RSUs)? 
- Are there other types of compensation arrangements
- Interplay with Section 409A (valuation rules) 
- Interplay with Section 83(b) elections 

Legal Issues & Labor Laws

Any issue with receiving entire salary in Tokens?

Conceptually, from a tax perspective, a person could receive all their income in tokens, as the tax law would generally treat it as another form of property received

But legal/labor law issues need to be considered:

US Fair Labor Standards Act

Non-exempt workers - minimum wage and overtime must be paid in cash or its equivalent

Exempt workers - volatility of crypto between payroll and receipt of payment could cause amounts paid to fall below minimum salary requirement

Wage laws of US states may impose similar requirements

Some states require wages to be paid in US currency

Legal Issues & Labor Laws (cont'd)

Dept. of Labor Guidance on Cryptocurrency in 401(k) Plans (March 2022)

Plan fiduciaries should exercise "extreme caution" before including crypto in 401(k) core investment slate

Speculative and Volatile Investments

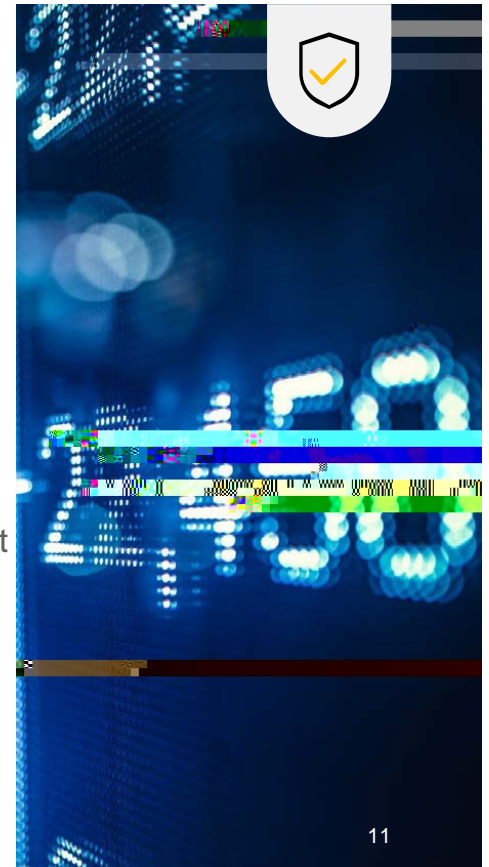
Securities Law / SEC's View of Crypto

SEC applies "Howey" test - is it a security?

Nature of cryptocurrency offered affects regulatory compliance – utility token, coin, virtual currency, etc.

Rapidly evolving legal landscape. SEC under Biden may not look the same as under Trump

The CFTC has also taken the position that tokens are commodities and has approved the trading of tokens on various markets



Volatility Issues



Challenges when crypto fluctuates substantially during the day

How does Toku help solve challenges for companies?

Are there major differences in the rules for tracking compensation in the US vs. outside the US?

Valuation & Liquidity Timing Issues



Common challenges

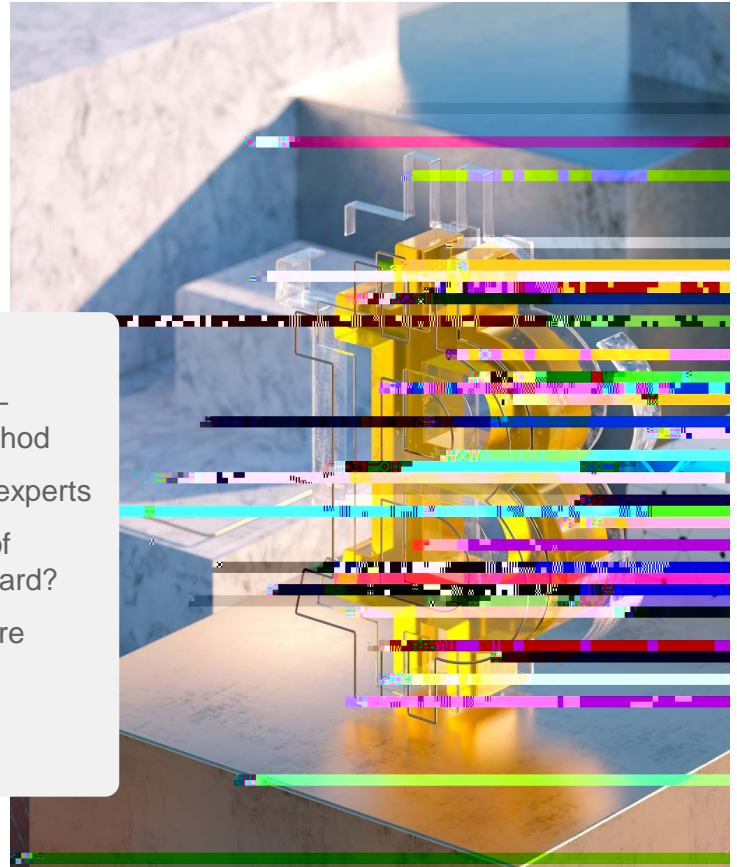
Standard practice for valuing crypto – importance of using a consistent method

Role of attorneys and valuation experts

How does Toku approach valuation of crypto and what is the industry standard?

What time/date is used when there are long delays from time of payment vs. deposit date?

Logistics



Open Discussion / Takeaways



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