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(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R. _____

To provide for the tax treatment of forked convertible virtual currency.

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IN THE HOUSE OF REPRESENTATIVES

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Mr. EMMER introduced the following bill; which was referred to the Committee on _____

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A BILL

To provide for the tax treatment of forked convertible virtual currency.

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 Act may be cited as the "Safe Harbor for Tax-

5 payers with Forked Assets Act of 2021".

6 **SEC. 2. TAX TREATMENT OF FORKED CONVERTIBLE VIR-**

7   **TUAL CURRENCY.**

8   (a) EXCLUSION FROM GROSS INCOME.—Part III of

9 subchapter B of chapter 1 of the Internal Revenue Code

1 of 1986 is amended by inserting after section 139H the

2 following new section:

3 **"SEC. 139I. EXCLUSION OF CONVERTIBLE VIRTUAL CUR-**

4 **RENCY RECEIVED IN A HARD FORK.**

5 "(a) IN GENERAL.—No amount shall be included in

6 gross income by reason of the receipt of any forked con-

7 vertible virtual currency.

8 "(b) FORKED CONVERTIBLE VIRTUAL CURRENCY.—

9 For purposes of this section—

10 "(1) FORKED CONVERTIBLE VIRTUAL CUR-

11 RENCY.—The term 'forked convertible virtual cur-

12 rency' means, with respect to any taxpayer, any con-

13 vertible virtual currency to which the taxpayer be-

14 comes entitled by reason of a hard fork.

15 "(2) CONVERTIBLE VIRTUAL CURRENCY.—The

16 term 'convertible virtual currency' means any digital

17 representation of value that—

18 "(A) functions as a medium of exchange, a

19 unit of account, or a store of value;

20 "(B) does not have legal tender status; and

21 "(C) has an ascertainable equivalent value

22 in legal tender or is used as a substitute for

23 legal tender.

24 "(3) HARD FORK.—The term 'hard fork'

25 means, with respect to any convertible virtual cur-

1 rency, any material change in the shared digital
2 ledger which is used to verify by consensus trans-
3 actions in such currency if such change results in
4 the maintenance of independent shared digital ledg-
5 ers with respect to such currency.

6 "(4) CONSTRUCTIVE RECEIPT.—Receiving
7 forked virtual currency shall include any right to re-
8 ceive (or other constructive of) such virtual cur-
9 rency.".

10 (b) SAFE HARBOR PERIOD FOR PENALTIES RELAT-
11 ING TO TAX TREATMENT OF HARD-FORKED VIRTUAL
12 CURRENCY.—

13 (1) IN GENERAL.—In the case of a taxpayer
14 who during the applicable period receives forked con-
15 vertible virtual currency—

16 (A) no penalties or additions to tax under
17 part II of subchapter A of chapter 68 of the In-
18 ternal Revenue Code of 1986 shall apply with
19 respect to any portion of an underpayment or
20 understatement of tax that is attributable to
21 the taxpayer's attempt during such period to
22 comply with the tax treatment under such Code
23 of the receipt of such virtual currency (or any
24 disposition of such currency during such pe-
25 riod); and

1   (B) no penalties or additions to tax under

2   sections 6651, 6654, 6655, 6656, 6698, and

3   6699 shall apply for any failure during the ap-

4   plicable period to file a return or report or

5   make a payment of tax to the extent such fail-

6   ure is attributable to filing or payment require-

7   ments relating to the receipt of such virtual

8   currency (or any disposition of such currency

9   during such period).

10   (2) DEFINITIONS AND SPECIAL RULES.—For

11 purposes of this subsection—

12   (A) APPLICABLE PERIOD.—The term "ap-

13   plicable period" means any period beginning be-

14   fore the date of the enactment of this Act and

15   ending on the date the Secretary issues regula-

16   tions or guidance, or legislation is enacted, that

17   prescribes each of the following:

18   (i) Rules for calculating and allocating

19   the basis of forked convertible virtual cur-

20   rency.

21   (ii) Rules for calculating the fair mar-

22   ket value of forked convertible virtual cur-

23   rency at any given time.

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1　　　　　(iii) Rules for determining the holding
2　　　　　　period of forked convertible virtual cur-
3　　　　　　rency.

4　　　　　(B) OTHER TERMS.—Terms used in this
5　　　　subsection which are also used in section 139I
6　　　　of the Internal Revenue Code of 1986 shall
7　　　　have the same meaning as when used in such
8　　　　section 139I.

9　　(c) CLERICAL AMENDMENT.—The table of sections
10 for part III of subchapter B of chapter 1 of such Code
11 is amended by inserting after the item relating to section
12 139H the following new item:

"Sec. 139I. Exclusion of convertible virtual currency received in a hard fork.".

13　　(d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to forked convertible virtual cur-
15 rency (as defined in section 139I of the Internal Revenue
16 Code of 1986 as added by this section) received after the
17 date of the enactment of this Act.