



# Cryptocurrency and Blockchain FAQs

## TABLE OF CONTENTS

### [Paying Workers or Accepting Payments in Crypto](#)

- [Are there any risks for employers with paying wages in cryptocurrency under federal law?](#)
- [Are there any risks for employers with paying wages in cryptocurrency under state law?](#)
- [Why would an employer want to pay a worker in cryptocurrency?](#)
- [Does the volatility of cryptocurrency present any risk for employers using it for payroll?](#)
- [Do the employees who want to be paid in crypto bear the risk of any volatility?](#)
- [What logistical concerns might an employer have in doing some of its payroll through crypto?](#)
- [What are some the risks associated with an employer accepting payment from clients in cryptocurrency?](#)
- [Are there privacy concerns in making payments that will be publicly visible on the blockchain?](#)
- [Do employers need to make policy changes before paying workers in crypto?](#)

### [Crypto and Blockchain Basics](#)

- [What is cryptocurrency?](#)
- [How does a cryptocurrency transaction work?](#)
- [How do cryptocurrency “wallets” come into play?](#)
- [What is a blockchain?](#)
- [Is there only one blockchain?](#)
- [What is the difference between a blockchain and cryptocurrency?](#)

- [What is Bitcoin?](#)
- [What are stablecoins?](#)
- [What is Ethereum?](#)
- [What are non-fungible tokens \(NFTs\)?](#)
- [What is a smart contract?](#)

## **Paying Workers or Accepting Payments in Crypto**

### **Are there any risks for employers with paying wages in cryptocurrency under federal law?**

Yes. The Fair Labor Standards Act requires wages to be paid in “cash or negotiable instrument payable at par.” Cryptocurrency is neither. While the more popular cryptocurrencies can easily and immediately be sold for cash, this fact may not matter to the U.S. Department of Labor.

[Back to top](#)

### **Are there any risks for employers with paying wages in cryptocurrency under state law?**

Yes. Some states require wages to be paid in U.S. currency (including California, Washington, Georgia, Maryland, Delaware, Pennsylvania, Michigan, New Jersey, Texas, and Illinois). The specific restrictions and possible exceptions, of course, vary from state to state. In Georgia, for example, the statute does not apply to salaried company officials, superintendents, or certain department heads, or to employers in the farming, sawmill, and turpentine industries.

For these reasons, you should pay base compensation in U.S. currency in amounts that meet the federal, state, and local requirements for minimum wage, overtime, or salary-based exemptions. Any cryptocurrency payment program for the remaining wages should be optional and authorized in writing by the employee.

[Back to top](#)

### **Why would an employer want to pay a worker in cryptocurrency?**

For employers earning revenue in cryptocurrency, being able to pay it to workers without the expense of converting it to cash first makes a lot of sense. For other employers, it's mostly a matter of talent acquisition. Competition for hiring and retaining the best and brightest employees is fierce, especially in the tech industry. By offering to pay employees in cryptocurrencies, companies may distinguish themselves as progressive early tech adopters that offer compelling benefits and compensation.

There are also practical advantages, especially for employers of contractors and international workers. Paying workers in cryptocurrencies is inexpensive, nearly instantaneous, and avoids

making payments and figuring exchange rates in multiple international currencies.

[Back to top](#)

### **Does the volatility of cryptocurrency present any risk for employers using it for payroll?**

Possibly. It might be fair to presume that someone comfortable enough to opt in to receiving cryptocurrency instead of cash for part of their wages is already familiar with this risk. Many users would even be excited if the price fell dramatically right before payday, so they can “buy the dip.”

However, the reality is the average person does not know much about how cryptocurrency works and may be curious but without having experienced a substantial drop in value that more seasoned users have experienced (possibly multiple times). A worker who is disgruntled about being paid right before a precipitous drop is a potential risk for wage disputes. At a minimum, employee authorizations to be paid this way should go above and beyond to provide adequate notice about the realities of holding cryptocurrencies for investment.

[Back to top](#)

### **Do the employees who want to be paid in crypto bear the risk of any volatility?**

Unless the crypto is paid in stablecoins, yes (and there is arguably some risk even with accepting payment in stablecoins depending on the particular stablecoin). Any crypto compensation program should be voluntary with adequate disclosures about the risk of loss. It is entirely possible that an employee receives \$100 worth of crypto on payday and by the next day it is worth much less. This is beyond the control of the employer — but as noted above, that won't necessarily stop the worker from being upset about it. Employers may want to offer stablecoins as an option for those workers who want to take advantage of the speed of crypto payments, or generate a pot of funds from which they can make later trades into other coins, without risking a loss in value.

[Back to top](#)

### **What logistical concerns might an employer have in doing some of its payroll through crypto?**

Practically, the employer must decide whether to pay workers (1) in their normal currency, with a designated portion of their wages being automatically converted to their selected cryptocurrency and sent to their wallet; or (2) in the cryptocurrency itself.

From a tax perspective, the IRS deems cryptocurrency to be property. This means the fair market value of crypto is reportable on Form W-2 (and payroll taxes must be withheld as usual). Payments to non-employees are subject to information reporting rules. While not impossible, this impact on payroll reporting and tax withholding could be administratively difficult. Regardless of the option

chosen, most employers should strongly consider using a third-party service dedicated to processing payroll in cryptocurrency.

Then there is the employee side of taxes. Despite IRS guidance published on the topic in 2014 and clarified in great detail in late 2019, many cryptocurrency holders seem to be unaware that they are walking into an interesting lesson in capital gains taxes when they buy, sell, exchange, and are paid in cryptocurrency. You should include relevant disclaimers, and perhaps a reference to current tax guidance, in any employee authorization to be paid in crypto.

[Back to top](#)

### **What are some the risks associated with an employer accepting payment from clients in cryptocurrency?**

A major concern is, of course, volatility, the risk of which depends on how the payment is processed. If the employer accepts crypto in kind, the value of the payment could fall dramatically in a short period of time after receipt. This risk is alleviated, however, by either accepting stablecoins or using a payment processor that automatically converts the client's cryptocurrency into the employer's fiat currency of choice.

Depending on the nature of the relationship (or the possibility that it could sour), there may also be a concern about a payment being publicly visible on the blockchain. If accepting cryptocurrency in kind, the employer also obviously needs to be familiar with how to securely set up appropriate wallets.

[Back to top](#)

### **Are there privacy concerns in making payments that will be publicly visible on the blockchain?**

Potentially. Crypto transactions are pseudonymous, but they are not private. Transactions are publicly visible on the particular coin's blockchain. All someone needs to find transactions is the public address of one of the wallets involved or the transaction's ID or "hash." Either party to a transaction could volunteer this information and transact with their wallet to prove they control it (some high-profile individuals have even done this to prove they were alive in response to rumors of their demise). While users and applications can create new public addresses after each transaction to keep their total holdings private, generally speaking, if there is a reason that either party might not want anyone to know the transaction occurred or its amount, crypto is likely not the appropriate vehicle for it. Employers should be sure employees understand this feature of cryptocurrency.

[Back to top](#)

### **Do employers need to make policy changes before paying workers in crypto?**

Yes. Any cryptocurrency payment program should be backed with a clear policy, and all employees participating should provide their written authorization on a form clearly explaining the risks of doing so. Because there are technical, practical, financial, and legal components, this documentation should be prepared by counsel with crypto expertise.

[Back to top](#)

## Crypto and Blockchain Basics

### What is cryptocurrency?

Cryptocurrency is a form of digital currency that uses cryptography, instead of trusted third parties like banks, to facilitate peer-to-peer transactions. As of the date of publication, there are more than 10,000 different cryptocurrencies. Although each “coin” or “token” has its own attributes based on the software that drives it, cryptocurrencies as a whole are valued for enabling irreversible transactions anywhere in the world with low fees and near-instant settlement.

The top two cryptocurrencies by market capitalization (price times circulating supply) are bitcoin and ether. The total market value of all cryptocurrencies crossed the \$1 trillion threshold for the first time in 2021.

[Back to top](#)

### How does a cryptocurrency transaction work?

Cryptography allows a single individual to own value and claim to property with no third party required. This works through **public address** and **private key** technology.

- A public address is similar to a bank account number. It is a long string of alphanumeric characters, unique with each transaction, often embedded into QR codes that can be scanned for ease of use.
- A “private key” is similar to a password. At the base level, every private key is a unique set consisting of 256 zeros and ones in a specific order and combination. Due to the difficulty in interacting with and reliably recording these numbers, a standard was formed to allow a 12-to-24-word mnemonic to be generated from these unique 256 zeros and ones. While the device holding your key is important, losing the device does not mean your funds are irretrievably lost. Rather, losing your mnemonic, or seed phrase, will render your coins lost. An estimated 20% of bitcoins in circulation are stored in wallets with lost keys.

Every cryptocurrency wallet has one of these unique seed phrases behind it. This 12-to-24-word phrase represents your ownership in the blockchain and acts as the private key granting you privileges to send transactions out of that wallet to any other recipient without third party permission required. This is enforced through cryptography and consensus rules within the nodes

of the network. Upon the successful and truthful functioning of the blockchain network, there is no ability to steal another participant's funds. Further, coins cannot be transferred out of a wallet without the associated private key. This feature has inspired an adage among the crypto community: "not your keys, not your coins." That is, if you do not have sole control over your private key, the other party that does can take your coins.

[Back to top](#)

### **How do cryptocurrency "wallets" come into play?**

Wallets come in various forms. There are hardware wallets resembling a USB stick, while some are created through cryptocurrency exchanges that follow "know your customer" regulations and require personal information. Others still require nothing more than a phone number. There's generally no limit to how many wallets a user can have.

To send coins from one wallet to another, the user enters the location (the public address), amount, and fee paid to get the transaction processed by the network, then "signs" the transaction with their private key. If a low fee is paid, the network's miners will set you at the back of the priority list for inclusion in the next block of transactions. If the user is in a rush, they can pay a large fee to nearly guarantee inclusion in the next block of transactions.

Blockchains all have their own block times, which is the interval between each batch of transactions. The more frequent the block time, the faster users can expect final settlement of transactions. The transaction is not finalized until it's included in a block, and each successive block is what creates the "blockchain." "Proof of work" and "proof of stake" are the two primary consensus mechanisms used by cryptocurrencies to verify new transactions and add them to the blockchain.

[Back to top](#)

### **What is a blockchain?**

Blockchain is the technology that makes crypto possible. A blockchain is a digital ledger that contains an immutable historical record, or chain, of all transactions that have occurred on that blockchain's network. A "block" is a group of transactions that contains information about the previous transaction. Oversimplifying, the first block shows a transfer from A to B; the second block shows a transfer from B to C, and so on. Blockchain participants have identical copies of the blockchain data.

There are different types of blockchains. A public, "permissionless" blockchain, such as bitcoin's, is visible to anyone who wants to view it and anyone who wants to participate in the decentralized network that operates it can do so (with the proper hardware). A private, "permissioned" blockchain is restricted to those who have been granted access, and is typically a centralized blockchain used by an organization to process internal data.

[Back to top](#)

## **Is there only one blockchain?**

There are numerous blockchains operating independently of one another. For example, bitcoin transactions only exist on the Bitcoin blockchain; ether transactions exist on the Ethereum blockchain. The Bitcoin and Ethereum networks operate according to their respective protocols. There are also blockchains focusing on interoperability (i.e., the ability for one blockchain to communicate with, and access information from, another blockchain)

[Back to top](#)

## **What is the difference between a blockchain and cryptocurrency?**

A blockchain is the record of transactions on a particular network. Cryptocurrency is the fuel that powers the network and the medium of exchange being transacted. If you know a public address, you can use software called a “blockchain explorer” to see all amounts of cryptocurrency that have been transferred in and out of that wallet — but you won’t know who owns the sending/receiving addresses unless the owner tells you. While cryptocurrency and blockchain technology are often used interchangeably by the public, they are not the same thing.

[Back to top](#)

## **What is Bitcoin?**

Bitcoin is the first cryptocurrency and the name of the protocol, or software, that enables it —in practice, capitalized “Bitcoin” refers to the protocol, and lowercase “bitcoin,” or “BTC,” refer to the coins. The first bitcoins were released with the creation of the Bitcoin network in January 2009. No more than 21 million bitcoins will ever be created. Because of this intentional scarcity, bitcoins are divisible to 0.00000001 (colloquially referred to as a satoshi, in honor of the pseudonym of the creator(s)).

No entity or government issues or controls bitcoin; the network operates according to its open-source software. Transactions are processed by network participants called “miners,” who are competing with other miners to be the first to solve a complex mathematical problem to confirm a block of transactions. The first miner to confirm a block receives a bitcoin reward (and transaction fees). The other miners on the network continue the process of confirming the transactions in the block. Transactions are completed with one confirmation, but are considered “final” once there are multiple confirmations.

[Back to top](#)

## **What are stablecoins?**

Stablecoins are digital tokens with a value pegged 1:1 to a fiat currency, such as US dollars. Examples include Tether (USDT) and USD Coin (USDC). Like other cryptocurrencies, stablecoins facilitate transactions that are inexpensive, irreversible, and enjoy near-instant settlement. However, they are designed to avoid the volatility risk of cryptos like bitcoin and ether.

[Back to top](#)

## **What is Ethereum?**

Ethereum is an open source blockchain-based platform primarily used to support the world's second largest cryptocurrency by market capitalization after Bitcoin. Similar to other cryptocurrencies, Ethereum can be used for sending and receiving value across the world without a need for a third party. However, while Bitcoin is primarily used as a store of value, the idea behind Ethereum is to decentralize various applications and services. This ranges from social media networks, logistics management software, and entertainment/gaming to the financial services industry as a whole, using smart contracts that minimize the risk of interference from a third party.

Ethereum also provides a platform for decentralized exchanges (DEX), which allow users to trade assets without middle men. Instead of relying on a traditional exchange or trusted third party, the exchange takes place on a blockchain, which is a distributed ledger, or database, run by a network of computers. Unlike a bank or government institution which custodies the funds and facilitates the transaction, DEXs do not hold user funds. Rather, DEXs rely on self-executing smart contracts to facilitate transactions. A DEX is one form of DeFi (decentralized finance) tools that networks such as Ethereum are facilitating the growth of, empowering users and minimizing third party interference. Ethereum also provides a virtual marketplace for users to buy and sell NFTs, or non-fungible tokens. NFTs are unique data that can represent a digital asset, such as a highlight of an athlete playing basketball, or a physical asset, such as a truck (see below for more detail).

[Back to top](#)

## **What are non-fungible tokens (NFTs)?**

NFTs are unique data, usually for a specific item or containing information about a specific person. Their unique aspect is what makes them "non-fungible" as opposed to something like the US dollar or Bitcoin, which is fungible. While an NFT certainly could represent an artist's work and fetch high figures, it could also represent something basic, like a birth certificate, a property deed, or college degree. NFTs can represent digital assets, such as an artist's work that sells for eight figures, or a tangible one, like a car. An NFT does not necessarily represent ownership, as purchasing a token may only carry with it the right to enjoy the item for personal use, but not the copyright or ability to sell or modify the item. An NFT representing a tangible asset also highlights an important difference between the right to custody and possession, as an individual may purchase an NFT representing a car which is later stolen.



NFT transactions are recorded on the blockchain, providing immutable, transparent proof of authenticity of purchase. So, for those who would rather own the Mona Lisa than a copy of the Mona Lisa, or who would purchase a car represented on chain by an NFT, the blockchain provides public proof of purchase.

[Back to top](#)

## **What is a smart contract?**

Smart contracts are self-executing contracts where the parties agree on various stipulations and exceptions, which are then represented on a blockchain in the form of digital code. Once these pre-determined conditions are met, the contract automatically executes, triggering next steps without human filing, errors, or fees. Unlike traditional contracts, these contracts do not leave room for interpretation as all of the terms are predetermined and are automatically enforced by the contract. The code contained in the smart contract controls the execution of the contract and the transactions are trackable and generally irreversible.

Transferring funds using blockchain technology and smart contracts is much faster than traditional bank transfers, or direct deposits, which can be time consuming and costly. For example, employees can record their time or completed tasks into a blockchain, which can then trigger smart contract conditions to automatically pay the employees. Smart contracts can also automate HR processes, facilitating inter-departmental processes and onboarding. To illustrate, once employees complete or file documents such as security clearance or harassment training, the smart contract can immediately and automatically activate their employee status and company access, while immutably and transparently recording the data.

[Back to top](#)

## **Related People**

- [Phillip C. Bauknight](#)
- [Andrew Baer](#)
- [J. Russell Blakey](#)
- [Nicholas S. Hulse](#)
- [Brooke Yegan](#)
- [Erica G. Wilson](#)