

# Bitcoin Battles

## Is your spouse hiding assets via cryptocurrency?

BY **BRYCE HOPSON**

Cryptocurrency began in 2009, gained popularity since, and now plays an important role in the financial lives of many couples. Bitcoin is a type of cryptocurrency, the first decentralized “digital currency” for direct transactions between users with no intermediary—essentially a line of computer code that holds monetary value. Think of it like this: Cryptocurrency has no physical form (like a dollar bill or a nickel), nor is it controlled by any government agency, but is instead maintained virtually.

Even though cryptocurrency is different than standard currency, bitcoin can be distributed during property division in a divorce as if it were any other asset.

Texas is a community property state—when a divorce occurs, the marital assets are divided equitably. This process becomes more complicated when stocks, bonds, and virtual currencies are involved, as each will fluctuate in price. The general approach is for the judge to determine the date these types of assets will be “valued,” which could be the date of divorce, the date a mediation agreement is signed, or even the date the bitcoin was first distributed—and from there, the division is made accordingly.

*How is cryptocurrency typically divided?*

Often parties will come to a decision about bitcoin holdings division as part of a settlement or during mediation. There are several ways to handle this process: one party receives the entirety of this type of asset and the other obtains an asset of the same value; virtual currency can be divided or sold, then re-divided evenly; or one party maintains possession of the bitcoin as an investment but agrees to split the proceeds of any future sales. This can all be handled fairly easily.

*What is the concern with cryptocurrency in divorce?*

Though it certainly doesn't have to, digitization of funds can make the equitable division of assets in a divorce more complicated. While bitcoin can be stored on an owner's computer and kept reasonably safe, this can also make it easier for a spouse to transfer or hide funds from the other. A spouse might be keenly aware of their imminent divorce long before the partner; when this is the case, he or she will often begin planning for divorce, which unfortunately, could include manipulating funds. In Texas, particularly with moneyed spouses, oil leases can be an issue; spouses might conceal a leasing deal in a trust, for example. Not surprisingly, parties have found any number of ways to hide what they consider “their” money—from trusts, joint partnerships, offshore accounts, and gold coins to enlisting the aid of family

members for fund storage. Divorcing spouses, therefore, are wise to be aware of any conversions of “real” marital assets: for example, a bank account turned into bitcoin. This type of activity will create a paper trail, but a party may need to take specific action to uncover any missing assets.

### Repercussions of Attempting to Hide Funds Via Cryptocurrency

The truth is, anonymity comes with cryptocurrency, and its somewhat new popularity means enforcing disclosure can be difficult. However, if a party proves contrary, courts can revise property divisions when hidden assets are found and will not hesitate to do so. If you believe your spouse may be masking assets, make your family law attorney aware immediately; often, retaining a forensic CPA will be recommended to uncover any unlawful behavior. A forensic CPA scrutinizes personal or corporate financial books to reveal whether it appears funds are indeed being hidden. Assets offshore in particular require an expert CPA and likely court orders. While frustrating and time consuming, if you have true suspicion that your soon-to-be ex is hiding assets, do not ignore the gut instinct or allow yourself to be intimidated. It is vital to take measures to reveal funds that rightfully belong to you. Additionally, a spouse covering assets who is caught will answer to a judge, who can order that the innocent party receive a greater share of community property, sometimes splitting assets to as much as 70/30 instead of the traditional Texas 50/50. And depending on what method was used to hide funds, the guilty party could face charges from the IRS.

*Bottom line:* While not fun to contemplate, spouses in a divorce situation must be cognizant of all financial possibilities and require and provide complete transparency to remain informed about communal property. **TBJ**



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