

Federal Court Authorizes Service of John Doe Summons Seeking Cryptocurrency User Identities



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08/22/2022

Back in 2005 when I was a trial attorney at the United States Department of Justice, I worked to enforce the John Doe summons on PayPal, Inc. in the federal district court in the Northern District of California, which summons sought to uncover the identities of several thousand PayPal users holding foreign accounts but having domestic spending and transfer activity. That was issued as a “John Doe” summons because although the activity in question was known, the particular identities of those users was unknown. That was just one more step in a long line of enforcement activity under the IRS’s Offshore Credit Card Program, which work extends back two decades.

Last week, Judge Otis D. Wright of the United States District Court for the Central District of California entered an order authorizing the IRS to serve a John Doe summons on SFOX, a cryptocurrency prime dealer headquartered in Los Angeles, California. (There was no allegation that SFOX engaged in any wrongdoing itself.) The summons sought information about U.S. taxpayers who between the years 2016 and 2021 conducted at least \$20,000 in dollar equivalent transactions by or through SFOX using cryptocurrency. SFOX’s website states that its services “accommodate retail brokerages, exchanges, enterprises, and fund managers in crypto. SFOX plugs into all major cryptocurrency exchanges and scans the entire crypto market for arbitrage opportunities, allowing traders to get the best market wide price execution every time they trade. They offer multi-functional algorithmic trading through 9 different advanced algorithms, which can allow for smart routing. Traders can place large orders without moving the market, dispersing their funds across multiple exchanges at the lowest price available.” Such middlemen are not unusual summons targets for this type of enforcement.

The IRS has taken a longstanding position that virtual currency (a/k/a cryptocurrency) transactions which can be converted into traditional currency are property for tax purposes, such that a taxpayer can have gain or loss on the sale or exchange of virtual currency. See [IRS Notice 2014-21](#). Indeed, starting with the 2019 Form 1040, the IRS has asked taxpayers to report certain virtual currency transactions on their tax returns, and in the 2020 Form 1040 moved that question to the very top of the income tax return form, just after the boxes which identify the taxpayer’s contact information.

You will recall that in the recent \$80 billion IRS funding package, \$45.6 billion was earmarked for enforcement purposes. The [DOJ press release](#) concerning the SFOX John Doe summons quotes the following warning by IRS Commissioner Chuck Rettig: “The John Doe summons remains a highly valuable enforcement tool that the U.S. government will use again and again to catch tax cheats and this is yet one more example of that.” “I urge all taxpayers to come into compliance with their filing and reporting responsibilities and avoid compromising themselves in schemes that may ultimately go badly for them.”

More information about the IRS's reporting requirements and virtual currency tax consequences can be found on the IRS's Virtual Currencies [webpage](#).