

In Depth Crypto Secrets and Divorce: Valuing Hidden Wealth in New York Splits

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As cryptocurrency moves from the margins of finance into the mainstream, matrimonial practitioners are increasingly encountering digital assets in divorce proceedings. Assets such as Bitcoin, Ethereum, and other blockchain-based tokens, once considered speculative investments, now appear regularly within marital estates.

The presence of cryptocurrency in a divorce raises issues that traditional financial assets rarely present. These assets exist outside conventional banking systems, are often held in decentralized digital wallets, and may be transferred or stored in ways that are not immediately apparent from traditional financial records. As a result, identifying, valuing, and dividing cryptocurrency can present unique challenges during equitable distribution proceedings.

Under New York law, cryptocurrency is generally treated as property subject to equitable distribution if acquired during the marriage. However, its technological structure, market volatility, and potential for concealment often complicate discovery and valuation. For matrimonial attorneys and litigants alike, understanding how courts approach digital assets has become an increasingly important component of modern divorce practice.

Understanding Cryptocurrency

Cryptocurrency is a digital asset that uses cryptographic technology and decentralized networks to verify and record transactions. Unlike traditional currencies issued by governments or central banks, cryptocurrency operates on a distributed ledger known as a blockchain.

The blockchain functions as a permanent digital record of transactions maintained across a network of computers. While these transactions are publicly recorded, the individuals behind them are typically identified only by alphanumeric wallet addresses rather than by name. This structure creates a level of pseudonymity that can complicate efforts to identify ownership.

Control of cryptocurrency is determined by possession of private cryptographic keys associated with a digital wallet. Whoever holds the private keys effectively controls the asset. Cryptocurrency may be stored through online exchanges, mobile wallets, hardware wallets, or offline storage devices, often referred to as “cold storage.”

While the technology underlying cryptocurrency offers transparency because transactions are permanently recorded on the blockchain, it also creates practical challenges when these assets must be addressed in a matrimonial context.

Cryptocurrency as Marital Property in New York

New York is an equitable distribution state governed by Domestic Relations Law §236(B). Under this framework, marital property is distributed in a manner the court considers fair under the circumstances, though not necessarily equal.

For purposes of equitable distribution, cryptocurrency is generally treated as property in the same manner as other financial investments. Digital assets acquired during the marriage are therefore typically considered marital property subject to distribution.

Conversely, cryptocurrency acquired prior to the marriage, or received individually by gift or inheritance, may be considered separate property, provided it has not been commingled with marital assets.

Practitioners are increasingly encountering cases where one spouse began investing in digital assets years before the marriage, but continued trading during the marriage using marital funds. In those circumstances, careful tracing is often required to determine what portion of the asset may remain separate and what portion may be marital.

Discovery and Identification of Cryptocurrency

Perhaps the most significant challenge in cases involving cryptocurrency is identifying whether such assets exist in the first place.

Traditional financial accounts generate regular statements and leave clear documentary trails. Cryptocurrency, by contrast, may be stored in decentralized wallets that are not tied to any financial institution. As a result, the existence of these assets may not be readily apparent from standard financial disclosures.

Ownership of cryptocurrency is not determined by whose name appears on an account, but rather by who controls the private keys associated with the digital wallet. A spouse who controls those keys effectively controls the asset.

For this reason, discovery in cases involving cryptocurrency often requires a detailed examination of financial records. Attorneys frequently review bank and credit card records for transfers to cryptocurrency exchanges such as Coinbase, Binance.US, Kraken, Uphold, or Gemini, as well as unexplained withdrawals or transfers that may indicate digital asset purchases.

Common discovery tools include subpoenas to exchanges, requests for wallet addresses and transaction histories, and forensic analysis of electronic devices and financial accounts.

Although cryptocurrency is sometimes perceived as anonymous, transactions recorded on the blockchain are permanent and publicly available. When analyzed by professionals familiar with blockchain technology, these records can often reveal patterns of transactions and help trace the movement of digital assets.

In several recent matters handled by the New York Supreme Court, the Court has permitted expanded financial discovery when credible evidence suggested undisclosed digital asset holdings. As with other financial assets, the failure to disclose cryptocurrency may result in sanctions, adverse inferences, or adjustments to equitable distribution.

Valuation Considerations

Once cryptocurrency has been identified as part of the marital estate, determining its value presents additional challenges.

Cryptocurrency markets are well known for their volatility. Prices may fluctuate dramatically within hours or days, which can complicate the valuation process.

In New York divorce proceedings, courts may value marital property as of the date of commencement of the action, the date of trial, or another date deemed equitable under the circumstances. Given the volatility of digital assets, the selection of the valuation date can significantly affect the final distribution.

Practitioners often retain financial experts to analyze historical pricing data from major exchanges and determine a reliable fair market value. In cases involving substantial holdings, experts may calculate average pricing over a defined period in order to

minimize the impact of short-term market fluctuations.

Methods of Distribution

Once cryptocurrency has been identified and valued, the parties or the court must determine how the asset will be distributed as part of equitable distribution. Several approaches are commonly used.

In-Kind Division

One option is to divide the cryptocurrency itself between the parties. Each spouse receives a proportionate share of the digital asset.

While this allows both parties to share in future gains or losses, it also requires both individuals to maintain secure digital wallets and understand how to manage the asset.

Buyout or Offset

In many cases, one spouse retains the cryptocurrency while the other receives an offsetting asset of comparable value, such as cash or additional equity in the marital residence.

This approach is often preferred when only one spouse was actively involved in managing digital investments during the marriage.

Liquidation

Another option is to sell the cryptocurrency and divide the proceeds. This approach eliminates the uncertainty associated with price volatility, but may create tax consequences depending on the asset's appreciation and holding period.

Concealment Concerns

The decentralized nature of cryptocurrency can make it easier for individuals to attempt to conceal assets during divorce proceedings.

Digital assets can be transferred rapidly between wallets or across exchanges in ways that may initially appear difficult to trace. In some instances, individuals attempt to obscure transaction histories by transferring assets through multiple wallets or converting them into privacy-focused tokens.

Despite these challenges, blockchain technology can also work in favor of investigators. Because blockchain transactions are permanently recorded, forensic specialists are often able to reconstruct transaction histories and trace the movement of funds.

In practice, experienced matrimonial attorneys are increasingly working with forensic accountants and blockchain analysts to determine whether undisclosed digital assets exist.

Tax Implications

Cryptocurrency also raises important tax considerations in divorce proceedings.

The Internal Revenue Service treats cryptocurrency as property rather than currency. As a result, selling cryptocurrency to divide proceeds may generate capital gains taxes depending on the asset's cost basis and holding period.

Transfers of cryptocurrency between spouses incident to divorce may qualify for non-recognition of gain under federal tax law. However, the receiving spouse generally assumes the original cost basis of the asset, which can create tax implications when the asset is later sold.

Accordingly, tax consequences should be carefully evaluated when structuring any settlement involving digital assets.

The Role of Experts

As cryptocurrency becomes more prevalent in marital estates, the role of financial and forensic experts in matrimonial litigation continue to expand.

Professionals experienced in blockchain analysis and digital asset valuation can assist attorneys and courts in identifying hidden assets, tracing transaction histories, and determining fair market value.

In complex cases involving substantial digital holdings, these experts often provide the evidentiary foundation necessary for courts to confidently include digital assets within the marital estate.

Conclusion

By 2030, the global cryptocurrency market is expected to surpass \$3 trillion in value. As digital assets continue to expand within personal and marital financial portfolios, understanding how these holdings are identified, valued, and equitably distributed in a New York divorce has become not merely important, but essential.

Coin Market Cap is an online platform that provides data on the cryptocurrency market.