**What You Need to Know About Cryptocurrency and Divorce**

For many, cryptocurrency is the proverbial gift that keeps on giving. Popularly known as “crypto” or “bitcoin”, cryptocurrency has undoubtedly transformed the way people carry out transactions and store digital assets. However, like any other new phenomenon, bitcoin has got its own share of complexities and challenges, the main one being how it impacts divorce proceedings. In this post, we’ll take an incisive look at the topic of [cryptocurrency and divorce](https://www.youtube.com/watch?v=ZvcBD4i-h8A), with a keen focus on how crypto affects division of marital assets.

**What is Cryptocurrency?**

A cryptocurrency, is essentially a digital asset or a form currency that you can buy, sell, spend, and trade on exchanges. Since cryptocurrencies are not based on an actual asset, they have no intrinsic value—value is strictly based on demand and supply. This makes them inherently unpredictable, superlative, and difficult to measure in terms of value.

Crypto transactions are recorded and stored in a database known as “blockchain.” At its most basic, a blockchain is a list of transactions that anyone can view and verify. Cryptocurrencies and the blockchain technology that powers them makes it possible to transfer value online without the need of a middleman like a bank.

Bitcoin is by far the most popular form of cryptocurrency. However, it’s not the only one. Other well-known forms of cryptocurrency include Litecoin, Zcash, and Ethereum.

Also worth noting is that crypto assets are not just coins. They can also be tokens, works of art, memes and trading cards, as well as high-value videos.

**Cryptocurrency and Divorce: All There Is to Know**

If you are itching to know how bitcoin affects divorce settlements, then this section is a must-read.

During [divorce proceedings](https://www.petrellilaw.com/philadelphia-divorce-lawyer/), cryptocurrencies present a significant challenge as they’re difficult to track, locate, and account for. Besides, there are no records to verify the existence of these bitcoins. So for the deceitful spouse, cryptocurrencies act as the perfect cover to hide away big-money assets.

Unlike banks and other financial institutions, cryptocurrencies have no records. This simply means that without a “private key”, the currency cannot be located or accessed whatsoever. It’s inherently beyond the other partner’s reach. A private key is a secret number used to sign crypto transactions and prove ownership of a blockchain address (similar to a password or a serial number). As for storage, the private key is typically kept in a virtual “wallet”. Many crypto owners tend to use special apps or software to store their private keys.

[Hiding crypto in divorce](https://www.cnbc.com/2021/06/01/divorcing-spouses-are-using-cryptocurrency-to-hide-money-how-experts-find-it.html) is quickly becoming a mainstream issue. It’s made worse by the fact that cryptocurrencies’ value tend to increase substantially over time, something of which the owner might be aware, but the other person is not.

With that said, it’s incredibly important for divorcing spouses to reveal the existence and location of all property owned between them—cryptocurrencies included. In New Jersey, for instance, any property owned, whether jointly or separately, can be considered for the purposes of equitable distribution. Hiding such sensitive information could eventually land you in hot water with the law, especially if it’s later known that you did so deliberately.

**Bitcoin Divorce FAQs**

What Else is there to Know about Crypto and Divorce?

**1. How important are prenuptials in the context of cryptocurrency and divorce?**

Marriage can be rosy and wonderful, but divorce can be the complete opposite. At the end of the day, it’s healthier for everyone if you don’t have to debate over who gets what also navigating difficult emotions.

Because the ownership of digital assets like bitcoin can be convoluted, you should consider protecting these assets with a [prenuptial agreement](https://www.youtube.com/watch?v=kEq0kVzbsTA). We don’t always make the best decisions in the heat of the moment, so planning in advance makes the divorce resolution easier to live with.

In New Jersey, Pennsylvania, and indeed most states across the country, a prenuptial agreement must be in writing and signed by both parties. If you want to protect your digital assets with a prenup, it’s imperative you consult with an experienced [prenuptial agreement lawyer](https://www.petrellilaw.com/prenuptial-agreement-lawyer/).

**2. How is bitcoin divided in a divorce?**

In a divorce setting, bitcoins are treated as any other asset. If the bitcoin transaction took place during the marriage, it is considered marital property and can therefore be divided. However, if the transaction happened before you two tied the knot, it is not considered marital property and as such, cannot be divided.

When solving disputes involving crypto and divorce, most courts simply opt to split the determined value 50/50. This way, both parties can walk away with half the money and kick out the possibility of dragging out the wrangle any further.

In some rare cases, the parties involved in the tussle might decide to negotiate other marital property in exchange. This means that if the spouse with the bitcoins wants to keep them, they might choose to give up other marital property with the same determined value to the other partner.

In November, 2021, Tom Petrelli—our firm’s founder and lead partner—spoke on “What Happens When a Crypto Millionaire Gets Divorced?” So if you’d want more insight on how to divide bitcoins in a divorce, you can find them from his delivery [here](https://www.youtube.com/watch?v=3PPeOx7pkKE).

**3. How can one find bitcoins during a divorce?**

It’s only normal for people going through a divorce to assume that their soon-to-be ex is [hiding assets](https://www.justia.com/family/divorce/dividing-money-and-property/hidden-assets/). If that’s your situation, you may want to take the financial disclosure stage of your divorce action a little more seriously.

During this stage, your partner is required by law to provide full and frank disclosure of their finances, so use that to your advantage. Ask your partner to produce tax records, bank statements, and other requisite financial records. In addition to these documents, your attorney may also want to request a disposition with your spouse to ask them direct questions under oath regarding any crypto transactions. Any reluctance here should be treated as a red flag.

**4. How do I value bitcoins during a marital dispute?**

Assuming you already know bitcoins exist in your divorce setup, your next move should be to value them. However, this process isn’t necessarily easy as bitcoins are traded like a stock, so their value is hard to pin down to a specific dollar value.

But it’s not all doom and gloom. Any tax records from previous bitcoin transactions can prove handy. While at it, focus keenly on the reported gains and losses. The gains and losses show how much value increased or decreased up to the point of taxability.

For those bitcoins that are not on a tax record, valuing them close to a settlement is the best way to determine their most accurate value.

**Conclusion**

Dividing crypto in divorce doesn’t have to be such a mind-numbing, stressful, and lengthy process. With the right family law attorney and a little bit of due diligence, you can navigate this phase of your divorce with relative ease and set yourself up for a better, healthier, more peaceful life thereafter.

At Petrelli Previtera, we strongly believe that liaising with a prenuptial agreement lawyer is the best way to get ahead of the curve and save yourself lots of headaches down the road. With this type of agreement in place, you can seamlessly address the asset, disclose the asset, and most importantly, protect that asset.

Our legal team is always up to date cutting edge law and we are here to guide you. We have dealt with difficult divorces involving a cryptocurrency and can help you with this issue as well. [Schedule a consultation with our firm](https://www.petrellilaw.com/schedule-a-consultation/) to further discuss this emerging topic.