



Accepting Cryptocurrency for Legal Services Presents Risks and Rewards

In an effort to keep pace with an increasingly digitized world, many law firms are beginning to accept cryptocurrencies such as Bitcoin as payment from clients. Gaining an understanding of how cryptocurrency works can be daunting. But for lawyers, it may be worth the effort. After all, with 7.1 million [active users](#) of Bitcoin alone, it seems that cryptocurrency is here to stay.

Still, the decision to take this new form of payment is hardly the no-brainer that, say, accepting credit cards is. Cryptocurrencies present logistical hurdles, ethical issues and other challenges that other popular forms of payment don't. Let's run through four big questions law firms may ask on their way to making a decision on cryptocurrency, starting with the most basic.

WHAT IS CRYPTOCURRENCY?

Cryptocurrency is digital currency that uses blockchain technology—you might hear it referred to as “distributed ledger” technology—to keep track of the currency's worth and ownership. Major types of cryptocurrency include Bitcoin, Litecoin, Ethereum and Ripple. However, unlike the relatively limited universe of credit cards, there are [some 2,000](#) different crypto coins and counting. When these cryptocurrencies are exchanged, a record of the transaction is kept on a public file, or ledger. Though everyone can access this digital ledger, encryption protects individuals' identities throughout the process. The privacy cryptocurrencies afford is a big contributor to their growing popularity.

WHY CONSIDER ACCEPTING CRYPTOCURRENCY AS PAYMENT?

There are at least two different reasons for this, beginning with the fact that clients may actually want to pay for legal advice in cryptocurrency. If so, accepting it is a way for law firms to provide a valued client service. Beyond that, accepting cryptocurrency may be an effective way for a law firm to send a signal to its client base—perhaps about its tech savviness or its dedication to confidentiality.

Based on these factors and others, the number of law firms accepting cryptocurrencies has risen every year. While smaller firms have been accepting altcoins for years—Nu|Legal, for one, was taking Bitcoin back in 2012—it's now to the point where more and [more large law firms](#) like Steptoe & Johnson are getting on board.

WHAT ARE THE RISKS IN ACCEPTING CRYPTOCURRENCY?

For law firms, accepting and holding cryptocurrencies gives rise to some major ethical gray areas. Two of the more serious issues arise from the fluctuating nature of cryptocurrency values and the IRS's decision to treat cryptocurrency as property for federal income tax purposes.



The values of cryptocurrencies, like the values of dollars, are not pegged to an underlying commodity like gold; instead, they are [set by the law of supply and demand](#). As anyone paying attention over the last few years knows, the prices of Bitcoin and other cryptocurrencies have fluctuated wildly. The value of Bitcoin [dropped by 80 percent](#) in 2018, for instance, only to start rising again in 2019.

For lawyers, this volatility poses an ethical risk. They might accept cryptocurrency from clients that has a certain value upon receipt, but a far different value when they convert it to dollars, if they don't do so immediately. You'd think this would be a good thing, especially if a lawyer ends up getting paid double or triple what she intended to charge. But at some point, upward volatility could arguably threaten to

place the lawyer in violation of the ethical ban on accepting unconscionable overpayment for services provided. Of course, downward volatility presents its own problems—for the lawyer that wants to stay in business.

The volatility issues are more pronounced when a law firm attempts to hold cryptocurrency as a retainer. So too are other issues. The law firm has a duty to safeguard property retained for clients, requiring a strong understanding of and ability to work with cryptocurrencies. Also, given that the IRS treats cryptocurrency as property, law firms may have to [recognize a gain or loss](#) when they use it, opening a can of accounting worms.

WHAT ETHICAL GUIDANCE EXISTS FOR CRYPTOCURRENCY PAYMENTS?

Nebraska is the only state thus far to provide an ethics opinion to address these issues. In 2017, [Nebraska's ethics advisory](#) stated that a cryptocurrency like Bitcoin may be accepted as payment, but that law firms must exchange the cryptocurrency for U.S. currency immediately upon receipt. Additionally, the state affirms that cryptocurrency can be kept as a retainer of property, provided that every measure is taken to keep the property safeguarded in a digital wallet separate from lawyer funds.

In terms of ethics, this opinion affirms cryptocurrency as valid payment for services, as long as every measure is taken to maintain the value agreed upon by both parties during the transaction. Despite the lack of precedent, some law firms are embracing the brave new world of digital currencies. And as client-oriented businesses, law firms have the potential to see gains in accepting them as payment. Whether it's worth the risks that cryptocurrencies bring with them remains up to each individual law firm.

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