



Sep 14, 2017

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Legal Issues of Owning and Operating a Bitcoin ATM Business

As previously discussed, Bitcoin ATMs are a growing industry, offering consumers great flexibility in exchanging Bitcoin tokens for cash, or purchasing Bitcoin tokens for cash, via standalone kiosks. Many merchants are starting to get on-board with owning, or leasing space to, Bitcoin ATMs as a way to serve an expanding market.

Before owning a Bitcoin ATM, you should consider some of the basic legal and business needs to be successful.

Bitcoin ATM Placement: Owned or Leased Property?

Are you planning to place the Bitcoin ATM upon property you already own, or do you plan to lease the space, such as inside or near a convenience store? Does current zoning permit the use?

If you do not own the land, you will want to enter into a lease agreement with the landowner. That agreement will cover many issues. For example, how will the landowner be compensated? There are many payment structures to consider when leasing space from an existing merchant, such as a flat rental fee, profit sharing, etc.

There are many other considerations this agreement should cover, as well. For example, is the leasing merchant or Bitcoin ATM owner responsible for securing insurance coverage on the unit? To what extent must each party participate in maintaining the cleanliness or appearance of the Bitcoin ATM?

Regardless of whether you plan to purchase or lease the space where the Bitcoin ATM will be located, make sure that the terms of the agreement are clear, fair, reasonable, and secured in writing.

Business Entity Formation and Tax Issues

How a company is structured can afford unique advantages and protections to owners. If you are a sole proprietor, it may make sense to protect your personal assets by separating your business activities, and forming a legal entity, such as a corporation or LLC. The choice of legal entity may be dictated if you have business

partners or shareholders.

The way your business entity is structured will also impact how your business, as well as the owners/managers of the company, will be taxed. For instance, most LLCs offer pass-through taxation, where the owners (members) of the LLC will be taxed, not the entity itself (avoiding “double taxation”). On the other hand, corporations are often taxed as a business, then the owners are taxed on their personal income. State and local tax laws are also factors to analyze. Regardless, special considerations should be made when choosing a business entity structure.

Employment Issues

Will you have full-time, or part-time employees? Will they be paid on a salary or hourly basis? Further, will they be considered W2 employees, which require the company to withhold and report taxes, or 1099-independent contractors, which only require that the company report income to the IRS?

Depending on the scale of your operations, you may be forced to consider some employment issues.

Fundraising

Some business owners are fortunate enough to have plenty of money saved to fund this venture, while others must seek financing via other outside parties, whether it is a bank loan, funds from business partners, or some other source of financing.

Regardless of which funding vehicle you choose, make sure you have all documentation in order to protect yourself from losing influence, ownership, or profit interest in the company you worked so hard to build or start.

Trademark and Branding

Trademarks and branding are an important feature in a company. It is an indicator of the source of goods or services of a company, tied to the company’s reputation and good will. Some jurisdictions afford protection to those who first use a mark in commerce, where others require registration in order to receive protection. Further, before using a mark, one should ensure that others are not already

using the same mark, or one that is likely to cause consumer confusion, as this could spur legal battles down the road.

Conclusion

[Bitcoin ATMs](#) are a growing industry, offering consumers great flexibility in exchanging Bitcoin tokens for cash, or purchasing Bitcoin tokens for cash, via stand-alone kiosks. Many are exploring whether to get on-board with owning and operating Bitcoin ATMs as a way to serve an expanding market. However, as with every business venture, there are important legal issues to evaluate and plan for when considering opening a Bitcoin ATM business, or adding Bitcoin ATMs to your existing business.

If you own a business and are interested in implementing Bitcoin ATMs into your services as an owner/operator, or if you are curious about the regulatory requirements or legal issues to consider, please see the following Frost Brown Todd article on [Regulatory Requirements](#), or [General Bitcoin ATMs overview](#). If you have any specific questions or concerns, please do not hesitate to contact [Josh Rosenblatt](#), [Bill Repasky](#), or [Jeff Gorham](#) with Frost Brown Todd's [Blockchain and Digital Currency Group](#).

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