

What Is a Numismatic Coin?

What the Law Really Says... and Why You Should Not Buy Them!

Things are not what they seem, nor what people think they are. The loosely used, popular definition of a "numismatic" coin is one that collectors will pay a premium for. When used as "numismatic" versus "bullion" coin, people usually mean a collector's coin versus a coin sold for a small premium over its metal value. **The first is an investment in a coin, never mind its precious metal content; the second is an investment in silver or gold, never mind that it's a coin.**

But never mind these loose, popular definitions. Like the word "awesome," they no longer mean much at all, except under the law. And the law defines "numismatic" very narrowly, and not at all as people believe, or numismatic dealers contend.

FALSE CLAIM #1

"Numismatic coins are exempt from government seizure by law." Totally false—no basis in statute or regulation.

FALSE CLAIM #2

"Customer purchases of bullion gold coins must be reported to the government, but numismatic coins don't have to be reported." Totally false—no report is required when you buy gold, regardless whether it is bullion or numismatic. Only sales of certain gold and silver items must be reported, and then only when they exceed certain quantities.

FALSE CLAIM #3

"Coins minted before 1934 are exempt from government seizure." Totally false—no basis in statute or regulation.

FALSE CLAIM #4

"United States \$20 gold pieces minted before 1934 are exempt from government gold seizure." Totally false—no basis in statute or regulation. In fact, it was mainly these coins which the government seized in 1933.

FALSE CLAIM #5

"The law defines 'numismatic coins' as those having a premium of 15% or more over their gold content." Totally false—no basis in statute or regulation. A regulation was proposed in 1984, but never adopted.

FALSE CLAIM #6

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"The law defines United States \$20 gold pieces as 'numismatic' coins." Totally false—no basis in statute or regulation.

LET THE BUYER BEWARE!

You should buy what is best for you, not what is best for some coin dealer. In emergencies, times of economic downturn, or markets of significantly rising prices, all values tend to sink to their lowest common denominator. With gold and silver coins, that means their precious metal content. Premiums, especially numismatic premiums that depend on stable markets and widespread prosperity, cannot survive that sort of pressure.

Why spend money to buy premium that does not bring you any benefit? Remember, it is ounces that bring a return, not premium. If you have numismatic coins, act now, while you can, to convert that numismatic premium into more gold and silver by swapping your numismatic coins for bullion coins. Contact us with a list of your coins and we will calculate exactly how much gain in ounces of gold or silver that swap would net you.

THE LAW AND NUMISMATIC COINS

Collecting coins can be a hobby both fascinating and rewarding. In the past 25 years, investors have discovered the exotic world of numismatics and jumped in with big bucks. Riding the wave of mythical profits in numismatic coins, dealers in the '70s set up boiler rooms where salesmen armed with WATS lines pushed quasi-numismatic coins like US silver dollars or \$20 gold pieces. I say "quasi"-numismatic because so many of these exist that they aren't truly "rare" coins, although they carry big premiums over their gold or silver value, and they can dance and jump when the gold bull is raging.

The problem is, gold and silver dealers keep on convincing people to buy the more expensive US \$20 gold pieces on the basis that they are "numismatic" coins. What difference does that make? When gold was confiscated in 1934, they say, "numismatic" coins were exempted.

I don't find that logic convincing. The exemption in 1933 was very vague: "gold coins having a recognized special value to collectors of rare and unusual coins" (*Presidential Proclamation of 4/5/1933*). Worse yet, our government tyrants are notoriously arbitrary. If they confiscate gold a second time, why would you expect them to be consistent? Besides, who will turn in his gold if his family's safety depends on it? Finally, in 1933 US \$20s comprised the largest part of banks' gold reserves, and most assuredly were not exempted from seizure.

And this is not 1933. In 1933 gold formed the basis of the banking system's reserves. Today, it doesn't, and the government propaganda machine has been churning night and day since 1933 proclaiming gold has been demonetised. In 1933 Roosevelt found it necessary to seize the gold to "reliquefy" the banking system. Today, that isn't necessary. They perform the same magic with computers, creating money out of thin air. So the government gains no advantage by seizing gold today.

However, a seizure would stir up a mammoth wasp's nest. Most gold and silver owners don't trust government to begin with. Would they timidly turn in their gold at the government's call? Hardly—seizure would be an enforcement nightmare. Would the government find the little gain of gold seizure worth the effort of swatting all those wasps? Doesn't seem reasonable, even for the notoriously unreasonable federal government..

WHAT ABOUT DEFINITIONS?

But here's a new twist on things. In the past 20 years dealers have been hammering out regulations with IRS about the definition of "numismatic" coins. Many dealers aver that some government regulation defines a "numismatic coin" as *one that costs more than 15% over its gold or silver value.* (We'll examine this claim more closely in a moment.) Relying on that definition, gold and silver dealers urge you to buy US \$20s, which sell at far more than a 15% premium.

But so far, nobody has noticed this other, larger loophole:

The *Gold Bullion Coin Act of 1985* (Public Law 99-185 of Dec. 17, 1985, 99 Statutes At Large 1177, 31 USC 5101, 5111, 5112) provided for minting the American Eagle ounce, half ounce, quarter ounce, and tenth ounce gold coins. Section 2(3) provides, "For purposes of section 5132(a)(1) of [Title 31], all coins minted under this subsection shall be considered to be *numismatic* items." (emphasis added)

The *Liberty Coin Act of July 9, 1985* (Public Law 99-61 of 7/9/85, 99 Stat. 115, 31 USC 5112) authorized the one ounce silver coin commonly called the Silver American Eagle. At section 202(g) it contains identical language.

By *statutory definition* then, the American Eagle gold coins and the silver American Eagles are "numismatic" coins. (31 USC Section 5132(a)(1) requires the Secretary of the Treasury to apply proceeds from selling "numismatic" items to cost of making them.)

Here's another kicker. I nearly wore out a law school librarian trying to find the regulation that defines a numismatic coin as one that sells for more than 15% over its bullion value, but *we couldn't find it.* Thanks to the Industry Council for Tangible Assets (ICTA), I found it in a *proposed* regulation 26 CFR 1.6045-1 on page 647-648 of the Federal Register, Vol. 49, No. 3, 1/5/1984. But that *proposed* regulation *was never adopted*, and the current 26 CFR 1.6045-1 contains none of that language. I couldn't find it in any IRS letter rulings or other decisions, either. If it exists, neither the librarian nor I could find it. (One customer once told me that a dealer had faxed him a copy of the proposed regulation claiming that his company's corporate attorney said it was current law! When the customer asked for a letter from the attorney stating that, the salesman said that wouldn't be possible.)

What's the bottom line? Contrary to what most gold and silver dealers think, US \$20 gold pieces and silver dollars do not qualify as "numismatic" coins.

However, if the federal government intends to confiscate gold, *any "exemption" for "numismatic" coins has to include the American Eagle gold and silver coins.* After all, not just a regulation but a statute specifically defines them as "numismatic." I wonder if dealers who keep urging customers to buy the higher priced US \$20s "because their higher premium qualifies them as numismatic coins" have thought of this?

BIG BROTHER WANTS TO KNOW

Building its grid of government control, the IRS in the 1980s began to introduce information reporting ("broker reporting") and cash transaction reporting requirements ("cash reporting").

Broker reporting applied to a wide number of transactions, but those that concern us are "commodities." That included any personal property for which the Commodity Futures Trading Commission (CFTC) has approved trading in futures contracts, among others,

gold, silver, platinum, palladium, and US 90% silver coins.

Don't let this confuse you. Sales to customers aren't reported, only certain purchases from customers. I repeat, I haven't found any requirement in the law that anyone must report precious metals sales to customers.

Specifically, according to *Revenue Procedure 92-103*, dealers need only report purchases from customers which could satisfy a futures contract. That includes:

- lots of 25 or more (but not fewer) Krugerrands, Maple Leaves, or Mexican Onzas;
- kilo gold bars;
- 100 ounce gold bars;
- 1,000 oz. silver bars;
- \$5,000.00 *face value* (five bag lots, *not* five thousand bucks worth!) of US 90% silver coin;
- 50 oz. of platinum; or
- 100 oz. of palladium.

If you sell lots smaller than these, the dealer reports nothing.

After fighting with gold and silver dealers through the 1980s the final IRS broker reporting regulation (26 CFR 1.6045-1) didn't include anything about numismatic coins.

CASH REPORTING QUIRK

Cash reporting, as opposed to broker reporting, is a hog of a different color. Cash reporting requires certain entities to report receiving "cash" in amounts greater than F\$10,000 (or F\$3,000 in some circumstances). For this purpose, the government isn't interested whether you are buying precious metals or fertilizer, only that you plunked down "cash."

The cash reporting requirements of 26 United States Code 6050-I supposedly have companion regulations at 26 CFR Part 1, Section 6050-I-1(c)(7)(i). But note that the word "cash" has a special definition in this law. In a December 30, 1993 letter, the IRS Assistant Chief Counsel for Income Tax & Accounting Vincent Cardella wrote to the Industry Council for Tangible Assets (ICTA) as follows:

Section 1.6050I-1(c)(1) of the Treasury Regulations defines the term "cash," in part, to include the coin and currency of the United States or of any other country, which circulate in and are customarily used and accepted as money in the country in which issued. The term "cash" does not include [sic] bullion coins, such as gold bullion coins issued under the *Gold Bullion Act of 1965* [sic], 99 Stat, 1117 [sic], nor does it include commemorative coins, such as coins issued under the Statue of Liberty-Ellis Island Commemorative Coin Act, 99 Stat. 113 (1985) [*The American Liberty Coin Act*].

But gold and silver American Eagles are legal tender. Crazy as it sounds, this means that you could walk into a Mercedes dealership, plunk down 201 American Eagle gold coins with a face value of \$10,050 and a paper money value of F\$80,400, and it wouldn't be a reportable transaction. Wait, kids, don't try this at home. Repeat: even though the IRS Assistant Chief Counsel says so, don't rely on it. But it certainly appears that there is a hole in the cash transaction reporting laws big enough to drive a 747 Jumbo Jet through.

The simple way to avoid (not evade) cash reporting is to use American Eagle gold coins and silver American Eagles in everyday transactions.

Crazier still, since Customs is a part of Treasury, do you suppose that American Eagle gold coins are exempt from reporting as cash when you leave the country?

Of course it's crazy, but it's the *government*, shooting themselves in the toe. They hate gold and silver, and just because they want to discourage people from using it, they write it out of their regulations, but only succeed in making gold and silver more private than their phony paper money.

This article cites laws and regulations that were valid at the time it was written. Readers are encouraged to check the references at any law library to make sure they are still valid. This article does not offer legal advice. Special thanks to the [Industry Council for Tangible Assets](#), the trade association for gold and silver dealers for help researching this article. ICTA has done a great job over the years fighting off Big Brother, and every precious metals dealer ought to join and support them.

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