



**Written Testimony of  
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President  
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**Before the**

**House Committee on Ways and Means  
Subcommittee on Tax Policy**

**Hearing on “How Tax Reform Will Simplify our Broken Tax Code and Help Individuals  
and Families”**

**Wednesday, July 19, 2017**

Chairman Roskam and Members of the Subcommittee,

My name is Scott Smith and I am the CEO of Pyromet, which is a privately owned precious metals manufacturer and refiner of silver, gold, and platinum group metals. Since 1969, Pyromet is a reputable name in precious metals and precious metals management. I also serve as President of the of the Precious Metals Association of North America (PMANA) and am submitting this written testimony on behalf of our members. Our association’s members are made up of refiners, manufacturers, traders, and distributors of products that are essentially comprised of precious metals such as gold, silver, platinum, and palladium. All of our members have a vested interest in tax reform – in particular, changes to the capital gains rate for investments in precious metal coins and bars.

**Background**

Right now, it is impossible to turn on the television without seeing an advertisement for investing in precious metals bullion coins and bars. These are great opportunities for people to include tangible assets into their portfolios. Since 1982, gains made on precious metals bullion have been taxed at the ordinary income rate due to language defining such bullion as a collectible. Congress has made numerous attempts to mitigate the effects of this capital gains treatment on precious metals. The Tax Reform Act of 1986 granted the American Eagle family of coins an exemption from the ‘collectible’ definition and allowed them to be included as equity investments in Individual Retirement Accounts. Over a decade later, the Taxpayer Relief Act of 1997 created purity and custody standards that, if met, would exempt bullion coins and bars from the definition while also allowing them in IRAs. Furthermore, precious metals investment grade bullion products are purposely designed and produced in a way that excludes any assumption

that they are rare or unique collectibles. Instead, investment grade bullion products are mass produced to be offered as investments strictly for their precious metal content.

### Regulatory Inconsistencies

Since 1986, Congress and the U.S. Treasury have recognized the value of investing in precious metal bullion, thus making some exemptions from the ‘collectible’ definition. However, the ‘collectible’ definition remains for non-IRA investments in precious metals, and these investments are taxed at the ordinary income rate for collectibles with a maximum rate of 28% - a rate 40% greater than the capital gains rate for equity investments. To better understand this inconsistently, I want to briefly explain the different types of coins and the distinctions between them.

### Coins – Function vs Form

Coins belong to one of three basic categories that consider the coin’s function and form. All coins are round in form. However, there is a critical difference in the concept of *form* and that of *function*. For example, while all airplanes have wings and tails and are designed to fly, different types of airplanes fulfill different functions. One wouldn’t employ a Boeing 747 airliner to perform a fighter mission. Similarly, there are different categories of coins that have different roles, and each type is distinguished from the others by its function or purpose.

There are three basic categories of coins in the world today; each one serves a specific role:

**1. Monetary Coins** – These coins are part of a country’s circulating currency that its citizens routinely use as money. Coins in circulation today contain no precious metal. The value of these coins (commonly referred to as their “legal tender” or “face” value) is set in law by government decree. In the United States, of course, these would include pennies, nickels, dimes, quarters, half-dollars, and now, the new “Sacagawea” dollar coin. They are used as a medium of exchange by which the general public effects everyday transactions, such as when they pay for candy bars, newspapers, parking meters, bridge tolls, etc. The purpose of these coins is to circulate in the general economy. They are not hoarded for their uniqueness or rarity, or because they have any premium value over their legal tender amount.

**2. Rare Coins** – These coins are commonly referred to as “numismatic” coins, that is, they are held by, valued and traded among hobbyists and coin collectors on the basis of their rarity and the quality of their physical condition. Typically, numismatic coins are old (sometimes ancient), and they may, or may not contain a precious metal. The market value of numismatic coins usually far exceeds either their face value or their precious metal content (if any). Their market values are determined by supply and demand factors that exist in the rare coin market for particular coins based largely on subjective judgments made about their scarcity and condition. Such coins may be held for enjoyment (e.g., as in a hobby), or for investment purposes, or both, just as an antique rug or a rare painting may be purchased simply for the enjoyment of its owner, or specifically for its price appreciation potential. Thus, profits through capital gains may be realized when rare coins are sold, but because they are unique, their value determinations can vary and can be quite subjective.

**3. Bullion Coins** – Bullion coins are fungible, highly refined precious metals products, round in shape, and produced to exacting specifications in large numbers by numerous countries throughout the world specifically as precious metal investment vehicles. They are widely traded, highly liquid and their market values are globally publicized. Although they typically are ascribed legal tender status by the governments that mint them, bullion coins trade in the marketplace at or near the market price of the commodity they contain, which typically has no relationship whatsoever to the coin’s legal tender, or “face” value. For example, earlier this year, a one-ounce American Eagle gold bullion coin having a U. S. *legal tender value* of \$50, traded in the market place at \$1,277.35, while gold itself was trading at a “spot price” of \$1,239.85 per ounce. Thus, the price of the gold Eagle was at a \$37.50 premium (3%) to the prevailing gold bullion price.

It is important to note that the premium charged for a bullion coin over and above the current “spot price” of the corresponding commodity it contains merely reflects the cost of insurance, transportation, handling, and storage, as well as the manufacturer’s and dealer’s profit, associated with the processing and sale of the coin. This premium is not a value ascribed to the coin as the result of any rarity or uniqueness considerations. In fact, bullion coins are purposely manufactured in sufficient quantities by their governments to ensure they are not “rare” or “scarce,” but are as common as the many types of bullion bars available also produced by commercial refiners specifically for investment purposes. Therefore, bullion coins should be recognized and treated in the tax code as any other investment.

Recognizing precious metals coins and bars as investment products, the Wall Street Journal publishes each business day in its investment section, the market prices of gold, silver, platinum and palladium bullion as well as the prices the most widely traded bullion coins. Additional substantiation of the investment status of bullion coins and bars is evident in the fact that twenty-one states have removed their sales tax on bullion coins and bars.

#### Policy Proposal

Unlike rare coins – which include those most pursued by hobbyists and collectors – bullion coins are precious metal investment vehicles that are traded at the value of the commodity they contain. Since they are not rare, but rather mass produced specifically for investing, their status as a ‘collectible’ for non-IRA investments is misaligned with their function and form. That is why I am requesting on behalf of the PMANA that Congress amend the Internal Revenue Code to treat gold, silver, platinum, and palladium in either bullion or coin form, in the same manner as stocks, bonds, and mutual funds for purposes of the capital gains rate for individuals.

Thank you and I look forward to working with the Subcommittee to ensure a reformed tax code that is fair to investors and promotes more investments in precious metal bullion coins and bars. If you have any questions, I am happy to meet with you and/or your staff to discuss this issue in greater detail. Thank you for the time and I hope the Committee will look closely at this issue and the impacts it has on American investors.