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(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R. 9172

To amend the Internal Revenue Code of 1986 to apply the wash sale rules and constructive sale rules to digital assets, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. ARRINGTON introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to apply the wash sale rules and constructive sale rules to digital assets, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; ETC.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Applying Existing Tax Anti-Abuse Rules to Digital As-
6 sets Act”.

7 (b) **REFERENCES.**—Except as otherwise expressly
8 provided, whenever in this Act an amendment or repeal

1 is expressed in terms of an amendment to, or repeal of,
2 a section or other provision, the reference shall be consid-
3 ered to be made to a section or other provision of the In-
4 ternal Revenue Code of 1986.

5 (c) TABLE OF CONTENTS.—The table of contents for
6 this Act is as follows:

- Sec. 1. Short title; etc.
- Sec. 2. Application of wash sale rules to digital assets.
- Sec. 3. Application of constructive sale rules to digital assets.
- Sec. 4. Definitions.
- Sec. 5. Rules of construction.

7 **SEC. 2. APPLICATION OF WASH SALE RULES TO DIGITAL**
8 **ASSETS.**

9 (a) IN GENERAL.—Section 1091 is amended—

10 (1) by striking “stock or securities” each place
11 it appears and inserting “specified assets”, and

12 (2) by striking “shares of” each place it ap-
13 pears.

14 (b) SPECIFIED ASSET.—Section 1091 is amended by
15 adding at the end the following new subsection:

16 “(g) SPECIFIED ASSET.—For purposes of this sec-
17 tion—

18 “(1) IN GENERAL.—The term ‘specified asset’
19 means—

20 “(A) any stock or security, and

21 “(B) any digital asset other than a quali-
22 fied U.S. dollar stablecoin.

1 “(2) CONTRACTS AND OPTIONS.—Except as
2 otherwise provided in regulations, the term ‘specified
3 asset’ includes any contract or option to acquire or
4 sell any specified asset described in paragraph (1).

5 “(3) TREATMENT OF TOKENIZED DIGITAL AS-
6 SETS AS SUBSTANTIALLY IDENTICAL TO AN ECO-
7 NOMICALLY EQUIVALENT STOCK OR SECURITY.—A
8 tokenized digital asset (and a wrapped digital asset
9 with respect to which the reference digital asset is
10 a traded digital asset) shall be treated as substan-
11 tially identical to any stock, security, or digital asset
12 if such tokenized digital asset (or such wrapped dig-
13 ital asset) is economically equivalent to such stock,
14 security, or digital asset.

15 “(4) FUNCTIONAL CURRENCY OTHER THAN
16 THE DOLLAR.—In the case of any taxpayer or quali-
17 fied business unit (as defined in section 989(a)), a
18 qualified U.S. dollar stablecoin shall not be treated
19 as a qualified U.S. dollar stablecoin for purposes of
20 paragraph (1)(B) if such taxpayer or qualified busi-
21 ness unit uses a functional currency other than the
22 dollar.”.

23 “(c) EXCEPTION FOR CERTAIN ACQUISITIONS OF DIG-
24 ITAL ASSETS ACQUIRED IN CONNECTION WITH VALIDA-
25 TION OF DIGITAL ASSET TRANSACTIONS.—Section 1091,

1 as amended by subsection (b), is amended by adding at
2 the end the following new subsection:

3 “(h) EXCEPTION FOR CERTAIN ACQUISITIONS OF
4 DIGITAL ASSETS ACQUIRED IN CONNECTION WITH THE
5 VALIDATION OF DIGITAL ASSET TRANSACTIONS.—The
6 acquisition of a digital asset shall not be taken into ac-
7 count under this section if such digital asset is acquired
8 in connection with the validation of digital asset trans-
9 actions (including digital asset validation supporting ac-
10 tivities).”.

11 (d) CONFORMING AMENDMENTS.—

12 (1) Section 1091(a) is amended by striking the
13 last sentence.

14 (2) Section 1091(e) (as amended by subsection
15 (a)) is amended to read as follows:

16 “(e) CERTAIN SHORT SALES OF SPECIFIED ASSETS
17 AND SPECIFIED ASSET FUTURES CONTRACTS TO SELL.—
18 Rules similar to the rules of subsection (a) shall apply to
19 any loss realized on the closing of a short sale of (or the
20 sale, exchange, or termination of a specified asset futures
21 contract to sell) specified assets if, within a period begin-
22 ning 30 days before the date of such closing and ending
23 30 days after such date—

24 “(1) substantially identical specified assets were
25 sold, or

1 “(2) another short sale of (or specified asset fu-
2 tures contracts to sell) substantially identical speci-
3 fied assets was entered into.

4 For purposes of this subsection, the term “specified asset
5 futures contract” has the meaning provided by section
6 1234B(c).”.

7 (3) The heading of section 1091 is amended by
8 striking “**STOCK OR SECURITIES**” and inserting
9 “**SPECIFIED ASSETS**”.

10 (4) The headings of subsections (b), (c), and
11 (d) of section 1091 are each amended by striking
12 “STOCK” each place it appears and inserting “SPEC-
13 IFIED ASSETS”.

14 (5) The item relating to section 1091 in the
15 table of sections for part VII of subchapter O of
16 chapter 1 is amended by striking “stock or securi-
17 ties” and inserting “specified assets”.

18 (6) Section 312(f)(1) is amended by striking
19 “stock or securities” and inserting “specified as-
20 sets”.

21 (7) Section 1256(f)(5) is amended by striking
22 “stock or securities” and inserting “specified as-
23 sets”.

24 (8) Section 6045(g)(2)(B)(ii) is amended—

1 (A) by striking “stock or securities” and
2 inserting “specified assets”, and

3 (B) by striking “identical securities” and
4 inserting “identical specified assets”.

5 (e) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to dispositions after the date of
7 the introduction of this Act.

8 (f) TRANSITION RULE RELATING TO BROKER RE-
9 PORTING.—For purposes of section 6045 of the Internal
10 Revenue Code of 1986, in the case of the sale or other
11 disposition before January 1, 2028, of a digital asset to
12 which section 1091 would not have applied but for the
13 amendments made by this section, the customer’s adjusted
14 basis may be determined without regard to section 1091
15 of such Code.

16 **SEC. 3. APPLICATION OF CONSTRUCTIVE SALE RULES TO**
17 **DIGITAL ASSETS.**

18 (a) IN GENERAL.—Section 1259(b)(1) is amended by
19 inserting “, digital asset (other than a qualified U.S. dol-
20 lar stablecoin)” after “debt instrument”.

21 (b) APPLICATION OF EXCEPTION FOR SALES OF
22 NONPUBLICLY TRADED PROPERTY.—Section 1259(c)(2)
23 is amended by inserting “or widely traded digital asset”
24 after “marketable security (as defined in section 453(f))”.

1 (c) TREATMENT OF TOKENIZED DIGITAL ASSETS AS
2 SUBSTANTIALLY IDENTICAL TO ECONOMICALLY EQUIVA-
3 LENT FINANCIAL PROPERTY.—Section 1259(c) is amend-
4 ed by adding at the end the following new paragraph:

5 “(5) TREATMENT OF TOKENIZED DIGITAL AS-
6 SETS AS SUBSTANTIALLY IDENTICAL TO ECONOMI-
7 CALLY EQUIVALENT FINANCIAL PROPERTY.—A
8 tokenized digital asset shall be treated as substan-
9 tially identical to any stock, debt instrument, or
10 partnership interest if such tokenized digital asset is
11 economically equivalent to such stock, debt instru-
12 ment, or partnership interest.”.

13 (d) FUNCTIONAL CURRENCY OTHER THAN THE
14 DOLLAR.—Section 1259(e) is amended by adding at the
15 end the following new paragraph:

16 “(4) QUALIFIED U.S. DOLLAR STABLECOINS
17 AND FUNCTIONAL CURRENCY OTHER THAN THE
18 DOLLAR.—In the case of any taxpayer or qualified
19 business unit (as defined in section 989(a)), a quali-
20 fied U.S. dollar stablecoin (determined without re-
21 gard to this paragraph) shall not be treated as a
22 qualified U.S. dollar stablecoin for purposes of this
23 section if such taxpayer or qualified business unit
24 uses a functional currency other than the dollar.”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to constructive sales after the date
3 of the introduction of this Act.

4 **SEC. 4. DEFINITIONS.**

5 Section 7701 is amended—

6 (1) by redesignating subsection (p) as sub-
7 section (q), and

8 (2) by inserting after subsection (o) the fol-
9 lowing new subsection:

10 “(p) DEFINITIONS RELATED TO DIGITAL ASSETS.—

11 For purposes of this title—

12 “(1) DIGITAL ASSET.—The term ‘digital asset’
13 means, except as otherwise provided by the Sec-
14 retary, any digital representation of value which is
15 recorded on a cryptographically secured distributed
16 ledger or any similar technology as specified by the
17 Secretary.

18 “(2) TRADED DIGITAL ASSET.—The term ‘trad-
19 ed digital asset’ means, except as otherwise provided
20 by the Secretary to prevent abuse, any digital asset
21 if—

22 “(A) such asset is fungible,

23 “(B) quotations of such asset are readily
24 available on an exchange (or, in the case of an

1 exchange that does not provide quotations, such
2 quotations are readily ascertainable), and

3 “(C) such asset is either—

4 “(i) not a tokenized digital asset, or

5 “(ii) a wrapped digital asset with re-
6 spect to which the reference digital asset is
7 a traded digital asset.

8 “(3) WIDELY TRADED DIGITAL ASSET.—

9 “(A) IN GENERAL.—The term ‘widely
10 traded digital asset’ means, with respect to any
11 taxpayer for any taxable year and except as
12 otherwise provided by the Secretary to prevent
13 abuse, any traded digital asset if—

14 “(i) quotations for such asset were
15 readily available on an exchange for the
16 entire calendar year which ends in or with
17 the taxable year preceding such taxable
18 year,

19 “(ii) the market capitalization of such
20 asset exceeded \$500,000,000 at substan-
21 tially all times during such calendar year,
22 and

23 “(iii) not more than 10 percent of the
24 units of such asset were owned, directly or
25 indirectly, by the taxpayer or any person

1 described with respect to the taxpayer
2 under section 267(b) (applied without re-
3 gard to section 267(c)(3)) or section
4 707(b)(1) at any time during such taxable
5 year or such preceding taxable year.

6 “(B) SPECIAL RULE FOR WRAPPED DIG-
7 ITAL ASSETS.—In the case of any wrapped dig-
8 ital asset, except as otherwise provided by the
9 Secretary to prevent abuse, such asset shall be
10 treated as a widely traded digital asset if, and
11 only if, the reference digital asset with respect
12 to such wrapped digital asset is a widely traded
13 digital asset.

14 “(C) AUTHORITY TO ENSURE RELIABLE
15 PRICE DISCOVERY.—For purposes of subpara-
16 graphs (A) and (B), the term ‘prevent abuse’
17 includes the exclusion of assets that lack reli-
18 able price discovery or that the Secretary deter-
19 mines are at risk of price manipulation.

20 “(D) AUTHORITY TO ADJUST REQUIRE-
21 MENTS.—The Secretary may, by regulation,
22 provide requirements that apply in lieu of one
23 or more of the requirements of clauses (i)
24 through (iii) of subparagraph (A) if the Sec-
25 retary determines that due to changes in mar-

1 ket conditions (including by reason of the en-
2 actment of Federal digital asset market struc-
3 ture legislation) that such alternative require-
4 ments would more effectively or efficiently iden-
5 tify traded digital assets for which there is con-
6 sistent and reliable price discovery.

7 “(E) INFLATION ADJUSTMENT.—In the
8 case of any calendar year after 2027, the
9 \$500,000,000 amount in subparagraph (A)(ii)
10 shall be increased by an amount equal to—

11 “(i) such dollar amount, multiplied by

12 “(ii) the cost-of-living adjustment de-
13 termined under section 1(f)(3) for such
14 calendar year, determined by substituting
15 ‘calendar year 2026’ for ‘calendar year
16 2016’ in subparagraph (A)(ii) thereof.

17 Any increase determined under the preceding
18 sentence which is not a multiple of \$100,000
19 shall be rounded to the nearest multiple of
20 \$100,000.

21 “(4) TOKENIZED DIGITAL ASSET.—The term
22 ‘tokenized digital asset’ means any digital asset
23 (other than any qualified U.S. dollar stablecoin) if
24 more than an insignificant portion of the value of
25 such digital asset is related to anything other than

1 the operation of the cryptographically secured dis-
2 tributed ledger on which such digital asset is re-
3 corded.

4 “(5) WRAPPED DIGITAL ASSET.—The term
5 ‘wrapped digital asset’ means, except as otherwise
6 provided by the Secretary to prevent abuse, any dig-
7 ital asset if such asset—

8 “(A) is redeemable on demand, on a one-
9 for-one basis, for another digital asset, and

10 “(B) is recorded on a cryptographically se-
11 cured distributed ledger other than the cryp-
12 tographically secured distributed ledger on
13 which the digital asset referred to in subpara-
14 graph (A) is recorded.

15 “(6) REFERENCE DIGITAL ASSET.—

16 “(A) IN GENERAL.—The term ‘reference
17 digital asset’ means, with respect to any
18 wrapped digital asset, the digital asset referred
19 to in paragraph (4)(A).

20 “(B) SPECIAL RULE FOR REWRAPPINGS.—
21 If, but for this subparagraph, the reference dig-
22 ital asset with respect to any wrapped digital
23 asset would be a wrapped digital asset (here-
24 after referred to in this paragraph as the lower-
25 tier wrapped digital asset)—

1 “(i) subparagraph (A) shall be applied
2 with respect to such lower-tier wrapped
3 digital asset, and

4 “(ii) the reference digital asset with
5 respect to such lower-tier wrapped digital
6 asset shall be treated as the reference dig-
7 ital asset of such wrapped digital asset.

8 “(C) MULTIPLE WRAPPINGS.— If, after
9 the application of subparagraph (B), the ref-
10 erence digital asset with respect to the lower-
11 tier wrapped digital asset is a wrapped digital
12 asset, such subparagraph shall be reapplied by
13 treating such lower-tier wrapped digital asset as
14 the wrapped digital asset.

15 “(7) STABLECOIN.—

16 “(A) QUALIFIED U.S. DOLLAR
17 STABLECOIN.—The term ‘qualified U.S. dollar
18 stablecoin’ means any U.S. dollar stablecoin
19 which is issued by—

20 “(i) a permitted payment stablecoin
21 issuer (as defined in section 2(23) of the
22 GENIUS Act, as in effect on the date of
23 the enactment of this paragraph), or

24 “(ii) a foreign payment stablecoin
25 issuer (as defined in section 2(12) of the

1 GENIUS Act, as so in effect) which is per-
2 mitted under such Act (as so in effect) to
3 offer, sell, or otherwise make available
4 such U.S. dollar stablecoin in the United
5 States.

6 “(B) U.S. DOLLAR STABLECOIN.—The
7 term ‘U.S. dollar stablecoin’ means a payment
8 stablecoin as defined in section 2(22) of the
9 GENIUS Act (as in effect on the date of the
10 enactment of this paragraph) applied by sub-
11 stituting ‘dollars’ for ‘monetary value’ each
12 place it appears in such section.

13 “(C) PUBLICATION OF LIST.—The Sec-
14 retary shall, to the extent feasible, regularly
15 publish a list of qualified U.S. dollar
16 stablecoins.

17 “(D) LIMITED AUTHORITY TO TREAT
18 STABLECOINS AS MONEY.—The Secretary may
19 issue such regulations or other guidance as may
20 be necessary or appropriate to (except as other-
21 wise expressly provided in this title)—

22 “(i) treat qualified U.S. dollar
23 stablecoins as dollars, and

1 “(ii) treat other stablecoins as cur-
2 rency if such treatment would increase
3 Federal revenues.

4 “(8) DIGITAL ASSET TRANSACTION.—The term
5 ‘digital asset transaction’ means any transfer of a
6 digital asset recorded on the cryptographically se-
7 cured distributed ledger (or similar technology) re-
8 ferred to in paragraph (1).

9 “(9) DIGITAL ASSET VALIDATION SUPPORTING
10 ACTIVITIES.—The term ‘digital asset validation sup-
11 porting activities’ means staking, mining, or similar
12 activities in support of the validation of digital asset
13 transactions.

14 “(10) VALIDATION.—The term ‘validate’, and
15 any derivative of such term (including ‘validation’),
16 when used in connection with a digital asset trans-
17 action, includes the processes of proposing trans-
18 actions for validation and verifying the validation of
19 transactions.

20 “(11) STAKING.—The term ‘staking’, when
21 used in connection with a digital asset, means—

22 “(A) making such asset available in sup-
23 port of the validation of digital asset trans-
24 actions, and

1 “(B) except as otherwise provided by the
2 Secretary, any substantially similar activity.

3 “(12) MINING.—The term ‘mining’, when used
4 in connection with a digital asset, means—

5 “(A) performing computations, or making
6 available computing power, in support of the
7 validation of digital asset transactions, and

8 “(B) except as otherwise provided by the
9 Secretary, any substantially similar activity.”.

10 **SEC. 5. RULES OF CONSTRUCTION.**

11 (a) NO INFERENCE WITH RESPECT TO APPLICATION
12 OF OTHER PROVISIONS OF LAW.—Except as otherwise ex-
13 pressly provided by this Act (or an amendment made by
14 this Act) with respect to the application of one or more
15 provisions of the Internal Revenue Code of 1986, nothing
16 in this Act (or any amendment made by this Act) shall
17 be construed to create an inference that a digital asset
18 does or does not constitute a security, a commodity, debt,
19 equity, stock, a partnership interest, or an interest in a
20 trust, for purposes of any provision of law.

21 (b) NO INFERENCE WITH RESPECT TO PRIOR PERI-
22 ODS.—No provision of this Act (or any amendment made
23 by this Act) shall be construed to create any inference with
24 respect to the proper application of any provision of the
25 Internal Revenue Code of 1986 with respect to any period

- 1 before the period to which such provision or amendment
- 2 applies.