

DIGITAL ASSET TAXATION

Scheduled for a Public Hearing
Before the
HOUSE WAYS AND MEANS COMMITTEE
on June 9, 2026

Prepared by the Staff
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INTRODUCTION

The House Ways and Means Committee has scheduled a public hearing for June 9, 2026, titled, “Full Committee Legislative Hearing on Digital Asset Taxation.” This document,¹ prepared by the staff of the Joint Committee on Taxation, describes present law, six bills, and one discussion draft relating to digital asset taxation.

¹ This document may be cited as follows: Joint Committee on Taxation, *Digital Asset Taxation* (JCX-18-26), June 8, 2026. This document can be found on the Joint Committee on Taxation website at www.jct.gov. Unless otherwise indicated, all section references in this document are to the Internal Revenue Code of 1986, as amended (the “Code”).

I. PRESENT LAW

In general

Generally, for Federal income tax purposes, digital assets are treated as property.² The general tax principles that apply to property transactions are applicable to transactions involving digital assets.

The Infrastructure Investment and Jobs Act provides the only definition of the term “digital asset” in the Internal Revenue Code of 1986 (the “Code”).³ For certain information reporting purposes (discussed further below), the term “digital asset” is defined as any digital representation of value which is recorded on a cryptographically secured distributed ledger or any similar technology as specified by the Secretary.⁴

Broker reporting

The IRS gathers independent information about income received and taxes withheld in order to verify self-reported income and tax filed on tax returns.⁵ The use of reliable and objective third-party verification of income increases the probability that tax evasion is detected and increases the cost of evasion to the taxpayer, thereby decreasing the overall level of tax evasion by taxpayers. Information reporting by payors and brokers is required in a broad category of payments to taxpayers, including wages and salaries, dividends, interest, stock sales, real property sales, and other categories.

In 2021, Congress amended the Code to clarify that broker information reporting includes reporting with respect to transactions involving digital assets⁶ by adding digital assets to the definition of covered security, except as provided by the Secretary of the Treasury (the

² The Internal Revenue Service (the “IRS”) first addressed the Federal tax treatment of a subset of digital assets in Notice 2014-21 (the “2014 Notice”). In the 2014 Notice, the IRS took the position that for Federal tax purposes “convertible virtual currency” is treated as property and not as currency. The 2014 Notice describes virtual currency as “a digital representation of value that functions as a medium of exchange, a unit of account, and/or a store of value” and convertible virtual currency as “virtual currency that has an equivalent value in real currency, or that acts as a substitute for real currency.” See also IRS, Frequently asked questions on digital asset transactions, <https://www.irs.gov/individuals/international-taxpayers/frequently-asked-questions-on-digital-asset-transactions> (last visited June 2, 2026). For more background on digital assets and early IRS guidance on digital assets, see Joint Committee on Taxation, *Examining the Taxation of Digital Assets* (JCX-44-25), September 29, 2025. This document can be found on the Joint Committee on Taxation website at www.jct.gov.

³ Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, sec. 80603, November 15, 2021.

⁴ Sec. 6045(g)(3)(D).

⁵ In fiscal year 2019, the IRS received more than 3.5 billion third-party information returns, 89.6 percent of which were filed electronically. In addition, individual income tax withheld totaled \$1.35 trillion out of \$1.98 trillion of individual income tax collected, before refunds. See Internal Revenue Service, *Data Book 2019*, Publication 55-B, Washington, DC, June 2020, Tables 1 and 22.

⁶ Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, sec. 80603 (Information reporting for brokers and digital assets), November 15, 2021; secs. 6045(c)(1)(D) and 6045A(d).

“Secretary”).⁷ As a result, brokers are generally required to report proceeds of sales as well as adequate information to determine character of gain or loss from sales and to compute basis.⁸ Similar basis reporting is required with respect to broker-to-broker transactions. A broker is defined to include “any person who (for consideration) is responsible for regularly providing any service effectuating transfers of digital assets on behalf of another person.”⁹

July 2024 regulations on reporting gross proceeds and basis

The Secretary proposed regulations to implement the broker reporting requirement in 2023,¹⁰ and published finalized regulations in a July 2024 Treasury Decision titled “Gross Proceeds and Basis Reporting by Brokers and Determination of Amount Realized and Basis for Digital Asset Transactions” (the “July 2024 Regulations”).¹¹ The July 2024 Regulations address the general rules for gross proceeds and basis reporting for persons within scope of the regulations. The guidance also provides rules for determining the amount realized from the sale, exchange, or disposition of digital assets by persons subject to the broker reporting rules, as well as the determination of basis in assets in such transactions.

In defining the class of persons within scope of the reporting rules, the regulations introduce the terms “U.S. digital asset broker,” “customer,” and “digital asset middleman.” A U.S. digital asset broker is defined as “a person that effects sales of digital assets on behalf of others and that is...a U.S. payor or U.S. middleman”¹² and is required to report with respect to each sale by a customer if, in the ordinary course of business in which “the broker stands ready to effect sales to be made by others, the broker effects the sale or closes the short position opened by the sale.”¹³ A customer, with respect to a sale effected by a broker, is defined as the person (other than such broker) that makes the sale if the broker acts as (1) an agent for such person in the sale; (2) a principal in the sale; (3) the participant in the sale responsible for paying to such person or crediting to such person’s account the gross proceeds of the sale; or (4) a digital asset middleman that effects the sale of a digital asset for such person.¹⁴ A digital asset middleman is

⁷ Sec. 6045(g)(3)(D).

⁸ Sec. 6045(g)(2).

⁹ Sec. 6045(c)(1)(D).

¹⁰ 88 Fed. Reg. 59576, August 29, 2023.

¹¹ T.D. 10000, 89 Fed. R. 56480, July 9, 2024.

¹² Treas. Reg. sec. 1.6045-1(g)(4)(i)(A) (defining U.S. digital asset broker). The term “U.S. middleman” is defined in regulations under rules on interest reporting and intermediaries. Treas. Reg. sec. 1.6049-5(c)(5)(i) (defining U.S. middleman).

¹³ Treas. Reg. sec. 1.6045-1(c)(2).

¹⁴ Treas. Reg. sec. 1.6045-1(a)(2)(i).

defined as any person who provides certain facilitative services with respect to a sale of digital assets.¹⁵

The preamble to the July 2024 Regulations (the “Preamble”) distinguishes between custodial and non-custodial industry participants. Custodial industry participants, such as custodial digital asset trading platforms and certain digital asset hosted wallet providers, generally act as principals or agents to effect digital asset transactions on behalf of their customers. In contrast, the Preamble describes non-custodial industry participants as participants that do not take possession of a customer’s digital assets, such as operators of non-custodial digital asset trading platforms (sometimes referred to as decentralized finance or, colloquially, “DeFi”). The decentralized finance industry offers services that allow for transactions that use automatically executing software (sometimes referred to as “smart contracts”) that do not require taking custody of a digital asset customer’s private access code (or “private key”) needed to access such customer’s digital account.

The July 2024 Regulations defined a digital asset middleman as any person who provides certain facilitative services with respect to a sale of digital assets. In the July 2024 Regulations this definition applies to custodial industry participants by specifying certain facilitative services, such as acceptance or processing of digital assets as payment for property of a type which when sold would constitute a sale by a broker that is in the business of effecting sales of such property. Treasury reserved on and did not finalize the definition of digital asset middleman as applied to non-custodial industry participants, noting that such rules would be provided in a separate set of final regulations. The July 2024 Regulations are otherwise in effect and generally require gross proceeds reporting for sales of digital assets occurring on and after January 1, 2025, and basis reporting for certain sales occurring on and after January 1, 2026.¹⁶

DeFi regulations

The regulations finalized in December 2024, titled “Gross Proceeds Reporting by Brokers That Regularly Provide Services Effectuating Digital Asset Sales” (the “December 2024 Regulations”) address only a revised definition of digital asset middleman to encompass certain persons who participate in effectuating decentralized financial transactions (non-custodial industry participants).¹⁷ In the definition of digital asset middleman, the December 2024 regulations replace “facilitative services” with “effectuating services” and provide that an “effectuating service” includes both the previously-defined “facilitative services” (as included in the July 2024 Regulations) as well as trading front-end services where the nature of the service arrangement is such that the person providing that service ordinarily would know or be in a position to know that the nature of the transaction potentially gives rise to gross proceeds from the sale of digital assets.¹⁸ Trading front-end services generally facilitate trading for customers

¹⁵ Former Treas. Reg. sec. 1.6045-1(a)(21).

¹⁶ Treas. Reg. sec. 1.6045-1(q).

¹⁷ T.D. 10021, 89 Fed. Reg. 106928, December 30, 2024.

¹⁸ Treas. Reg. sec. 1.6045-1(a)(21).

who may otherwise need to write software code in order to communicate, and thus transact, with other decentralized finance participants.

Before the December 2024 Regulations took effect, a joint resolution disapproving of the December 2024 Regulations under the Congressional Review Act (the “CRA”)¹⁹ was enacted in 2025.²⁰ Because the December 2024 Regulations never went into effect prior to the joint resolution, those regulations never took effect. In addition, under the CRA, the December 2024 Regulations may not be reissued in substantially the same form, and new rules that are substantially the same as the disapproved rules may not be issued absent a change in law.²¹

Mining and staking rewards

In general

The first significant digital asset to be recorded on a decentralized, cryptographically secured distributed ledger (a “blockchain”) was Bitcoin, the purpose of which was to create a scarce, purely digital good that allowed online payments without the need for a traditional financial institution or other centralized authority.²² Today, a wide variety of digital assets utilize blockchain technology. These blockchains operate as decentralized databases with data replicated across multiple computers.²³ Transactions are validated through a consensus mechanism, ensuring agreement across the network. The two most common consensus mechanisms are proof of work and proof of stake.²⁴

The consensus mechanism is the key to maintaining a distributed ledger of transactions on which all participants can agree without any of them being in control. Individuals maintain the distributed ledger by validating a batch of transactions (a “block”) from the protocol’s transaction pool. Once an individual validates the transactions included in the block, the block is added to the blockchain; for their efforts, the individual is rewarded with newly minted digital assets native to the protocol. Existing holders are thereby diluted: in effect, existing holders are compensating those engaged in the work of maintaining the blockchain.

The Bitcoin consensus mechanism is known as proof-of-work. In a proof-of-work consensus mechanism, validators compete to solve cryptographic puzzles, with the winner adding the new block to the blockchain and earning rewards in an activity called “mining.”

¹⁹ 5 U.S.C. secs. 801-808.

²⁰ Pub. L. No. 119-5, April 10, 2025.

²¹ 5 U.S.C. sec. 801(b)(2).

²² See Satoshi Nakamoto, Bitcoin: A Peer-to-Peer Electronic Cash System, available at <https://bitcoin.org/bitcoin.pdf> (last visited June 5, 2026).

²³ See Stephanie Susnjara and Ian Smalley, What is blockchain?, available at <https://www.ibm.com/think/topics/blockchain> (last visited June 4, 2026).

²⁴ *Ibid.*

Because proof-of-work can be costly and energy-intensive,²⁵ many protocols use a proof-of-stake consensus mechanism. In its simplest form, proof-of-stake requires participants only to pledge to the protocol for a set time a set amount of the native digital asset. The proof-of-stake mechanism allocates validation rights to participants based on how many units they have staked, with a participant's probability of being selected being proportional to the number of units staked. Participants that have successfully validated transactions and recorded them on the blockchain receive newly created units of the native digital asset. Participants that have improperly validated fraudulent transactions may be penalized and forfeit some or all the units that they staked in a process called "slashing." The largest digital asset by market capitalization to use a proof-of-stake consensus mechanism is Ether.²⁶

Timing and sourcing of income with respect to property received for services

The receipt of cash or property for services generally is taxable as ordinary income at the time of receipt.²⁷ For property received for services, the taxpayer generally includes in gross income the fair market value of the property on the date received. The basis of property in the hands of the taxpayer is the amount included in gross income. In contrast, income with respect to self-created property such as manufactured goods, farmed crops, and certain self-created intellectual property generally is not realized until the property is sold or otherwise disposed of.²⁸

The source of services income, which determines the amount of Federal and State income tax, generally is the place where the services are performed. For example, foreign persons who perform services in the United States generally are treated as engaged in a U.S. trade or business and income attributable to that business is taxable as income that is effectively connected with the conduct of a U.S. trade or business ("ECI").²⁹

Timing and sourcing of interest income and rental income

Interest income and rental income are generally taxable as ordinary income at the time of receipt.³⁰ Interest includes interest payments received by or credited to a taxpayer from savings or other bank deposits, promissory notes, and corporate bonds and debentures.³¹ Rent includes

²⁵ See, e.g., Gabriel J.X. Dance, "The Real-World Costs of the Digital Race for Bitcoin," *New York Times*, April 9, 2023, available at <https://www.nytimes.com/2023/04/09/business/bitcoin-mining-electricity-pollution.html> (last visited June 2, 2026).

²⁶ See, e.g., CoinMarketCap summary statistics, available at <https://coinmarketcap.com/> (ranking Ether as the second-largest digital asset by market capitalization as of June 5, 2026).

²⁷ Secs. 61(a)(1) and 83(a).

²⁸ See generally Treas. Reg. secs. 1.61-3 and 1.61-4.

²⁹ Secs. 861(a)(3) and 871(b).

³⁰ Sec. 61(a)(4) and (5); see generally Treas. Reg. secs. 1.61-7 and 1.61-8.

³¹ Treas. Reg. sec. 1.61-7(a).

payments received or accrued for the occupancy of real property or the use of personal property.³²

The source of interest income is generally determined by reference to the residence of the obligor.³³ The source of rental income is generally determined by the location, or the place of use, of the property.³⁴

IRS guidance on mining and staking, in general

In the “2014 Notice³⁵, the IRS answers several questions relevant to the Federal tax treatment of digital assets received by participants who participate in the validation process. First, the notice provides that a taxpayer who “receives virtual currency as payment for goods or services must, in computing gross income, include the fair market value of the virtual currency, measured in U.S. dollars, as of the date the virtual currency was received.”³⁶ The basis of virtual currency the taxpayer receives as payment for goods or services is the fair market value of the virtual currency in U.S. dollars as of the date of receipt.³⁷

Second, the 2014 Notice provides that “when a taxpayer successfully ‘mines’ virtual currency, [the taxpayer must include in gross income] the fair market value of the virtual currency as of the date of receipt.”³⁸

In 2023, the IRS issued a revenue ruling in which it analyzed the treatment of a cash-method taxpayer that received staking rewards.³⁹ The IRS determined that the taxpayer must include the fair market value of the staking rewards in gross income in the taxable year in which the taxpayer gained dominion and control over the rewards, when the taxpayer has the ability to sell, exchange, or otherwise dispose of the rewards.

³² Treas. Reg. sec. 1.61-8(a).

³³ Secs. 861(a)(1) and 862(a)(1).

³⁴ Secs. 861(a)(4) and 862(a)(4).

³⁵ See Notice 2014-21, 2014-16 I.R.B. 938, March 25, 2014.

³⁶ Notice 2014-21, Q-3.

³⁷ Notice 2014-21, Q-4.

³⁸ Notice 2014-21, Q-8.

³⁹ Rev. Rul. 2023-14, 2023-33 I.R.B. 484. Prior to the issuance of Revenue Ruling 2023-14, a taxpayer brought suit in a U.S. district court, challenging the principle that income derived from staking should be treated the same as other property received for services. The taxpayer argued that the 2014 Notice did not apply to staking and that newly minted digital assets received in exchange for staking should not be treated as income upon receipt, but rather only upon sale, because the newly minted digital assets were “self-created property.” *Jarrett v. United States*, No. 3:21-cv-00419 (M.D. Tenn. 2022). However, no final judgment on the merits was made; after the government provided the taxpayer with a refund, the District Court granted a motion to dismiss.

IRS guidance has not explicitly addressed whether timing and sourcing rules similar to those for other types of income, such as services, interest, or rental income, should generally apply to mining or staking rewards.

Safe harbor for investment trusts engaged in staking

Generally, an arrangement is treated as a trust if the purpose of the arrangement is to vest in trustees the responsibility to protect or conserve property for beneficiaries who cannot share in the discharge of this responsibility and therefore are not associates in a joint enterprise for the conduct of business for profit.⁴⁰

U.S. investment funds holding digital assets that qualify as exchange-traded products (“ETPs”) often are classified for Federal income tax purposes as investment trusts treated as grantor trusts. To qualify as an investment trust, a trust generally must have a single class of ownership interests, representing undivided beneficial interests in the assets of the trust, and the trust agreement must convey no power to vary the investments of the investors in the trust.⁴¹ In the case of investment trusts that are treated as grantor trusts, investors in the trust are treated as if they were the direct owners of their *pro rata* interests in trust assets for Federal income tax purposes and may be eligible for simplified information reporting.⁴² A trust that fails to meet the requirements for investment trust status may be treated as a partnership or corporation for Federal income tax purposes, depending on the applicable facts and circumstances, and would then be subject to the applicable reporting rules.

Revenue Procedure 2025-31 provides a safe harbor that permits certain exchange-traded products that are classified as investment trusts treated as grantor trusts to stake their digital assets without jeopardizing their tax status as investment trusts and grantor trusts.⁴³ To qualify for the safe harbor, a trust must meet certain requirements, including the following:

- The trust must be traded on a national securities exchange and comply with Securities and Exchange Commission (“SEC”) rules and regulations;
- The trust may only hold units of a single digital asset, transactions for which are carried out on a network that uses a proof-of-stake consensus mechanism;
- The trust’s digital assets must be held by a qualified custodian on behalf of the trust, at digital asset addresses controlled by the custodian;
- The trust’s staking of the digital assets must protect and conserve the value of the trust property by mitigating the risk that another party could control a majority of the

⁴⁰ Treas. Reg. sec. 301.7701-4(a).

⁴¹ Treas. Reg. sec. 301.7701-4(c)(1).

⁴² See secs. 671-679 (grantor trust rules); President’s Working Group of Digital Asset Markets, *Strengthening American Leadership in Digital Financial Technology*, available at <https://www.whitehouse.gov/crypto/> (last accessed June 3, 2026).

⁴³ Rev. Proc. 2025-31, 2025-48 I.R.B. 743.

total staked digital assets of the same type and engage in transactions that could reduce the value of the trust’s digital assets;

- The trust must direct staking of its digital assets through one or more custodians who facilitate the staking of the digital assets on the trust’s behalf with one or more staking providers, with the trust and sponsor being unrelated to the staking provider; and
- All of the digital assets of the trust must be made available to the staking provider to be staked at all times, except in limited circumstances.

The revenue procedure also provides that an existing trust may amend its trust agreement to authorize staking at any time during the nine-month period beginning on November 10, 2025, and may qualify for the safe harbor if the requirements of the revenue procedure are satisfied.

Certain rules relating to partnerships relevant to property producing ordinary income or loss

In general, the gain or loss on the sale or exchange of a partnership interest or a distribution by a partnership to a partner is treated as capital gain or loss.⁴⁴

Under present law, upon the sale or exchange of a partnership interest, any amount received that is attributable to unrealized receivables of the partnership, or to inventory items of the partnership, is treated as an amount realized from the sale or exchange of property other than a capital asset.⁴⁵

Present law provides a similar rule to the extent that a distribution is treated as a sale or exchange of a partnership interest. A distribution by a partnership in which a partner receives substantially appreciated inventory or unrealized receivables in exchange for its interest in certain other partnership property (or receives certain other property in exchange for its interest in substantially appreciated inventory or unrealized receivables) is treated as a taxable sale or exchange of property, rather than as a nontaxable distribution.⁴⁶

For purposes of these rules, the term “unrealized receivables” includes any rights (contractual or otherwise) to payment for goods (delivered or to be delivered, to the extent that such payment would be treated as received for property other than a capital asset) or services (rendered or to be rendered) to the extent that income arising from such right to payment was not previously includible in income under the method of accounting used by the partnership.⁴⁷ In addition, for purposes of specified partnership provisions,⁴⁸ the term “unrealized receivables”

⁴⁴ Secs. 741 and 731(a).

⁴⁵ Sec. 751(a).

⁴⁶ Sec. 751(b).

⁴⁷ Sec. 751(c).

⁴⁸ Secs. 731, 732, 741, and 751.

includes certain property, the sale of which gives rise to income other than capital gain,⁴⁹ but only to the extent of the amount which would be treated as income other than capital gain if, at the time of the transaction described, such property had been sold by the partnership at its fair market value.⁵⁰

For purposes of these rules, the term “inventory item” includes property of the partnership of the kind described in section 1221(a)(1).⁵¹ The term also includes any other property of the partnership which, if sold or exchanged by the partnership, would be considered property other than a capital asset and other than section 1231 property.⁵² The term “inventory item” further includes any other property held by the partnership which, if held by the selling or distributee partner, would be considered property of the kind described in section 1221(a)(1), property other than a capital asset, or property other than section 1231 property.⁵³ Inventory items of the partnership are treated as substantially appreciated if their fair market value exceeds 120 percent of the adjusted basis to the partnership of such property.⁵⁴

Deduction for qualified business income

For taxable years beginning after December 31, 2017, certain individuals, trusts, and estates may deduct 20 percent of qualified business income from a partnership, S corporation, or sole proprietorship, as well as 20 percent of aggregate qualified real estate investment trust (“REIT”) dividends and qualified publicly traded partnership income.⁵⁵ The taxpayer’s deduction for qualified business income is not allowed in computing adjusted gross income; instead, the deduction is allowed in computing taxable income.⁵⁶ The deduction is available to individuals regardless of whether they itemize their deductions.⁵⁷ In general, qualified business income is determined for each qualified trade or business of the taxpayer. For any taxable year, qualified business income (or qualified business loss) is the net amount of qualified items of

⁴⁹ As specified for each listed instance, for example, depreciation recapture under sections 1245 or 1250 which would result in ordinary income recognition.

⁵⁰ Sec. 751(c).

⁵¹ Sec. 751(d)(1).

⁵² Sec. 751(d)(2).

⁵³ Sec. 751(d)(3).

⁵⁴ Sec. 751(b)(3)(A).

⁵⁵ Sec. 199A(a) and (b). See also Treas. Reg. secs. 1.199A-1 through 1.199A-7. The qualified business income deduction is subject to several limitations, including taxable income thresholds, wage and property limitations, and limitations for specified service trades or businesses (see sec. 199A(a)(2), (b)(2), (b)(3), (c)(3), (c)(4), (d)(2), and (d)(3)).

⁵⁶ Sec. 62(a).

⁵⁷ Sec. 63(b) and (d).

income, gain, deduction, and loss attributable to the qualified trade or business of the taxpayer.⁵⁸ A taxpayer includes qualified items of income, gain, deduction, and loss only to the extent those items are included or allowed to in determining taxable income for the taxable year and only to the extent they are effectively connected with the conduct of a trade or business within the United States.⁵⁹

Qualified items of income, gain, deduction, and loss exclude:

1. any item taken into account in determining net capital gain or loss;
2. dividends, income equivalent to a dividend, or payments in lieu of dividends;
3. interest income other than that which is properly allocable to a trade or business;
4. the excess of gain over loss from certain commodities transactions;
5. the excess of foreign currency gains over foreign currency losses from section 988 transactions other than transactions directly related to the business needs of the business activity;
6. net income from notional principal contracts other than clearly identified hedging transactions that are treated as ordinary (i.e., are not capital assets);
7. any amount received from an annuity that is not received in connection with the trade or business; and
8. any item of deduction or loss properly allocable to any of the preceding items.⁶⁰

Qualified business income also does not include any amount paid by an S corporation that is treated as reasonable compensation of the taxpayer.⁶¹ Similarly, qualified business income does not include any guaranteed payment for services rendered with respect to the trade or business,⁶² and, to the extent provided in regulations, does not include any amount paid or

⁵⁸ Qualified business income excludes qualified REIT dividends and qualified publicly traded partnership income. Sec. 199A(c)(1).

⁵⁹ Sec. 199A(c)(3)(A). A taxpayer determines whether its income is effectively connected with the conduct of a trade or business in the United States under the rules of section 864(c). For this purpose, section 864(c) is applied by substituting “qualified trade or business (within the meaning of section 199A)” for “nonresident alien individual or a foreign corporation” or for “a foreign corporation,” each place they appear. Sec. 199A(c)(3)(A). In the case of an individual with qualified business income from sources within the Commonwealth of Puerto Rico, if all such income for the taxable year is taxable under section 1 (income tax rates for individuals), then the term “United States” is considered to include Puerto Rico for purposes of determining the individual’s qualified business income. Sec. 199A(f)(1)(C).

⁶⁰ Sec. 199A(c)(3)(B).

⁶¹ Sec. 199A(c)(4).

⁶² Described in sec. 707(c).

incurred by a partnership to a partner, acting other than in their capacity as a partner, for services.⁶³ If the net amount of qualified business income from all qualified trades or businesses during the taxable year is a loss, then such loss is carried forward and in the next taxable year is treated as a loss from a qualified trade or business.⁶⁴ Any qualified business income deduction that would otherwise be allowed in a subsequent taxable year with respect to the taxpayer's qualified trades or businesses is reduced by 20 percent of any carryover qualified business loss.

In taxable years beginning after December 31, 2025, a minimum qualified business income deduction of \$400 is allowable to taxpayers who have at least \$1,000 of qualified business income from one or more active trades or businesses in which the taxpayer materially participates.⁶⁵ Such amount is adjusted for inflation beginning in 2026.⁶⁶

In the case of a partnership or S corporation, the section 199A deduction is determined at the partner or shareholder level.⁶⁷ With respect to a partnership, if section 751(a) or (b) applies, then gain or loss attributable to assets of the partnership giving rise to ordinary income under section 751(a) or (b) is considered attributable to the trades or businesses conducted by the partnership, and is taken into account for the purposes of computing qualified business income.⁶⁸

Valuation of charitable contributions of property

In general

Taxpayers may generally reduce Federal income tax liability by taking a deduction for contributions to public charities, private foundations, and certain other organizations.⁶⁹ Charitable contributions of cash are deductible in the amount contributed. A taxpayer generally is allowed a deduction for the fair market value of appreciated long-term capital gain property contributed to a public charity.⁷⁰

⁶³ Described in sec. 707(a).

⁶⁴ Sec. 199A(c)(2).

⁶⁵ Sec. 199A(i)(1) and (2).

⁶⁶ Sec. 199A(i)(3).

⁶⁷ Sec. 199A(f)(1).

⁶⁸ Treas. Reg. sec. 1.199A-3(b)(1)(i).

⁶⁹ Sec. 170. This section generally applies to individuals who itemize deductions and to corporations. Individuals who do not itemize are allowed a limited charitable deduction for contributions made in cash to certain organizations. See section 170(p). In certain cases, trusts and estates may claim an income tax deduction for a charitable contribution under section 642(c). Certain charitable contributions are also deductible for gift or estate tax purposes. See secs. 2055 and 2522.

⁷⁰ Sec. 170(e)(1)(A).

In certain cases, the amount of the deduction for appreciated property is limited to the donor's tax basis in the property.⁷¹ This limitation applies, for example, to: (1) contributions of inventory or other ordinary income or short-term capital gain property;⁷² (2) contributions of tangible personal property if the use by the recipient charitable organization is unrelated to the organization's tax-exempt purpose;⁷³ and (3) contributions to or for the use of a private foundation (other than certain private operating foundations).⁷⁴

A taxpayer who makes a charitable contribution of property that has a lower fair market value than the taxpayer's basis in the property is generally allowed a deduction for the property's fair market value.

Substantiation of charitable contributions of property

No charitable contribution deduction is allowed for a contribution of \$250 or more unless the donor obtains a contemporaneous written acknowledgement of the contribution from the charity indicating whether the charity provided any good or service (and an estimate of the value of any such good or service) to the taxpayer in consideration for the contribution.⁷⁵

If the total charitable deduction claimed for noncash property is more than \$500, the taxpayer generally must attach a completed Form 8283 ("Noncash Charitable Contributions") to the taxpayer's return.⁷⁶ In general, a taxpayer who claims a deduction of more than \$5,000 for contributions of property must obtain a qualified appraisal and attach an appraisal summary to the tax return.⁷⁷ If the claimed value is more than \$500,000, the taxpayer must attach the qualified appraisal to the return.⁷⁸

The substantiation requirements described in the preceding paragraph for contributions of property with a claimed value of more than \$500, \$5,000, or \$500,000 do not apply if it is shown

⁷¹ See sec. 170(e).

⁷² Sec. 170(e). Certain contributions of inventory qualify for an "enhanced deduction" in an amount greater than the taxpayer's basis. See sec. 170(e)(3).

⁷³ Sec. 170(e)(1)(B)(i)(I).

⁷⁴ Sec. 170(e)(1)(B)(ii). Certain contributions of publicly traded stock to a private nonoperating foundation are, however, deductible at the fair market value of the stock. Sec. 170(e)(5).

⁷⁵ Sec. 170(f)(8). The acknowledgment also must include the amount of cash and a description (but not value) of any property other than cash contributed. *Ibid.* In addition, any organization receiving a contribution exceeding \$75 made partly as a gift and partly as consideration for goods or services furnished by the charity (a "quid pro quo" contribution) is required to provide in writing an estimate of the value of the goods or services and a statement that only the portion of the contribution that exceeds the value of the goods or services is deductible as a charitable contribution. Sec. 6115.

⁷⁶ See sec. 170(f)(11)(B).

⁷⁷ Sec. 170(f)(11)(C).

⁷⁸ Sec. 170(f)(11)(D).

that a failure to meet the requirements is due to reasonable cause and not to willful neglect.⁷⁹ In addition, the appraisal requirements for contributions with a claimed value of more than \$5,000 or \$500,000 do not apply to certain contributions of readily valued property.⁸⁰ For this purpose, readily valued property includes: (1) cash; (2) certain intellectual property; (3) securities for which (as of the date of the contribution) market quotations are readily available on an established securities market; and (4) certain vehicles for which separate substantiation rules apply.⁸¹

No digital assets are included in the list of “readily valued property.” As a result, the qualified appraisal rules for contributions of digital assets for which a deduction of more than \$5,000 or \$500,000 is claimed apply to digital assets.⁸²

Mark-to-market rules for dealers and traders

Generally, dealers in securities are required to use the mark-to-market method of accounting for securities that are held at year end. Any security that is inventory in the hands of the dealer is included in inventory at fair market value. Also, any security that is not inventory in the hands of the dealer but is held by the dealer at the end of the calendar taxable year triggers recognition of gain or loss by the dealer for the year as if the security were sold for its fair market value on the last business day of the year.⁸³

A dealer in securities is a taxpayer that either: (1) regularly purchases securities from or sells securities to customers in the ordinary course of a trade or business; or (2) regularly offers to enter into, assume, offset, assign, or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.⁸⁴ A security is defined to include any: (A) share of stock in a corporation; (B) partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust; (C) note, bond, debenture, or other evidence of indebtedness; (D) interest rate, currency, and equity notional principal contract; (E) option, forward contract, or

⁷⁹ Sec. 170(f)(11)(A)(ii)(II).

⁸⁰ Sec. 170(f)(11)(A)(ii)(I).

⁸¹ Secs. 170(f)(11)(A)(ii)(I) and 6050L(a)(2)(B).

⁸² See IRS Chief Counsel Advice Memorandum 202302012, January 10, 2023. A taxpayer who made a donation of cryptocurrency to a charitable organization described in section 170(c) claimed a charitable contribution deduction of \$10,000, based on a value listed at the cryptocurrency exchange on which the cryptocurrency was traded at the date and time of donation. The IRS determined that no exception to the qualified appraisal requirements of section 170(f)(11) applied and that the taxpayer’s failure to meet the requirements was not due to reasonable cause. As a result, the IRS disallowed the taxpayer’s deduction for the charitable contribution of the cryptocurrency.

⁸³ Sec. 475(a).

⁸⁴ Sec. 475(c)(1).

short position in any security described in (A), (B), (C), or (D); and (F) other position identified as a hedge with respect to a security described in (A), (B), (C), (D), or (E).⁸⁵

Exceptions are provided for certain securities that would otherwise be subject to the application of the mark-to-market rules. Subject to proper identification by the taxpayer, these exceptions include: (1) any security held for investment; (2) any note, bond, debenture, or other evidence of indebtedness that is acquired or originated by the taxpayer in the ordinary course of the taxpayer's trade or business and is not held for sale; (3) any obligation to acquire debt described in (2) if such obligation is entered into in the ordinary course of the taxpayer's trade or business and is not held for sale; and (4) any hedge that is with respect to (a) a security to which the mark-to-market rules do not apply or (b) a position, right to income, or a liability which is not a security in the hands of the taxpayer.⁸⁶

Dealers in commodities and traders in securities or commodities may also elect to use the mark-to-market accounting method and to be treated in the same manner as dealers in securities.⁸⁷ A commodity is defined to include "any commodity which is actively traded within the meaning of section 1092(d)(1)," but the term "commodity" is not explicitly defined.⁸⁸

Any gain or loss on dealer securities is generally treated as ordinary income or loss.⁸⁹ Any gain or loss on other assets that are marked to market pursuant to an election is also generally treated as ordinary income or loss. Limitations on the deductibility of capital losses generally do not apply to losses on assets that are marked to market.

Whether digital assets are within the scope of section 475 is uncertain.

Transfer of securities under certain agreements

As a general matter, taxpayers recognize gain or loss on the sale or exchange of an asset, but not on lending or leasing the asset.⁹⁰ However, the treatment of certain securities lending transactions historically generated uncertainty because, pursuant to these transactions, the

⁸⁵ Sec. 475(c)(2). Section 1256 contracts, which include regulated futures contracts and foreign currency contracts, generally are excluded from the definition of security.

⁸⁶ Sec. 475(b).

⁸⁷ Sec. 475(e) and (f).

⁸⁸ Sec. 475(e)(2)(A). The term "commodity" also includes any notional principal contract with respect to any commodity that is actively traded, any evidence of an interest in, or derivative instrument in, any commodity that is actively traded or any notional principal contract with respect to such a commodity (such as an option, forward contract, futures contract, short position or similar instrument) and, any position that is a hedge with respect to any interest treated as a commodity under the foregoing definitions and that meets certain identification requirements. Sec. 475(e)(2)(B)-(D).

⁸⁹ Sec. 475(d)(3).

⁹⁰ See sec. 1001.

taxpayer “lending” the security would receive back an identical, but different, security.⁹¹ Congress addressed the uncertainty by providing that, if a taxpayer transfers securities pursuant to an agreement which meets certain requirements, then the taxpayer recognizes no gain or loss either on the exchange of such securities for an obligation under such agreement or on the exchange of rights under such agreement for securities identical to the securities originally transferred.⁹² For this purpose, the term “security” has the meaning provided in section 1236(c), and means any share of stock in any corporation, certificate of stock or interest in any corporation, note, bond, debenture, or evidence of indebtedness, or any evidence of an interest in or right to subscribe to or purchase any of the foregoing.⁹³

To qualify for the treatment described above, an agreement must: (1) provide for the return to the transferor of securities identical to the securities transferred; (2) require that payments be made to the transferor of amounts equivalent to all interest, dividends, and other distributions that the owner of the securities is entitled to receive during the period beginning with the transfer of the securities by the transferor and ending with the transfer of identical securities back to the transferor; (3) not reduce the risk of loss or opportunity for gain of the transferor of the securities in the securities transferred; and (4) meet such other requirements as the Secretary may by regulation prescribe.⁹⁴

Securities loans

A loan of securities held by a financial institution in almost all cases is governed by a standard form agreement that complies with the requirements described above.⁹⁵ For example, consider a taxpayer who holds stock in a brokerage account and allows her broker to engage in securities lending. The broker might lend the stock to another investor (say, one trading on margin) who wants to sell the stock short. Because the agreement governing the securities lending complies with the requirements of section 1058 (described above), the taxpayer recognizes no gain or loss on the lending of the stock (and will recognize no gain or loss on its return). Thus, a taxpayer’s income on lending stock generally is only the compensation paid by the borrower.

Application to digital assets

Many investors lend their digital assets in exchange for payments (known as “yield”) and the right to be returned an equivalent digital asset. Section 1058 may not apply to these transactions because the provision applies only to a loan of securities, as defined in section

⁹¹ S. Rep. No. 762, 95th Cong., 2d Sess. 3 (1978) at 3–4.

⁹² Sec. 1058(a).

⁹³ Secs. 1058(a) and 1236(c).

⁹⁴ Sec. 1058(b).

⁹⁵ The International Swaps and Derivatives Association (“ISDA”) and the Securities Industry and Financial Markets Association (“SIFMA”) publish and maintain the two standard forms used throughout the financial industry.

1236(c), and because digital asset lending agreements (especially those through DeFi protocols) are not standardized under terms that satisfy the section 1058 requirements.⁹⁶

Trading safe harbor

Foreign persons are subject to U.S. taxation generally on two types of income: (1) income effectively connected with the conduct of a trade or business within the United States (“ECI”), which is generally taxed in the same manner as business income of a U.S. resident;⁹⁷ and (2) investment income received from sources within the United States which are “fixed or determinable annual or periodical gains, profits, and income” (“FDAP income”).⁹⁸ ECI is subject to net-basis income tax; FDAP income is subject to a 30-percent gross-basis tax (generally collected through withholding, with rates often reduced by a bilateral income tax treaty).

In many instances, whether a foreign person has ECI depends on having a U.S. trade or business. Thus, the U.S. taxation of foreign persons depends on whether the foreign person’s activities in the United States rise to the level of a U.S. trade or business. In general, to rise to that level, an activity must be considerable, continuous, and regular. Whether an activity rises to that level is, for many activities, unambiguous. For certain activities, though, the line separating a U.S. trade or business from an activity not subject to net U.S. income tax is less clear. One such activity is buying and selling stock or securities (or commodities). The test for whether an activity rises to the level of a U.S. trade or business is based on all facts and circumstances.

To provide certainty to taxpayers and to attract foreign direct investment in U.S. capital markets, the Code provides a safe harbor for trading stock or securities (or commodities) (the “trading safe harbor”).⁹⁹ Under the trading safe harbor, if a foreign person trades in stock or securities (or commodities) within the United States through a broker or agent, the trading is not treated as a U.S. trade or business if the foreign person does not have an office or other fixed place of business in the United States through which the transactions are effected.¹⁰⁰ In addition, if a foreign person trades stock or securities (or commodities) within the United States for the person’s own account, and the person is not a dealer in stock or securities (or commodities), the trading is not treated as a U.S. trade or business.¹⁰¹

⁹⁶ While there are arguments that the law preceding the enactment of section 1058 (or at least its reasoning) might provide some relief for those lending digital assets, the arguments are untested in their application to digital assets. See, e.g., GCM 36948 (finding a securities loan in which identical securities were returned to be an exchange of securities in which no gain or loss is recognized).

⁹⁷ Secs. 871(b) and 882.

⁹⁸ Secs. 871(a) and 881.

⁹⁹ Sec. 864(b)(2).

¹⁰⁰ Sec. 864(b)(2)(A)(i), (B)(i), and (C).

¹⁰¹ Sec. 864(b)(2)(A)(ii) and (B)(ii).

With respect to trading in commodities, the trading safe harbor applies only if the commodities are of a kind customarily dealt in on an organized commodity exchange and if the transaction is of a kind customarily consummated at such place.¹⁰²

Thus, a foreign person trading in stock or securities (or commodities) within the United States is generally not treated as engaged in a U.S. trade or business, and income from the trading would generally not be treated as effectively connected with a U.S. trade or business. Certain U.S. source income from the trading may be subject to U.S. tax as FDAP income (including, for example, dividends paid from a U.S. corporation) but gain or loss on the trading would generally not be subject to U.S. tax.

Penalties and settlement authority

The Federal income tax system relies upon self-reporting and assessment. A taxpayer is expected to prepare a report of his or her liability¹⁰³ and submit it to the IRS with any payment due. The Code encourages compliance with a number of tools, such as (1) third-party information reporting to ensure taxpayers have information necessary to comply and prevent underreporting and (2) withholding at the source.¹⁰⁴ Post-filing enforcement measures include examinations, determination of additional tax due and possibly penalties. The Code provides general authority for the IRS to assess all taxes shown on returns.¹⁰⁵ Taxpayers may amend returns to correct errors and the IRS, if it determines that the assessment was materially incorrect, may assess additional tax within the limitations period.¹⁰⁶

Overview of penalties

The Code provides for both civil and criminal penalties to ensure complete and accurate reporting of tax liability and to discourage fraudulent attempts to defeat or evade tax. The majority of delinquent taxes and penalties are collected through the civil process. Most civil penalties are provided in Chapter 68 of the Code (sections 6651-6751) and are categorized into two types: additions to the tax and additional amounts (herein “additions to tax”), and assessable penalties. The assessable penalties are generally imposed for failure to pay over collected taxes and to file information returns and can be assessed without the restrictions applicable in deficiency cases, while the additions to tax are generally subject to deficiency proceedings. The penalties that require notice of deficiencies include delinquency penalties (section 6651), failure by individuals to pay estimated income tax (section 6654), failure by corporations to pay estimated income tax (section 6655), failure to make deposit of taxes (section 6656), accuracy-

¹⁰² Sec. 864(b)(2)(B)(iii).

¹⁰³ Secs. 6011 and 6012.

¹⁰⁴ For a more extensive overview of the enforcement measures in the Code, see Joint Committee on Taxation, *Tax Gap: Overview of Federal Tax Provisions and Analysis of Selected Issues* (JCX-30-21), June 7, 2021. This document can be found on the Joint Committee on Taxation website at www.jct.gov.

¹⁰⁵ See sec. 6201(a), which authorizes assessment of tax computed by the taxpayer as well as amounts computed by the IRS at the election of the taxpayer, under section 6014.

¹⁰⁶ Sec. 6204.

related penalties (sections 6662 and 6662A), and the fraud penalty (section 6663). Some of these penalties may be waived under certain circumstances, including a showing of reasonable cause under section 6664.

Settlement authority

The Code provides that “[t]he Secretary may compromise any civil or criminal case arising under the internal revenue laws prior to reference to the Department of Justice for prosecution or defense; and the Attorney General or his delegate may compromise any such case after reference to the Department of Justice for prosecution or defense.”¹⁰⁷

The IRS administers a voluntary disclosure program to encourage persons who may otherwise be subject to criminal exposure, with a resolution of civil liabilities and related penalties, but assurance that the noncompliance resolved in that case would not be the basis for a referral to criminal investigation.¹⁰⁸ Broad voluntary disclosure programs were conducted with respect to specific issues believed to be high in error rate and revenue impact, such as failure to disclose offshore accounts or report income related to such accounts described below.

A series of various voluntary disclosure programs targeted persons holding offshore financial assets in order to bring into compliance persons who had not been in compliance with their obligations under either the Bank Secrecy Act¹⁰⁹ or the Code with regard to offshore financial accounts.¹¹⁰ The noncompliant taxpayers who were not yet known to the IRS were encouraged to come forward, disclose prior noncompliance, and in doing so, receive resolution involving full or partial relief from certain penalties that would otherwise have been applied under either the Bank Secrecy Act¹¹¹ or the Code. The details varied as successive iterations were introduced, including streamlined procedures. Although the specific voluntary disclosure program related to foreign financial accounts ended, the streamlined procedures remain available to taxpayers who seek to remedy noncompliance that they certify was nonwillful.¹¹² Efforts to challenge the program as violative of due process were rejected, because the difference in treatment had a rational basis.¹¹³

¹⁰⁷ Sec. 7122(a).

¹⁰⁸ Internal Revenue Manual, 9.5.11 *Voluntary Disclosure Practice* (November 19, 2025).

¹⁰⁹ 31 U.S.C. sec. 5311, *et. seq.*

¹¹⁰ Offshore Voluntary Disclosure Program, 2009 – through September 28, 2018.

¹¹¹ 31 U.S.C. sec. 5311, *et. seq.*

¹¹² For details of that program, see IRS, Streamlined filing compliance procedures, available at <https://www.irs.gov/individuals/international-taxpayers/streamlined-filing-compliance-procedures> (last accessed June 3, 2026).

¹¹³ *Dewees v. United States*, No. 17-5274 (D.C. Cir. Apr 9, 2019) (When the IRS assessed penalties after taxpayer withdrew from the offshore voluntary compliance program (“OVCP”) claiming he was denied equal protection due to the different penalty structures in the OVCP of 2009 and later streamlined procedures published in

Wash sales

In general, a sale or other disposition of property is a recognition event—meaning that, upon such sale or other disposition, a taxpayer calculates gain or loss with respect to the property. Certain exceptions to the general rule apply. For example, a taxpayer holding property at a loss may want to recognize the loss while still owning the property. As a close proxy, the taxpayer might try to sell the property and quickly buy it back. (Such a strategy is simplest with fungible, publicly traded property.)¹¹⁴ However, upon such a “wash sale,” a loss in some cases is deferred until a later sale of the new, identical property.

Section 1091 provides that no deduction is allowed currently with respect to any loss claimed to have been sustained from any sale or other disposition of stock or securities if, within a period beginning 30 days before the date of such sale or disposition and ending 30 days after such date, the taxpayer acquires substantially identical stock or securities (the “wash sale rule”).¹¹⁵ Instead, the basis of the new stock or securities is adjusted to reflect the loss not allowed.¹¹⁶ This rule does not apply to a dealer in stock or securities if the loss is sustained in a transaction made in the ordinary course of such business.

For this purpose, the term “stock or securities” includes contracts or options to acquire or sell stock or securities. The Code, however, does not further define the term. Not all fungible, publicly traded property is within the scope of the wash sale rule. For example, neither foreign currency¹¹⁷ nor commodities¹¹⁸ are stock or securities for purposes of the wash sales rule.

Generally, if a taxpayer engages in a wash sale in a brokerage account, the broker must account for and report the wash sale (and loss deferred).¹¹⁹

2011. District court dismissed for lack of standing; the DC Circuit disagreed as to standing but nonetheless dismissed the claim.)

¹¹⁴ A separate rule applies to sales between related parties. See sec. 267.

¹¹⁵ Sec. 1091(a). Under its authority under section 1092(b), Treasury has issued a rule, sometimes referred to as the “modified wash sales rule,” which extends principles relating to wash sales under section 1091 to losses on straddle positions. Sec. 1092(b); Temp. Treas. Reg. sec. 1.1092(b)-1T(a). Because the straddle rules relate to offsetting positions with respect to actively traded personal property (in comparison to the wash sales rule, which applies to sales and dispositions of stock or securities), the modified wash sales rule may apply to certain transactions and certain types of property that the wash sales rule under section 1091 does not.

¹¹⁶ Sec. 1091(d).

¹¹⁷ Rev. Rul. 74-218, 1974-1 C.B. 202 (foreign currency).

¹¹⁸ Rev. Rul. 71-568, 1971-2 C.B. 312 (commodity futures). By holding that commodity futures are not stock or securities, the ruling implicitly holds that commodities (*i.e.*, the underlying) are also not stock or securities. In other words, if the underlying commodities were stock or securities, then the commodity futures would also be stock or securities.

¹¹⁹ See sec. 6045(g)(2)(B)(ii).

Digital assets are not expressly within the scope of section 1091, and the IRS has not issued guidance addressing whether the wash sales rule may apply to sales or dispositions of digital assets.

Constructive sales

Generally, a taxpayer is required to recognize gain upon a constructive sale of an appreciated financial position as if the position were sold, assigned, or otherwise terminated at its fair market value on the date of the constructive sale.¹²⁰ An appreciated financial position is generally defined as any position with respect to any stock, debt instrument, or partnership interest if there would be gain if the position were sold, assigned, or otherwise terminated at its fair market value.¹²¹ The term “position” means an interest, including a futures or forward contract, short sale, or option.¹²²

A taxpayer is treated as having made a constructive sale of an appreciated financial position if the taxpayer (or a related person): (A) enters into a short sale of the same or substantially identical property; (B) enters into an offsetting notional principal contract with respect to the same or substantially identical property; (C) enters into a futures or forward contract to deliver the same or substantially identical property; (D) in the case of an appreciated financial position that is a short sale or a contract described in (B) or (C) with respect to any property, acquires the same or substantially identical property; or (E) to the extent prescribed by the Secretary in regulations, enters into one or more other transactions (or acquires one or more positions) that have substantially the same effect as a transaction described in (A), (B), (C), or (D).

Section 1259 does not reference digital assets, and the IRS has not issued guidance about the possible application of section 1259 to transactions in digital assets.

Taxation of certain possession income

The worldwide taxable income of a U.S. citizen or resident alien generally is subject to the U.S. individual income tax. However, special rules apply to any individual who is a “bona

¹²⁰ Sec. 1259(a)(1). Any gain or loss realized after the constructive sale with respect to the position is adjusted to reflect any gain taken into account as a result of the constructive sale. In addition, the holding period of the position is determined as if the position were originally acquired on the date of the constructive sale. Sec. 1259(a)(2).

¹²¹ Sec. 1259(b)(1). However, certain debt instruments are excluded. See sec. 1259(b)(2).

¹²² Sec. 1259(b)(3).

fide resident”¹²³ of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, or the U.S. Virgin Islands (each, a “possession”).¹²⁴

In the case of an individual who is a bona fide resident of Guam, American Samoa, or the Northern Mariana Islands (each, a “specified possession”) during the entire taxable year, gross income does not include: (1) income derived from sources within any specified possession; and (2) income effectively connected with the conduct of a trade or business by such individual within any specified possession.¹²⁵ Similarly, in the case of an individual who is a bona fide resident of Puerto Rico during the entire taxable year, income derived from sources within Puerto Rico is not to be included in gross income.¹²⁶

The U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands have income tax systems that “mirror” the Code, with the latter two possessions being permitted under current law to de-link and enact their own tax systems provided certain conditions are met. The U.S. Virgin Islands may also impose certain local income taxes in addition to taxes imposed by the mirror Code. The Code provides rules for coordination of United States and U.S. Virgin Islands taxation.¹²⁷ It permits the U.S. Virgin Islands to reduce or remit tax otherwise imposed by the mirror Code if the tax is attributable to U.S. Virgin Islands source income or income effectively connected to the conduct of a trade or business in U.S. Virgin Islands.¹²⁸

¹²³ For purposes of this determination, section 937 provides that the term “bona fide resident” means a person: (1) who is present for at least 183 days during the taxable year in Guam, American Samoa, the Northern Mariana Islands, Puerto Rico, or the Virgin Islands, as the case may be; and (2) who does not have a tax home (determined under the principles of section 911(d)(3) without regard to the second sentence thereof) outside such specified possession during the taxable year and does not have a closer connection (determined under the principles of section 7701(b)(3)(B)(ii)) to the United States or a foreign country than to such specified possession. For purposes of (1), the determination as to whether a person is present for any day is made under the principles of section 7701(b).

¹²⁴ See secs. 931, 932, 933, and 934.

¹²⁵ Sec. 931(a). This does not include amounts paid for services performed as an employee of the United States (or any agency thereof). Sec. 931(d). An individual is not allowed as a deduction from gross income any deductions (other than the deduction under section 151, relating to personal exemptions), or any credit, properly allocable or chargeable against amounts excluded from gross income under section 931. Sec. 931(b).

¹²⁶ Sec. 933(1). Similar to the rules that apply under section 931, the exclusion from gross income does not include amounts received for services performed as an employee of the United States or any agency thereof, and such individual is not allowed as a deduction from his gross income any deductions (other than the deduction under section 151, relating to personal exemptions), or any credit, properly allocable to or chargeable against amounts excluded from gross income under section 933(1).

¹²⁷ Secs. 932 and 934.

¹²⁸ Sec. 934.

Determining possession source income

In general

As a general rule, the principles for determining whether income is U.S. source are applicable for purposes of determining whether the income is possession source. In addition, the principles for determining whether income is effectively connected with the conduct of a U.S. trade or business are applicable for determining whether income is effectively connected to the conduct of a possession trade or business.¹²⁹

Dispositions of personal property

In general, income from the sale of a personal property is determined based on the seller's residence.¹³⁰ If an individual who is a U.S. citizen or resident alien has a tax home¹³¹ in a foreign country, the individual is treated as a nonresident for purposes of this rule.¹³² For purposes of this rule, any possession of the United States is treated as a foreign country.¹³³ However, with respect to a sale of personal property, a U.S. citizen or resident is not treated as a nonresident (notwithstanding their tax home) unless an income tax equal to at least 10 percent of the gain derived from such sale is actually paid to a foreign country with respect to that gain.¹³⁴

Under section 865(j)(3), the Secretary is authorized to waive this 10-percent foreign tax requirement for source treatment of sales of personal property for the purposes of determining Guam, American Samoa, Commonwealth of the Northern Mariana Islands, and Puerto Rico source income.¹³⁵ Notice 89-40¹³⁶ announced that regulations issued under such authority will provide that the 10-percent foreign tax requirement for source treatment of sales of personal property shall not apply to a person that is a bona fide resident of Puerto Rico for the entire taxable year.

¹²⁹ Sec. 937(b)(1). However, except as provided in regulations, any income treated as U.S. source income or as effectively connected with the conduct of a U.S. trade or business is not treated as income from within any possession or as effectively connected with a trade or business within any such possession. Sec. 937(b)(2).

¹³⁰ Sec. 865(a).

¹³¹ As defined in sec. 911(d)(3).

¹³² Sec. 865(g)(1).

¹³³ Sec. 865(i)(3).

¹³⁴ Sec. 865(g)(2).

¹³⁵ Such authority was added by Pub. L. No. 100-647, the Technical and Miscellaneous Revenue Act of 1988 ("TAMRA"). For additional information with respect to this addition, see Joint Committee on Taxation, *Description of the Technical Corrections Act of 1988* (JCS-10-88), March 1988, at 248-49, available at www.jct.gov.

¹³⁶ 1989-1 C.B. 681.

The regulations promulgated under section 937 describe further the source rules with respect to income from sources within a particular possession (the “relevant possession”).¹³⁷ Such regulations provide rules with respect to the disposition of certain property¹³⁸ owned by an individual before such individual became a bona fide resident of the relevant possession.¹³⁹ In general, income from sources within a relevant possession will not include gains from the disposition of such property if, for the taxable year for which the source of the gain must be determined, the individual is a bona fide resident of the relevant possession and, for any of the 10 years preceding such year, the individual was a citizen or resident of the United States (other than a bona fide resident of the relevant possession).¹⁴⁰ However, notwithstanding this general rule, such individual may make an election to treat as gain from sources within the relevant possession the portion of the gain attributable to the individual’s “possession holding period,”¹⁴¹ which is generally the part of the individual’s holding period for the property during which the individual is a bona fide resident of the relevant possession.¹⁴²

¹³⁷ Treas. Reg. sec. 1.937-2.

¹³⁸ Property of a kind described in section 731(c)(3)(C)(i) or 954(c)(1)(B). Treas. Reg. sec. 1.937-2(f)(1)(ii)(A).

¹³⁹ Treas. Reg. sec. 1.937-2(f)(1)(ii)(B).

¹⁴⁰ Treas. Reg. sec. 1.937-2(f)(1)(iii).

¹⁴¹ Treas. Reg. sec. 1.937-2(f)(1)(vi).

¹⁴² Treas. Reg. sec. 1.937-2(f)(1)(vii)(B). The portion of the gain attributable to the possession holding period is determined differently for marketable securities and other property. See Treas. Reg. sec. 1.937-2(f)(1)(vi)(A) and (B).

II. DESCRIPTION OF CERTAIN LEGISLATION RELATING TO THE TAXATION OF DIGIAL ASSETS

A. Description of H.R. 9178, the “Less Tax Paperwork for Digital Asset Owners Act”¹⁴³

1. Treatment of *de minimis* digital asset network fees

Description of Proposal

In general

The proposal provides that no gain or loss is recognized on the disposition of a digital asset¹⁴⁴ in payment of a *de minimis* network fee (the “*de minimis* network fee exception”).

A network fee means an amount paid or incurred in a digital asset transaction to validate another digital asset transaction. A *de minimis* network fee means a network fee if the aggregate amount paid or incurred with respect to the validation of a digital asset transaction does not exceed \$10.

The term “digital asset transaction” means any transfer of a digital asset recorded on the cryptographically secured digital ledger (or similar technology). The term “validate,” and any derivative of the term (including “validation”), when used in connection with a digital asset transaction, includes the processes of proposing transactions for validation and verifying the validation of transactions.

Any payment of a network fee using a digital asset is treated as a disposition of such asset in exchange for consideration equal to the fair market value of the digital asset. A disposition of a digital asset does not fail to be treated as a payment merely because the digital asset is not received by another person.

The *de minimis* network fee exception requires a reduction in the amount of any network fee by the amount of any gain not recognized in any disposition of a digital asset used to pay such network fee when the network fee would otherwise be taken into account in determining the amount of gain or loss on the disposition of any asset, the amount of any deduction, or the basis of any asset acquired.

¹⁴³ Introduced by Representative Yakym on June 8, 2026.

¹⁴⁴ The term “digital asset” means, except as otherwise provided by the Secretary, any digital representation of value which is recorded on a cryptographically secured distributed ledger or any similar technology as specified by the Secretary. This definition is in new section 7701(p) and is the same as the present law definition in section 6045(g)(3)(D).

Exclusions

Method of accounting

The *de minimis* network fee exception does not apply to the disposition of digital assets subject to the mark-to-market method of accounting,¹⁴⁵ simplified accounting for gain or loss on widely traded digital assets,¹⁴⁶ mark-to-market rules of section 1256(a), or any mark-to-market provision under subtitle A (unless otherwise provided by the Secretary).

Certain taxpayers

The *de minimis* network fee exception generally does not apply to the disposition of a digital asset by the following taxpayers:

1. A trader, broker, or dealer in digital assets;
2. A person in the trade or business of batching or facilitating the validation of digital asset transactions on behalf of others;
3. Any person in a trade or business substantially similar to a trade or business described in (1) or (2) to the extent provided by the Secretary; or
4. Any person that engaged in more than 5,000 digital asset transactions during the preceding taxable year.

A taxpayer within any of the four categories above may use the *de minimis* fee exception by demonstrating to the Secretary that the taxpayer is of a type with respect to which disregarding the exclusions for certain taxpayers will not result in a substantial Federal revenue loss.

The proposal requires the Secretary to issue guidance that: (i) identifies the types of taxpayers to which disregarding the exclusions for certain taxpayers will not result in substantial Federal revenue loss; and (ii) specifies the information each such type of taxpayer must provide to the Secretary. The Secretary's guidance must take into account the method(s) used by such type of taxpayer for selection of the digital assets used to pay network fees and the average holding period of such digital assets by such type of taxpayer. Additionally, the guidance must determine the Federal revenue loss by reducing the loss by a reasonable approximation of the additional administrative costs to the Department of the Treasury and the additional compliance cost to such type of taxpayer or any person required to make additional information return reporting with respect to such type of taxpayer.

¹⁴⁵ Sec. 475.

¹⁴⁶ Proposed sec. 1051(a).

Effective Date

The proposal applies to the disposition of assets after December 31, 2027.

2. Simplified accounting for gain and loss on widely traded digital assets

Description of Proposal

The proposal provides an election under which a taxpayer may change the method by which they recognize gain and loss on digital assets.

Under the proposal, a “designated type of digital asset” (or “DTDA”) means, with respect to any taxpayer and taxable year, any type of widely traded digital asset for which the taxpayer elects to apply the alternative method for recognizing gain and loss.

For any DTDA, with respect to any taxable year, the taxpayer’s gain for the year with respect to all of its widely traded digital assets of that designated type is equal to the excess, if any, of:

- 1) The sum of:
 - (i) The aggregate amount realized by the taxpayer on sales or exchanges of such DTDA during the taxable year;
 - (ii) In the case of dispositions (including nonrecognition transactions) other than such sales or exchanges, the fair market value of such DTDA at the time of disposition; and
 - (iii) The fair market value of such DTDA held by the taxpayer at the close of the taxable year; over
- 2) The sum of:
 - (i) The fair market value of the consideration provided by the taxpayer for the acquisition of such DTDA during the taxable year;
 - (ii) In the case of any disposition described in (1)(ii) above, any amounts which would have been realized by the taxpayer on such disposition if such disposition had been a sale or exchange;
 - (iii) In the case of the acquisition of such DTDA during the taxable year that have a basis determined by reference to the basis of the transferor, the taxpayer’s basis in such DTDA immediately after acquisition; and
 - (iv) The fair market value of such DTDA held by the taxpayer as of the close of the preceding taxable year.

If the sum in (2) exceeds the sum in (1), the taxpayer’s loss for the year with respect to such DTDA is the excess, if any, of the second sum over the first sum. The taxpayer does not recognize any gain or loss on the disposition of such DTDA during the taxable year except as provided by these formulas. Any gain or loss recognized under the proposal is treated as short-term capital gain or short-term capital loss, respectively.

The term “widely traded digital asset” means, with respect to any taxpayer for any taxable year and except as otherwise provided by the Secretary to prevent abuse, any traded digital asset if: (i) quotations for the asset were readily available on an exchange for the entire calendar year which ends in or with the taxable year preceding such taxable year; (ii) the market capitalization of such asset exceeded \$500 million (adjusted for inflation) at substantially all times during such calendar year; and (iii) not more than 10 percent of the units of the asset were owned, directly or indirectly, by the taxpayer under section 267(b) (applied without regard to section 267(c)(3)) or section 707(b)(1) at any time during such taxable year or such preceding year.¹⁴⁷ In the case of any wrapped digital asset, except as otherwise provided by the Secretary to prevent abuse, the asset will be treated as a widely traded digital asset if, and only if, the reference digital asset with respect to the wrapped digital asset is a widely traded digital asset.¹⁴⁸

For purposes of this proposal, widely traded digital assets are treated as being of the same type if and only if the assets are fungible or are determined under rules provided by the Secretary to have values that are directly linked or highly correlated.

The term “wrapped digital asset” means, except as otherwise provided by the Secretary to prevent abuse, any digital asset if the asset: (A) is redeemable on demand, on a one-for-one basis, for another digital asset (the “reference digital asset”); and (B) is recorded on a cryptographically secured distributed ledger other than the ledger on which the digital asset referred to in (A) is recorded.¹⁴⁹

The proposal also provides an exception for certain lending agreements. If widely traded digital assets are transferred in a transaction to which section 1058(a) applies, the transferor is treated as continuing to own the assets for purposes of this provision. Similarly, if widely traded digital assets are loaned in a transaction not described in section 1058(a), then, except as otherwise provided by the Secretary, the lender is treated as continuing to own the assets for purposes of the proposal.

Under the proposal, if a taxpayer makes an election with respect to a DTDA, the election applies beginning with the first taxable year that begins after the date on which the election was made, and each taxable year thereafter unless revoked. The election may be revoked for any taxable year, provided the taxable year both has not begun as of the date on which the taxpayer

¹⁴⁷ The Secretary may adjust the requirements that apply in lieu of one or more requirements of the “widely traded asset” definition if the Secretary determines that, due to changes in market conditions, alternative requirements would more effectively or efficiently identify traded digital assets for which there is consistent and reliable price discovery.

¹⁴⁸ The term “prevent abuse” includes the exclusion of assets that lack reliable price discovery or that the Secretary determines are at risk of price manipulation.

¹⁴⁹ If, but for this rule, the reference digital asset would itself be a wrapped digital asset, it is a “lower-tier wrapped digital asset,” and the lower-tier wrapped digital asset’s reference digital asset is treated as the reference digital asset of the wrapped digital asset. For example, digital asset C is a wrapped digital asset, and its reference digital asset is digital asset D. Digital asset D would itself be a wrapped digital asset, so it is referred to as the “lower-tier wrapped digital asset.” Digital asset D’s reference digital asset is digital asset E. As a result, digital asset E is treated as the reference asset for digital asset C. The same rule applies if, but for the operation of the rule, the reference asset of a lower-tier wrapped asset would itself be a wrapped digital asset.

requests the revocation, and is not one of the first five taxable years to which the election applies. Similarly, once an election has been revoked with respect to any DTDA, the taxpayer may not make a new election for such DTDA with respect to any of the first five taxable years after the last year to which the election applied.

In the case of partnerships or S corporations, the election is made by the partnership or S corporation.

If any DTDA ceases to be a widely traded digital asset, the election is treated as revoked for that DTDA with respect to the first taxable year beginning after it ceased to be a widely traded digital asset. In addition, if the taxpayer makes the election under section 475(f)(3) with respect to any taxable year, then the taxpayer is treated as revoking all elections under the proposal with respect to such taxable year.

The proposal also provides transition rules. Under the proposal, when a taxpayer makes an election with respect to any DTDA and taxable year, any DTDA owned by the taxpayer is treated as sold for fair market value on the last day of the prior taxable year. If the taxpayer revokes an election, proper adjustment is made to the amount of any gain or loss subsequently realized for gain or loss taken into account under the proposal.

If the taxpayer transfers a DTDA in a transaction in which the basis of the asset in the hands of the transferee is determined by reference to the taxpayer's basis in the asset, then solely for purposes of determining the transferee's basis in the asset, the taxpayer's basis is treated as equal to the asset's fair market value at the time of the transfer.

The proposal also provides that the wash sales rules and the constructive sales rules do not apply to any transaction with respect a DTDA. In addition, section 267 does not apply with respect to a sale or exchange of a DTDA. Furthermore, if a transferor that has not made the election with respect to an asset transfers the asset to a transferee, and the transferor and transferee are related under section 267(b) (applied without regard to section 267(c)(3)) or section 707(b)(1), then gain or loss is recognized on the transfer, notwithstanding any other provision of the Code.

The proposal clarifies that the distribution of a digital asset from a trust to a beneficiary and the transfer of a digital asset from a decedent (whether or not incident to the decedent's death) are treated as dispositions for purposes of the proposal.

In addition, under the proposal, the Secretary is instructed to prescribe regulations or other guidance as may be necessary or appropriate to carry out the purposes of the proposal, including relating to (1) the form and manner of making or revoking an election; (2) any adjustments related to making or revoking the election; (3) any adjustments to reporting requirements for DTDAs of a taxpayer; (4) the treatment of derivative of a covered digital asset; and (5) preventing abuse.

Effective Date

The proposal applies to taxable years beginning after December 31, 2027.

3. Treatment of U.S. dollar stablecoin transactions

Description of Proposal

In general

Acquisition of qualified U.S. dollar stablecoin

The basis of any qualified U.S. dollar stablecoin¹⁵⁰ acquired by a taxpayer in any sale or exchange equals the redemption value of such stablecoin. The preceding rule does not apply if it is unreasonable under the facts and circumstances to conclude that the value of the consideration provided for such stablecoin is not less than 99.5 percent of the redemption value. “Redemption value” means, with respect to a qualified U.S. dollar stablecoin, the dollar amount the issuer is obligated to convert, redeem, or repurchase such stablecoin.

The income, gain, or loss resulting from the provision of consideration other than money provided in exchange for a qualified US. dollar stablecoin is determined by treating the value of the qualified U.S. dollar stablecoin as equal to the redemption value.

Sale or exchange of U.S. dollar stablecoin

If the basis of any qualified U.S. dollar stablecoin acquired by a taxpayer in any sale or exchange equals the redemption value of such stablecoin, then the taxpayer’s gain or loss on the sale or exchange of such stable coin is determined as though the stablecoin were sold or exchanged for the redemption value. The preceding rule does not apply if it is unreasonable under the facts and circumstances to conclude that the value of the consideration received for the stablecoin in the sale or exchange is not more than 100.5 percent of the redemption value.

In the case of any consideration other than money received in exchange for a qualified U.S. dollar stablecoin, the cost of the consideration is determined by treating the value of such qualified U.S. dollar stablecoin as equal to its redemption value. The preceding rule does not apply if it is unreasonable under the facts and circumstances to conclude that the value of such stablecoin is not less than 99.5 percent, and not more than 100.5 percent, of the redemption value.

¹⁵⁰ The term “qualified U.S. dollar stablecoin” means any U.S. dollar stablecoin which is issued by (i) a permitted payment stablecoin issuer (as defined in section 2(23) of the GENIUS Act, as in effect on the date of enactment) or (ii) a foreign payment stablecoin issuer (as defined in section 2(12) of the GENIUS Act, as in effect on the date of enactment) which is permitted under the GENIUS Act (as in effect on the date of enactment) to offer, sell, or otherwise make available such U.S. dollar stablecoin in the United States. See GENIUS Act, Pub. L. No. 119-27, July 18, 2025. The term “U.S. dollar stablecoin” means a payment stablecoin as defined in section 2(22) of the GENIUS Act, as in effect on the date of enactment, applied by substituting “dollars” for “monetary value” each place it appears in such section. The Secretary must, to the extent feasible, regularly publish a list of qualified U.S. dollar stablecoins. The Secretary may issue regulations or guidance as may be necessary or appropriate to treat qualified U.S. dollar stablecoins as dollars and treat other stablecoins as currency if it would increase Federal revenues.

Related parties

In the case of a sale or exchange between related parties as described in section 267(b) (applied without regard to sections 267(c)(3)) or 707(b)(1), the general rules discussed above apply by substituting “100 percent” for “99.5 percent” or “100.5 percent”.

Exceptions

The general rules described above do not apply to any taxpayer for any taxable year if such taxpayer is:

1. A trader, broker, or dealer in qualified U.S. dollar stablecoins;
2. Any person in a trade or business substantially similar to a trade or business described in (1), to the extent provided by the Secretary; or
3. Any other person that engaged in more than 5,000 digital asset transactions during the preceding taxable year to which the general rules above applied, determined without regard to: (i) any such transaction predominately with respect to a trade or business (other than a trade or business described in (1) or (2)), including the acceptance of qualified U.S. dollar stablecoin at redemption value as a payment for goods and services and the use of qualified U.S. dollar stablecoins at redemption value to acquire goods and services, or (ii) any such transaction which is a sale (for money) of a qualified U.S. dollar stablecoin at or below redemption value.

The general rules of the proposal also do not apply to any taxpayer or qualified business unit¹⁵¹ that uses a functional currency other than the dollar.

Effective Date

The proposal applies to taxable years beginning after December 31, 2026.

4. Broker requirements

Description of Proposal

The proposal amends the rules regarding information reporting under section 6045 with respect to digital assets in three ways: (1) excepting certain qualified U.S. stablecoins from the scope of required reporting, (2) providing special rules for reporting dispositions of digital assets used to pay *de minimis* validation fees and (3) providing special rules for certain dispositions of widely traded digital assets with respect to which a simplified accounting election applies.

First, the proposal provides an exception for certain stablecoins from the scope of covered securities with respect to which brokers must report. It does so by replacing the defined term “digital assets” treated as a covered security with a new defined term “specified digital

¹⁵¹ As defined in section 989(a).

asset.” A specified digital asset is any digital asset other than a qualified U.S. dollar stablecoin, in which the customer’s basis is at least 99.5 percent of the redemption value of the stablecoin.¹⁵² Conforming amendments are made throughout section 6045 to change “digital asset” to “specified digital asset,” and to remove a cross reference to section 6045(g)(3)(D) (definition of digital assets) in section 6050I.

Second, broker reporting is generally not required with respect to the disposition of digital assets used to pay *de minimis* validation fees that do not result in recognized gain or loss by reason of new section 1044(a). Instead, reporting with respect to such fees must be done on an aggregate basis that the Secretary determines is necessary or appropriate, including for purposes of verifying the taxpayer’s basis in digital assets held by the taxpayer.

A broker who has been notified by the taxpayer or the Secretary that the *de minimis* exception applies to the taxpayer may treat the exception as continuing to apply with respect to the taxpayer for any calendar year, unless one of three exceptions applies. The broker may not continue to rely on the earlier notification that an election is in effect in cases in which (1) the taxpayer had more than 5,000 digital asset transactions with the broker during any of the five preceding calendar years and the taxpayer has not notified the broker that an exception applies for the current calendar year; (2) the taxpayer or Secretary notifies the broker that the exception does not apply to the taxpayer; or (3) the broker otherwise knows, or has reason to know, that the exception does not apply to the taxpayer.

Finally, brokers are generally not required to report dispositions of widely traded digital assets with respect to which an election for simplified accounting under new section 1051 applies (“a designated type of digital asset”). The election is effective for the first taxable year beginning after the election is made and succeeding years unless revoked. A broker may rely upon such election or revocation of such election only if notified by the taxpayer or the Secretary, absent actual knowledge or reason to know to the contrary. With respect to each designated type of digital asset held by the taxpayer, the broker must report aggregate information with respect to sales, exchanges, dispositions, and acquisitions and the fair market value of such assets held by the taxpayer at the beginning and end of the calendar year, as required by the Secretary, and such other information as the Secretary may require with respect to assets of such type.

Effective Date

The proposal is effective for returns required to be filed, and statements required to be furnished, after December 31, 2027.

¹⁵² As defined in section 1063(e).

B. Description of H.R. 9175, the “Tax Clarity for Mining and Staking Act”¹⁵³

1. Treatment of certain digital assets received in connection with the validation of digital asset transactions

Description of Proposal

Current inclusions in gross income (new section 1400W-1)

In the case of an acquisition of any newly minted digital asset, a taxpayer’s gross income includes the fair market value of such asset as ordinary income as of the time of acquisition. The amount included in gross income is taken into account in determining the taxpayer’s basis in the newly minted digital asset.

The term “newly minted digital asset” means any digital asset¹⁵⁴ issued in connection with the validation of digital asset transactions (including digital asset validation supporting activities) and that (prior to such issuance) was not owned by any person. A digital asset is not treated as a newly minted digital asset after the disposition of such asset by the first owner. A taxpayer may use any reasonable method to determine whether a digital asset acquired by the taxpayer is a newly minted digital asset. The proposal grants the Secretary authority to issue regulations or other guidance related to such reasonable methods.

The term “validate,” and any derivative of the term (including “validation”), when used in connection with a digital asset transaction, includes the processes of proposing transactions for validation and verifying the validation of transactions. The term “digital asset transaction” means any transfer of a digital asset recorded on the cryptographically secured digital ledger (or similar technology).

The term “digital asset validation supporting activities” means staking, mining, or similar activities in support of the validation of digital asset transactions. The term “staking,” when used in connection with a digital asset, means making the asset available in support of the validation of digital asset transactions and, except as otherwise provided by the Secretary, any substantially similar activity. The term “mining,” when used in connection with a digital asset, means performing computations, or making available computing power, in support of the validation of digital asset transactions, and, except as otherwise provided by the Secretary, any substantially similar activity.

¹⁵³ Introduced by Representative Carey on June 8, 2026.

¹⁵⁴ The term “digital asset” means, except as otherwise provided by the Secretary, any digital representation of value which is recorded on a cryptographically secured distributed ledger or any similar technology as specified by the Secretary. This definition is in new Code section 7701(p) and is the same as the present law definition in Code section 6045(g)(3)(D).

In general, specified acquisition costs are not chargeable to a capital account.¹⁵⁵ The proposal provides the Secretary with authority to allow a taxpayer to charge specified acquisition costs to a capital account if such treatment is consistent with the taxpayer's applicable financial statements.¹⁵⁶ The term "specified acquisition costs" means any amount paid or incurred in connection with validating any digital asset transaction if, at the time such amount is paid or incurred there is a reasonable possibility that the taxpayer will acquire a newly minted digital asset in connection with such validation.

Election to defer inclusion of income and capitalize costs of qualified newly minted digital assets (new section 1400W-2)

The proposal allows a taxpayer to make an election to exclude all qualified newly minted digital assets acquired by the taxpayer during the taxable year from the taxpayer's gross income. The election also requires that specified acquisition costs paid or incurred during such taxable year must be charged to a capital account with respect to qualified newly minted digital assets.¹⁵⁷ Such costs related to validating digital asset transactions include direct costs, allocable indirect costs, fees paid or incurred to another party, and allocable interest.

Upon the disposition of any qualified newly minted digital asset a taxpayer must recognize any gain (notwithstanding any other provision of subtitle A of the Code) and must treat the gain as a disposition of property which is not a capital asset. Additionally, any loss on disposition is treated as a loss from the disposition of property which is not a capital asset to the extent that the loss exceeds the portion of the basis that is not attributable to specified acquisition costs. The rules for dispositions of qualified newly minted digital assets do not apply to a disposition to which section 1058 applies and, to the extent provided by the Secretary, any disposition which is a nonrecognition transaction described in subchapter C or K.

The term "qualified newly minted digital assets" means any newly minted digital asset (determined without regard to whether the original owner disposed of the digital asset) acquired by a taxpayer during the taxable year if:

1. The election applies to such taxpayer for such taxable year; and
2. In the case of any newly minted digital asset issued in connection with a validation of digital asset transactions which was not supported by the staking of digital assets, the taxpayer is the person who validated the digital asset transactions and the first owner of the newly minted digital asset; or

¹⁵⁵ See the explanation of proposed section 1400W-2 (election to defer inclusion of income and capitalize costs of qualified newly minted digital assets) for an exception to the general rule.

¹⁵⁶ Sec. 451(b)(3) and Treas. Reg. sec. 1.451-3(a)(5).

¹⁵⁷ The proposal directs the Secretary to provide rules for the allocation of specified acquisition costs among qualified newly minted digital assets, including rules related to the deduction of certain costs when a taxpayer indefinitely ceases all activities related to the validation of digital assets (including staking and mining).

3. In the case of any newly minted digital asset issued in connection with a validation of digital asset transactions supported by the staking of digital assets, the taxpayer must hold the digital assets that were so staked, and either own the newly minted digital assets first or acquire such assets promptly after the issuance of such newly minted digital assets. For the purposes of determining the person who holds staked digital assets, if a digital asset is lent to any person, such person (and not the person lending such asset) is treated as holding the staked digital asset.

The election applies to the taxable year for which it is made and for each taxable year thereafter unless revoked with the consent of the Secretary. In the case of any partnership or S corporation, the election is made at the partnership or S corporation level.

The election is treated as a change in the taxpayer's method of accounting for purposes of section 481 initiated by the taxpayer and made with the consent of the Secretary. This rule is applied on a cutoff basis to assets acquired in taxable years beginning after the date of enactment (hence there is no adjustment under section 481(a)).

New section 1400W-2 does not apply to the following: (1) any controlled foreign corporation or passive foreign investment company;¹⁵⁸ (2) except as otherwise provided by the Secretary, (A) any foreign trust and (B) any partnership with one or more controlled foreign corporations, passive foreign investment companies, or foreign trusts as a partner in such partnership; and (3) to the extent provided by the Secretary, any partnership or trust if one or more entities described in (2)(B) are indirectly partners in such partnership or direct or indirect beneficiaries of such trust.

The proposal grants the Secretary authority to provide regulations or other guidance providing rules for the application of proposed section 1400W-2 to digital assets owned through a widely traded fixed investment trust.

Special rules (new section 1400W-3)

The proposal includes a variety of special rules included below.

Acquire

For purposes of new subchapter W, a person is treated as acquiring a newly minted digital asset in any case where the person comes to possess such asset without regard to the manner such person comes to possess the asset.

Clarification that certain transfers are treated as dispositions

For purposes of new subchapter W, a disposition includes: (1) the distribution of any digital asset from a trust to a beneficiary; and (2) the transfer of any digital asset from a decedent (whether or not incident to the decedent's death).

¹⁵⁸ As defined in sec. 1297.

Clarification of sourcing rules for digital assets acquired in connection with validating digital asset transactions

The proposal provides that income from the acquisition of any digital asset received in connection with the validation of digital asset transactions (including digital asset validation supporting activities) is U.S. source if the taxpayer is a U.S. resident at the time of the acquisition, and outside of the United States if the taxpayer is a nonresident at the time of the acquisition. Similarly, the proposal provides that income deferred under section 1400W-2(b) is U.S. source if the taxpayer is a U.S. resident at the time of the disposition, and outside of the United States if the taxpayer is a nonresident at the time of disposition.

Under the proposal, in the case of a U.S. person with a qualified business unit (as defined in section 989(a)) in a foreign country, income from the acquisition or disposition of any digital asset received in connection with validating digital asset transactions that constitute business profits attributable to such qualified business unit is sourced outside of the United States. Similarly, under the proposal, in the case of a person that is not a U.S. person, and that maintains an office or other fixed place of business in the United States, the income from the acquisition or disposition of any digital asset received in connection with validating digital asset transactions attributable to such office or other fixed place of business is U.S. source.

The proposal provides that the Secretary may issue regulations or other guidance as determined to be necessary or appropriate for purposes of determining the amount of business profits attributable to a qualified business unit or office or other fixed place of business, and that in the case of a partnership, except as otherwise provided by the Secretary in regulations or other guidance, the sourcing rules apply at the partner level.

Rules relating to partnerships that hold newly minted digital assets

The proposal provides that for the purposes of section 751(c), the term “unrealized receivables” includes qualified newly minted digital assets (as defined in section 1400W-2(d)), but only to the extent of the amount which would be treated as gain to which section 1400W-2(b)(1)(A) would apply if (at the time of the transaction) such property had been sold by the partnership at its fair market value.

Coordination with deduction for qualified business income

The proposal provides that for the purpose of section 199A, any item of gain or loss on the disposition of any newly minted digital asset¹⁵⁹ and any item of income includable in gross income resulting from an acquisition of any newly minted digital asset¹⁶⁰ is excluded from the definition of qualified business income.

In addition, with respect to newly minted digital assets of a partnership to which section 751(a) or (b) applies by reason of the new reference in section 751(c) to qualified newly minted

¹⁵⁹ As defined in new sec. 1400W-3(a)(1).

¹⁶⁰ Under new sec. 1400W-1(a)(1).

digital assets,¹⁶¹ the amount of gain realized under section 751(a) or (b) is excluded from the definition of qualified business income.

Effective Date

The proposal applies to assets acquired in taxable years beginning after the date of enactment.

2. Investment trusts engaged in digital asset staking

Description of Proposal

The proposal provides that an entity or arrangement does not fail to be treated as a trust for purposes of the Code solely by reason of the power of the trustee of the entity or under the arrangement to (1) engage in staking digital assets held by the trust; (2) retain or distribute digital assets received in connection with staking; (3) determine which digital assets held by the trust to use in staking; (4) to the extent any digital assets held by the trust are committed to staking, take measures necessary or appropriate to ensure that the trust has sufficient liquidity to make distributions in redemptions of interests in the trust, including by purchasing the right to borrow money or digital assets to make such distributions; and (5) perform acts related to the exercise of the powers described in (1) through (4). This rule does not apply in the case of an entity or arrangement engaged in the active conduct of a trade or business of validating digital asset transactions.

Effective Date

The proposal is effective for taxable years ending after the date of enactment.

¹⁶¹ As defined in new sec. 1400W-2(d).

C. Description of H.R. 9173, the “Charitable Deductions for Digital Asset Donations Act”¹⁶²

1. Charitable contributions of widely traded digital assets

Description of Proposal

The proposal adds widely traded digital assets (except as the Secretary determines appropriate to prevent abuse) to the types of readily valued property that are excepted from the qualified appraisal requirements for contributions of property for which a deduction of more than \$5,000 or \$500,000 is claimed.

The term “widely traded digital asset” means, with respect to any taxpayer for any taxable year and except as otherwise provided by the Secretary to prevent abuse, any traded digital asset if: (i) quotations for the asset were readily available on an exchange for the entire calendar year which ends in or with the taxable year preceding such taxable year; (ii) the market capitalization of such asset exceeded \$500 million (adjusted for inflation) at substantially all times during such calendar year; and (iii) not more than 10 percent of the units of the asset were owned, directly or indirectly, by the taxpayer under section 267(b) (applied without regard to section 267(c)(3)) or section 707(b)(1) at any time during such taxable year or such preceding year.¹⁶³ In the case of any wrapped digital asset, except as otherwise provided by the Secretary to prevent abuse, the asset will be treated as a widely traded digital asset if, and only if, the reference digital asset with respect to the wrapped digital asset is a widely traded digital asset.¹⁶⁴

The term “traded digital asset” means, except as otherwise provided by the Secretary to prevent abuse, any digital asset if: (1) the asset is fungible; (2) quotations of the asset are readily available on an exchange (or, in the case of an exchange that does not provide quotations; such quotations are readily ascertainable); and (3) the asset is either not a tokenized digital asset or a wrapped digital asset with respect to which the reference digital asset is a traded digital asset.

The term “wrapped digital asset” means, except as otherwise provided by the Secretary to prevent abuse, any digital asset if the asset (A) is redeemable on demand, on a one-for-one basis, for another digital asset (the “reference digital asset”) and (B) is recorded on a cryptographically

¹⁶² Introduced by Representative Kelly of Pennsylvania on June 8, 2026.

¹⁶³ The Secretary may adjust the requirements that apply in lieu of one or more requirements of the “widely traded asset” definition if the Secretary determines that, due to changes in market conditions, alternative requirements would more effectively or efficiently identify traded digital assets for which there is consistent and reliable price discovery.

¹⁶⁴ The term “prevent abuse” includes the exclusion of assets that lack reliable price discovery or that the Secretary determines are at risk of price manipulation.

secured distributed ledger other than the ledger on which the digital asset referred to in (A) is recorded.¹⁶⁵

The term “tokenized digital asset” means any digital asset (other than any qualified U.S. dollar stablecoin) if more than an insignificant portion of the value of the digital asset is related to anything other than the operation of the cryptographically secured distributed ledger on which such digital asset is recorded.

The term “qualified U.S. dollar stablecoin” means any U.S. dollar stablecoin which is issued by: (i) a permitted payment stablecoin issuer;¹⁶⁶ or (ii) a foreign payment stablecoin issuer¹⁶⁷ which is permitted under the GENIUS Act¹⁶⁸ (as in effect on the date of enactment) to offer, sell, or otherwise make available such U.S. dollar stablecoin in the United States. The term “U.S. dollar stablecoin” means a payment stablecoin as defined in section 2(22) of the GENIUS Act, as in effect on the date of enactment, applied by substituting “dollars” for “monetary value” each place it appears in such section. The Secretary must, to the extent feasible, regularly publish a list of qualified U.S. dollar stablecoins. The Secretary may issue regulations or guidance as may be necessary or appropriate to treat qualified U.S. dollar stablecoins as dollars and treat other stablecoins as currency if it would increase Federal revenues.

The term “digital asset” means, except as otherwise provided by the Secretary, any digital representation of value which is recorded on a cryptographically secured distributed ledger or any similar technology as specified by the Secretary.¹⁶⁹

Effective Date

The proposal is effective for taxable years beginning after December 31, 2026.

¹⁶⁵ If, but for this rule, the reference digital asset would itself be a wrapped digital asset, it is a “lower-tier wrapped digital asset,” and the lower-tier wrapped digital asset’s reference digital asset is treated as the reference digital asset of the wrapped digital asset. For example, digital asset C is a wrapped digital asset, and its reference digital asset is digital asset D. Digital asset D would itself be a wrapped digital asset, so it is referred to as the “lower-tier wrapped digital asset.” Digital asset D’s reference digital asset is digital asset E. As a result, digital asset E is treated as the reference asset for digital asset C. The same rule applies if, but for the operation of the rule, the reference asset of a lower-tier wrapped asset would itself be a wrapped digital asset.

¹⁶⁶ As defined in section 2(23) of the GENIUS Act, as in effect on the date of the enactment. See GENIUS Act, Pub. L. No. 119-27, July 18, 2025.

¹⁶⁷ As defined in section 2(12) of the GENIUS Act, as in effect on the date of enactment. See GENIUS Act, Pub. L. No. 119-27, July 18, 2025.

¹⁶⁸ Pub. L. No. 119-27, July 18, 2025.

¹⁶⁹ This definition is in new Code section 7701(p) and is the same as the present law definition in Code section 6045(g)(3)(D).

2. Rules of construction

Description of Proposal

The proposal provides that, except as otherwise expressly provided by the bill (or an amendment made by the bill) with respect to the application of one or more provisions of the Code, no inference is intended with respect to whether a digital asset is a security, a commodity, debt, equity, stock, a partnership interest, or an interest in a trust, for purposes of any provision of law. The proposal also provides that no inference is intended with respect to the proper application of any provision of the Code for any period before the period to which the proposal applies.

Effective Date

The proposal is effective on the date of enactment.

D. Description of H.R. 9176, the “Providing Analogous Rules for Digital Assets Act” (“PAR Act”)¹⁷⁰

1. Transfers of traded digital assets pursuant to a lending agreement

Description of Proposal

The proposal expands the application of the section 1058 rules that apply to transfers of securities¹⁷¹ under certain agreements so as to apply these rules to transfers of traded digital assets in addition to transfers of securities. It does so by revising section 1058 to apply to transfers of “specified assets” and then defining “specified assets” to mean both securities (as defined in section 1236(c)) as well as traded digital assets. As a result, if the requirements of section 1058(b) are met, then no gain or loss is recognized by the taxpayer on an exchange of traded digital assets described in section 1058(a).

In addition, the proposal modifies the second requirement in section 1058(b). Under the proposal, this requirement is met if, during the period beginning with the transfer of the specified assets by the transferor and ending with the transfer of identical specified assets back to the transferor, payments are made to the transferor of amounts equivalent to all interest, dividends, property, legal entitlements, and other distributions which the owner of the specified assets is entitled to receive, except as otherwise provided by the Secretary. Furthermore, if the specified assets transferred are traded digital assets, then, in order for this requirement to be met, the transferor must also assume all obligations imposed on the owner of the traded digital assets during this period.

The term “traded digital asset” means, except as otherwise provided by the Secretary to prevent abuse, any digital asset if: (1) the asset is fungible; (2) quotations of the asset are readily available on an exchange (or, in the case of an exchange that does not provide quotations, such quotations are readily ascertainable); and (3) the asset is either not a tokenized digital asset or a wrapped digital asset with respect to which the reference digital asset is a traded digital asset.

The term “digital asset” means, except as otherwise provided by the Secretary, any digital representation of value which is recorded on a cryptographically secured distributed ledger or any similar technology as specified by the Secretary.¹⁷²

The term “tokenized digital asset” means any digital asset (other than any qualified U.S. dollar stablecoin) if more than an insignificant portion of the value of the digital asset is related to anything other than the operation of the cryptographically secured distributed ledger on which such digital asset is recorded. The term “wrapped digital asset” means, except as otherwise provided by the Secretary to prevent abuse, any digital asset if the asset: (A) is redeemable on demand, on a one-for-one basis, for another digital asset (the “reference digital asset”); and (B) is

¹⁷⁰ Introduced by Representative Kustoff on June 8, 2026.

¹⁷¹ For purposes of this rule, the term “securities” has the meaning provided in section 1236(c).

¹⁷² This definition is in new Code section 7701(p) and is the same as the present law definition in Code section 6045(g)(3)(D).

recorded on a cryptographically secured distributed ledger other than the ledger on which the digital asset referred to in (A) is recorded.¹⁷³

Effective Date

The proposal applies to transfers made after the date of enactment.

2. Dealers and traders of widely traded digital assets

Description of Proposal

The proposal allows traders and dealers of certain digital assets to elect application of the mark-to-market accounting rules, similar to elections that may be made under present law by securities traders and commodities traders and dealers. All covered digital assets held by an electing taxpayer in connection with a trade or business as a trader or dealer in covered digital assets are subject to mark-to-market treatment. With respect to covered digital assets held by a trader or dealer in covered digital assets, rules apply in the same manner as those that apply to securities held by securities traders and dealers, respectively.

A covered digital asset means (1) any widely traded digital asset; (2) any notional principal contract with respect to a widely traded digital asset; (3) any evidence of an interest in, or a derivative instrument in, any widely traded digital asset described in (1) or (2), including any option, forward contract, futures contract, short position, and any similar instrument in the widely traded digital asset; and (4) any position which (a) is not a covered digital asset described in (1), (2), or (3), (b) is a hedge with respect to the covered digital asset, and (c) is clearly identified in the taxpayer's records as being described in (4) before the close of the day on which it was acquired or entered into (or such other time as the Secretary may by regulations prescribe).

The term “widely traded digital asset” means, with respect to any taxpayer for any taxable year and except as otherwise provided by the Secretary to prevent abuse, any traded digital asset if (i) quotations for the asset were readily available on an exchange for the entire calendar year which ends in or with the taxable year preceding such taxable year; (ii) the market capitalization of such asset exceeded \$500 million (adjusted for inflation) at substantially all times during such calendar year; and (iii) not more than 10 percent of the units of the asset were owned, directly or indirectly, by the taxpayer under section 267(b) (applied without regard to section 267(c)(3)) or section 707(b)(1) at any time during such taxable year or such preceding year.¹⁷⁴ In the case of any wrapped digital asset, except as otherwise provided by the Secretary

¹⁷³ If, but for this rule, the reference digital asset would itself be a wrapped digital asset, it is a “lower-tier wrapped digital asset,” and the lower-tier wrapped digital asset’s reference digital asset is treated as the reference digital asset of the wrapped digital asset. For example, digital asset C is a wrapped digital asset, and its reference digital asset is digital asset D. Digital asset D would itself be a wrapped digital asset, so it is referred to as the “lower-tier wrapped digital asset.” Digital asset D’s reference digital asset is digital asset E. As a result, digital asset E is treated as the reference asset for digital asset C. The same rule applies if, but for the operation of the rule, the reference asset of a lower-tier wrapped asset would itself be a wrapped digital asset.

¹⁷⁴ The Secretary may adjust the requirements that apply in lieu of one or more requirements of the “widely traded asset” definition if the Secretary determines that, due to changes in market conditions, an alternative

to prevent abuse, the asset will be treated as a widely traded digital asset if, and only if, the reference digital asset with respect to the wrapped digital asset is a widely traded digital asset.¹⁷⁵

With respect to covered digital assets which are securities or commodities, the proposal provides that such digital assets are not treated as securities or commodities for purposes of the mark-to-market election, except in the case of covered digital assets that are securities held by a dealer in securities.

In the case of an adjustment described in section 481(a) which is attributable to a mark-to-market election with respect to securities, commodities, or covered digital assets, the character of any income or loss with respect to any property as a result of the adjustment is the same as the character of gain or loss which would have resulted from the sale of the property as of the close of the taxable year preceding the year of the change¹⁷⁶ under the method of accounting used for that preceding taxable year.

Effective Dates

The proposal is effective for taxable years beginning after the date of enactment. In the case of a taxpayer that is a trader or dealer in covered digital assets that makes an election to change the taxpayer's method of accounting for the taxpayer's first taxable year beginning after the date of enactment, any identification required with respect to covered digital assets held on the first day of the taxable year is treated as timely made if made on or before the 30th day of the taxable year, and the net amount of the adjustments required to be taken into account by the taxpayer under section 481 is taken into account ratably over the four-year taxable year period beginning with such taxable year.

3. Digital asset trading safe harbor

Description of Proposal

The proposal amends section 864(b)(2) by adding traded digital assets to the trading safe harbor. If a foreign person trades in traded digital assets within the United States through a resident broker, commission agent, custodian, or other independent agent, the trading is not treated as a U.S. trade or business if the foreign person does not have an office or other fixed place of business in the United States through which the transactions are effected. In addition, if a foreign person trades traded digital assets within the United States for the person's own account, and the person is not a dealer in traded digital assets, the trading is not treated as a U.S. trade or businesses.

requirements would more effectively or efficiently identify traded digital assets for which there is consistent and reliable price discovery.

¹⁷⁵ The term "prevent abuse" includes the exclusion of assets that lack reliable price discovery or that the Secretary determines are at risk of price manipulation.

¹⁷⁶ Within the meaning of sec. 481.

Effective Date

The proposal is effective for taxable years beginning after December 31, 2025.

4. Rules of construction

Description of Proposal

The proposal provides that, except as otherwise expressly provided by the bill (or an amendment made by the bill) with respect to the application of one or more provisions of the Code, no inference is intended with respect to whether a digital asset is a security, a commodity, debt, equity, stock, a partnership interest, or an interest in a trust, for purposes of any provision of law. The proposal also provides that no inference is intended with respect to the proper application of any provision of the Code for any period before the period to which the proposal applies.

Effective Date

The proposal is effective on date of enactment.

E. Description of H.R. 9174, the “Digital Assets Voluntary Disclosure Program Act”¹⁷⁷

1. Establishment of digital assets voluntary disclosure program

Description of Proposal

The proposal directs the Secretary to establish and conduct a voluntary disclosure program (“the program”) specifically to provide a means by which individuals who underreported or misreported tax consequences of digital assets violations may remedy their noncompliance with results less onerous than they would otherwise receive. The program is required to be established within one year of date of enactment. The program includes standards for eligibility for the program, measures that a participant in the program must take to complete the program satisfactorily, and the resulting tax relief extended to the participant.

For purposes of the program, “digital asset violation” means a failure to comply with a requirement of the Code that is related to ownership of, or transactions with, digital assets¹⁷⁸ and results in an error in properly reporting any tax item for any applicable period. An applicable period is the period beginning with the later of the first taxable year affected by the digital asset violation or the first year for which a return was filed within the six-year period immediately prior to date of enactment and ending with the last taxable year prior to date of enactment.

Eligible taxpayers

Persons who may participate in the program are either certified or uncertified eligible taxpayers. Certified eligible taxpayers are those who have committed a digital assets violation as described and certify under penalties of perjury that no such violation was willful or fraudulent. Taxpayers who are under examination for any of the three preceding taxable years are generally not eligible unless the Secretary consents. The uncertified eligible taxpayers are all others who have digital assets violations for prior taxable years but did not certify the lack of willful or fraudulent actions. Those who are under examination or criminal investigation by the IRS may participate only if the Secretary issues a waiver permitting their participation.

Remedial actions required of program participants

All eligible taxpayers who wish to participate must, in the time and manner determined by the Secretary, file the appropriate amended tax returns within 24 months of the date the program is established to rectify the digital assets violations and supply information as the Secretary deems appropriate. They are required to pay aggregated tax deficiencies with interest and the digital assets violation penalty, notwithstanding any expired limitations period for the

¹⁷⁷ Introduced by Representative Bean on June 8, 2026.

¹⁷⁸ Digital asset is defined as any digital representation of value which is recorded on a cryptographically secured distributed ledger or any similar technology as specified by the Secretary.

applicable periods. In addition to the foregoing, uncertified eligible taxpayers must submit a formal application to participate and may be subject to a user fee under section 7528.

The digital assets violation penalty depends on the type of taxpayer (whether certified eligible or not), the amount of deficiencies in tax attributable to the digital assets violation and whether the amended returns were filed within the first 12 months of the program, as shown in the table below. The Secretary is authorized to waive the civil penalties upon determination that such waiver is in the interests of justice and proper tax administration, including findings of reasonable cause for the digital assets violations.

Digital Assets Violations Penalty Rates

Aggregate Deficiencies	Certified Eligible Taxpayers		Uncertified Eligible Taxpayers	
	Amended returns filed within 12 months	Amended returns filed after 12 months	Amended returns filed within 12 months	Amended returns filed after 12 months
\$25,000 or less	-0-	5 percent	25 percent	40 percent
Over \$25,000 up to \$100,000	5 percent		40 percent	50 percent
Over \$100,000	5 percent	10 percent	40 percent	50 percent

Benefits of participation including reduced penalties

If all required remedial actions are completed satisfactorily, the participants are eligible for civil penalty relief. For certified eligible taxpayers, the benefit is the digital assets violation penalty in lieu of the applicable accuracy-related penalties under section 6662 attributable to digital assets violations disclosed in the program. The uncertified eligible taxpayers receives similar relief from the otherwise applicable civil penalties under section 6662 (generally accuracy-related) and section 6663 (fraud).

The proposal also limits the Secretary authority to use information about digital assets violations disclosed by an uncertified eligible taxpayer in the program. Such information cannot be used as a basis for referring the taxpayer for criminal investigation or prosecution with respect to the digital assets violations for tax evasion under section 7201, willful failure to file under section 7203, or making false or fraudulent statements under section 7206 (other than for aiding and abetting false statements as described in paragraph 2 of that section).

Effective Date

The proposal is effective on the date of enactment.

F. Description of H.R. 9172, the “Applying Existing Tax Anti-Abuse Rules to Digital Assets Act”¹⁷⁹

1. Application of wash sale rules to digital assets

Description of Proposal

The proposal extends the wash sales rule to certain digital assets and certain related derivatives. Under the proposal, the wash sales rule is modified to apply to specified assets, such that no deduction is allowed with respect to any loss claimed to have been sustained from any sale or other disposition of such assets if, within a period beginning 30 days before the date of such sale or disposition and ending 30 days after such date, the taxpayer acquires substantially identical assets. The term “specified asset” means (1) any stock or security (as under present law), (2) any digital asset other than a qualified U.S. dollar stablecoin, and (3) any contract or option to acquire or sell an asset described in (1) or (2).

The term “digital asset” means, except as otherwise provided by the Secretary, any digital representation of value which is recorded on a cryptographically secured distributed ledger or any similar technology as specified by the Secretary.¹⁸⁰ The term “qualified U.S. dollar stablecoin” means any U.S. dollar stablecoin which is issued by (i) a permitted payment stablecoin issuer¹⁸¹ or (ii) a foreign payment stablecoin issuer¹⁸² which is permitted under the GENIUS Act¹⁸³ (as in effect on the date of enactment) to offer, sell, or otherwise make available such U.S. dollar stablecoins in the United States. The term “U.S. dollar stablecoin” means a payment stablecoin as defined in section 2(22) of the GENIUS Act, as in effect on the date of enactment, applied by substituting “dollars” for “monetary value” each place it appears in such section.¹⁸⁴

The proposal provides that a tokenized digital asset (and a wrapped digital asset with respect to which the reference digital asset is a traded digital asset) is treated as substantially identified to any stock, security, or digital asset if the tokenized digital asset (or wrapped digital asset) is economically equivalent to such stock, security, or digital asset. The term “tokenized digital asset” means any digital asset (other than any qualified U.S. dollar stablecoin) if more

¹⁷⁹ Introduced by Representative Arrington on June 8, 2026.

¹⁸⁰ This definition is in new section 7701(p) and is the same as the present law definition in section 6045(g)(3)(D).

¹⁸¹ As defined in section 2(23) of the GENIUS Act, as in effect on the date of the enactment. See GENIUS Act, Pub. L. No. 119-27, July 18, 2025.

¹⁸² As defined in section 2(12) of the GENIUS Act, as in effect on the date of enactment. See GENIUS Act, Pub. L. No. 119-27, July 18, 2025.

¹⁸³ Pub. L. No. 119-27, July 18, 2025.

¹⁸⁴ The Secretary must, to the extent feasible, regularly publish a list of qualified U.S. dollar stablecoins. The Secretary may issue regulations or guidance as may be necessary or appropriate to treat qualified U.S. dollar stablecoins as dollars and treat other stablecoins as currency if it would increase Federal revenues.

than an insignificant portion of the value of the digital asset is related to anything other than the operation of the cryptographically secured distributed ledger on which such digital asset is recorded. The term “wrapped digital asset” means, except as otherwise provided by the Secretary to prevent abuse, any digital asset if the asset (A) is redeemable on demand, on a one-for-one basis, for another digital asset (the “reference digital asset”) and (B) is recorded on a cryptographically secured distributed ledger other than the ledger on which the digital asset referred to in (A) is recorded.¹⁸⁵ The term “traded digital asset” means, except as otherwise provided by the Secretary to prevent abuse, any digital asset if (1) the asset is fungible; (2) quotations of the asset are readily available on an exchange (or, in the case of an exchange that does not provide quotations, such quotations are readily ascertainable); and (3) the asset is either not a tokenized digital asset or a wrapped digital asset with respect to which the reference digital asset is a traded digital asset.

The proposal provides that in the case of a taxpayer or qualified business unit¹⁸⁶ that uses a functional currency other than the dollar, a qualified U.S. dollar stablecoin is treated as a specified asset for purposes of the wash sales rule. However, an acquisition of a digital asset is not taken into account for purposes of the wash sales rule if the digital asset is acquired in connection with the validation of digital asset transactions (including digital asset validation supporting activities). The term “validate,” and any derivative the term (including “validation”), when used in connection with a digital asset transaction, includes the processes of proposing transactions for validation and verifying the validation of transactions. The term “digital asset transaction” means any transfer of a digital asset recorded on the cryptographically secured digital ledger (or similar technology). The term “digital asset validation supporting activities” means staking,¹⁸⁷ mining,¹⁸⁸ or similar activities in support of the validation of digital asset transactions.

Effective Dates

The proposal is generally effective for dispositions after the date of introduction. For purposes of broker reporting rules under section 6045, in the case of a sale or other disposition before January 1, 2028, of a digital asset to which section 1091 would not have applied but for

¹⁸⁵ If, but for this rule, the reference digital asset would itself be a wrapped digital asset, it is a “lower-tier wrapped digital asset,” and the lower-tier wrapped digital asset’s reference digital asset is treated as the reference digital asset of the wrapped digital asset. For example, digital asset C is a wrapped digital asset, and its reference digital asset is digital asset D. Digital asset D would itself be a wrapped digital asset, so it is referred to as the “lower-tier wrapped digital asset.” Digital asset D’s reference digital asset is digital asset E. As a result, digital asset E is treated as the reference asset for digital asset C. The same rule applies if, but for the operation of the rule, the reference asset of a lower-tier wrapped asset would itself be a wrapped digital asset.

¹⁸⁶ As defined in section 989(a).

¹⁸⁷ The term “staking,” when used in connection with a digital asset, means making the asset available in support the validation of digital asset transactions and, except as otherwise provided by the Secretary, any substantially similar activity.

¹⁸⁸ The term “mining,” when used in connection with a digital asset, means performing computations, or making available computing power, in support of the validation of digital asset transactions, and, except as otherwise provided by the Secretary, any substantially similar activity.

the amendments made by the proposal, the customer's adjusted basis is determined without regard to section 1091.

2. Application of constructive sale rules to digital assets

Description of Proposal

The proposal amends the constructive sales provision by expanding the term “appreciated financial position” to also include digital assets other than qualified U.S. dollar stablecoins. As a result, the constructive sale rule will apply to digital assets other than qualified U.S. dollar stablecoins. The proposal also expands the exception for sales of nonpublicly traded property to apply to digital assets other than qualified U.S. dollar stablecoin. As a result, the constructive sales provision does not apply to digital assets that are not marketable securities or widely traded digital assets¹⁸⁹ unless the contract settles within one year after the date the contract is entered into.

The term “widely traded digital asset” means, with respect to any taxpayer for any taxable year and except as otherwise provided by the Secretary to prevent abuse, any traded digital asset if (i) quotations for the asset were readily available on an exchange for the entire calendar year which ends in or with the taxable year preceding such taxable year, (ii) the market capitalization of such asset exceeded \$500 million (adjusted for inflation) at substantially all times during such calendar year, and (iii) not more than 10 percent of the units of the asset were owned, directly or indirectly, by the taxpayer under section 267(b) (applied without regard to section 267(c)(3)) or section 707(b)(1) at any time during such taxable year or such preceding year.¹⁹⁰ In the case of any wrapped digital asset, except as otherwise provided by the Secretary to prevent abuse, the asset will be treated as a widely traded digital asset if, and only if, the reference digital asset with respect to the wrapped digital asset is a widely traded digital asset.¹⁹¹

The proposal also provides a rule for tokenized digital assets. Under this rule, for purposes of the constructive sales provision, a tokenized digital asset is treated as substantially identical to any stock, debt instrument, or partnership interest if such tokenized digital asset is economically equivalent to such stock, debt instrument, or partnership interest.

In addition, the proposal limits the definition of qualified U.S. dollar stablecoins for purposes of this provision. Under the proposal, if a taxpayer or qualified business unit¹⁹² uses a functional currency other than the dollar, then, with respect to the taxpayer or qualified business

¹⁸⁹ For purposes of this rule, marketable securities are defined in section 453(f).

¹⁹⁰ The Secretary may adjust the requirements that apply in lieu of one or more requirements of the “widely traded asset” definition if the Secretary determines that, due to changes in market conditions, alternative requirements would more effectively or efficiently identify traded digital assets for which there is consistent and reliable price discovery.

¹⁹¹ The term “prevent abuse” includes the exclusion of assets that lack reliable price discovery or that the Secretary determines are at risk of price manipulation.

¹⁹² As defined in section 989(a).

unit, a qualified U.S. dollar stablecoin is not treated as a qualified U.S. dollar stablecoin for purposes of the provision.

Effective Date

The proposal applies to constructive sales after the date of introduction.

3. Rules of construction

Description of Proposal

The proposal provides that, except as otherwise expressly provided by the bill (or an amendment made by the bill) with respect to the application of one or more provisions of the Code, no inference is intended with respect to whether a digital asset is a security, a commodity, debt, equity, stock, a partnership interest, or an interest in a trust, for purposes of any provision of law. The proposal also provides that no inference is intended with respect to the proper application of any provision of the Code for any period before the period to which the proposal applies.

Effective Date

The proposal is effective on date of enactment.

**G. Description of Discussion Draft, H.R. _____,
the “End Digital Assets Tax Shelters Act”**

1. Certain gain on sale of digital assets treated as sourced in the United States

Description of Proposal

The proposal provides that, notwithstanding the authorization of the Secretary to waive the 10-percent foreign tax requirement for source treatment of sales of personal property for the purposes of determining Guam, American Samoa, Commonwealth of the Northern Mariana Islands, and Puerto Rico source income, a U.S. citizen or resident alien is treated as a U.S. resident with respect to the sale of a digital asset¹⁹³ (or any other personal property if such property was received in exchange for a digital asset in a nonrecognition transaction) during any taxable year if: (1) an income tax equal to at least 10 percent of the gain derived from such sale is not actually paid to a foreign country (which includes any possession of the United States)¹⁹⁴ with respect to such gain; and (2) such U.S. citizen or resident alien was a U.S. resident with respect to any of the 10 preceding taxable years.

Effective Date

The proposal applies to taxable years beginning after December 31, 2026.

¹⁹³ The term “digital asset” means, except as otherwise provided by the Secretary, any digital representation of value which is recorded on a cryptographically secured distributed ledger or any similar technology as specified by the Secretary.

¹⁹⁴ Sec. 865(i)(3).

III. REVENUE ESTIMATES

Revenue estimates of the six bills and the discussion draft are described on the following page.

ESTIMATED REVENUE EFFECTS OF TAX LEGISLATION RELATED TO DIGITAL ASSETS

Fiscal Years 2026 - 2036

[Millions of Dollars]

Provision	Effective	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2026-36
1. H.R. 9178, the "Less Tax Paperwork for Digital Asset Owners Act".....	generally doaa 12/31/27	---	---	-52	-125	-158	-159	-169	-195	-226	-265	-311	-1,660
2. H.R. 9175, the "Tax Clarity for Mining and Staking Act".....	generally aai tyba DOE	-302	-604	-531	-430	-370	-294	-122	-10	-50	-95	-148	-2,956
3. H.R. 9173, the "Charitable Deductions for Digital Asset Donations Act".....	tyba 12/31/26	-7	-30	-41	-48	-55	-62	-70	-77	-85	-94	-103	-672
4. H.R. 9176, the "Providing Analogous Rules for Digital Assets Act"	generally tyba DOE	---	190	284	325	244	115	45	63	45	20	31	1,362
5. H.R. 9174, the "Digital Assets Voluntary Disclosure Program Act".....	DOE	----- <i>Negligible Revenue Effect</i> -----											
6. H.R. 9172, the "Applying Existing Tax Anti-Abuse Rules to Digital Assets Act".....	dacsa DOI	---	156	286	265	253	222	193	183	175	171	170	2,074
7. Discussion Draft, H.R. ____, the "End Digital Assets Tax Shelters Act".....	tyba 12/31/26	---	5	15	15	14	15	15	15	15	16	16	141

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding. The date of enactment is assumed to be July 1, 2026.

Legend for "Effective" column:

aai = assets acquired in
 dacsa = dispositions and constructive sales after
 doaa = disposition of assets after

DOE = date of enactment
 DOI = date of introduction
 tyba = taxable years beginning after