United States House Committee on
Ways & Means
CHAIRMAN JASON SMITH

H.R. 10357, *Digital Asset Tax Certainty Act*

Rep. Jason Smith (R-MO)

The Digital Asset Tax Certainty Act would be the first federal legislation ever to address the substantive tax treatment of cryptocurrencies and other digital assets.

Title I – Removing Tax Barriers to the Use of Digital Assets as a Medium of Exchange

- **Requiring separate reporting for every digital asset transaction**, no matter how small or routine, is **administratively inefficient** for the IRS and **burdensome** for taxpayers.
- Title I **streamlines the reporting process, enhances the administrability of the tax code on digital assets, and lessens the burden for taxpayers** by:
  - Excluding gain or loss on sales of regulated U.S. dollar stablecoins;
  - Excluding gain or loss on the use of digital assets to pay network fees and transactions fees under $10; and
  - Creating an election for a simplified accounting method for digital assets.

Title II – Providing Parity Between Digital Assets and Comparable Traditional Financial Assets

- Under current law, **digital assets are often not clearly eligible for long standing tax benefits** available to traditional assets, often receiving different or even worse treatment than other comparable financial instruments.
- Title II **clarifies the treatment of digital assets under the tax code and provides parity** between digital assets and other financial instruments by:
  - **Making digital assets eligible for two existing safe harbors in the tax code**, one allowing foreign persons to more easily invest in U.S. markets, and another that lets taxpayers lend their digital assets without triggering a taxable event;
  - **Allowing digital asset dealers and traders to use mark-to-market accounting**, as is already available for securities and commodities; and
  - **Making charitable donations of many common digital assets eligible for the same streamlined tax rules as publicly traded securities**, making it easier for taxpayers to donate their digital assets to charity.

Title III – Applying Existing Tax Anti-Abuse Rules to Digital Assets

- Currently, **digital assets are not covered by some anti-abuse rules** that apply to similar traditional financial assets.
- To close these loopholes, Title III **applies the "wash sale" and "constructive sale" rules to digital assets**, along with other anti-abuse rules such as those pertaining to financial derivatives, U.S. territories, and foreign corporations.
- Applying these anti-abuse rules **will put digital assets on par with other financial instruments**.

Title IV – Clarifying Tax Treatment of Mining and Staking

- **Mining and staking are the core processes that validate transactions** on the blockchain and make the ecosystem work. However, **confusion and uncertainty** on how to characterize mining and staking rewards leave taxpayers in limbo.
- Title IV provides sourcing and character rules that **clear up longstanding uncertainties regarding the tax treatment of mining and staking rewards.**
- Consistent with IRS guidance, Title IV also **makes it easier for exchange-traded investment products to engage in staking** without jeopardizing their tax status.

Title V – Ensuring Owners and Users of Digital Assets Face Appropriate Tax Compliance Burden

- Brokers of digital assets currently face **uncertainty in their reporting requirements**, and are required to file a **large volume of unnecessary tax forms**.
- Title V **clarifies broker reporting requirements** and **significantly reduces tax compliance burdens**.
- Additionally, some digital asset owners have failed to comply with U.S. tax law due **to uncertainty and high compliance costs** and may be afraid to come forward and report their mistakes.
- Title V directs Treasury to **provide a voluntary disclosure program** specifically focusing on digital assets, providing reduced penalties and a clean slate.

Title VI – Definitions; Regulations; Rules of Construction

- Title VI provides regulatory authority to the Treasury Secretary to **allow the IRS to adapt with this innovative technology as it develops**.

Title VII – FULL HOUSE Act

- Title VII restores the ability of taxpayers to deduct wagering losses against their wagering winnings, **preventing taxpayers from being taxed on phantom income**.