

## Blockchain & Digital Assets Tax Alert

Notice 2025-7 provides temporary relief from certain digital asset identification rules

January 2025



### Overview

On December 31, 2024, the Treasury Department and the IRS released [Notice 2025-7](#) which allows taxpayers, during the period beginning on January 1, 2025, and ending on December 31, 2025 (the "relief period"), to specifically identify the units of digital assets held in the custody of a broker that are sold, disposed of, or transferred without requiring the taxpayer to notify the custodial broker of the identification.

### Background

On July 9, 2024, the Treasury Department and the IRS published [final regulations](#) (T.D. 10000, the "Final Regulations") addressing digital asset sales and exchanges. When a taxpayer disposes of less than all of the units of a digital asset that it holds in a wallet or account, [Treas. Reg. § 1.1012-1\(j\)](#) of the Final Regulations determines which units of the digital asset are treated as sold, disposed of, or transferred. A taxpayer must identify the units disposed of to determine holding period and tax basis for calculating gain or loss when a taxpayer holds units of a digital asset within a wallet or account that were acquired on different dates or at different prices.

For digital asset units held in the custody of a taxpayer's broker (as defined in [Treas. Reg. §§ 1.6045-1\(a\)\(1\)](#)), [Treas. Reg. § 1.1012-1\(j\)\(3\)\(ii\)](#) generally permits a taxpayer to make an adequate identification of the units to be sold, disposed of, or transferred by specifying to the custodial broker, no later than the date and time of the sale, disposition, or transfer, the particular units of the digital asset to be sold, disposed of, or transferred by reference to any identifier that the broker designates as sufficiently specific to allow it to determine the basis and holding period of those units. [Treas. Reg. § 1.1012-1\(j\)\(3\)\(ii\)](#) also permits taxpayers to make an adequate identification of such units by using a standing order or instruction

communicated to their custodial broker. Further, if the custodial broker offers taxpayers only one method of making a specific identification, for example by the earliest date on which units of the same digital asset were acquired, the latest date on which units of the same digital asset were acquired, or the highest basis, Treas. Reg. § 1.1012-1(j)(3)(ii) treats such method as a standing order or instruction. If an adequate identification of the units sold is not made in accordance with the regulation, the Final Regulations treat the units disposed of as the earliest acquired units of that digital asset held for the taxpayer in the custody of the broker (a "first-in, first-out" or "FIFO" rule). Treas. Reg. § 1.1012-1(j) applies to all acquisitions and dispositions of digital assets on or after January 1, 2025.

Contemporaneously with the issuance of Treas. Reg. § 1.1012-1(j), the IRS issued [Rev. Proc. 2024-28](#), which provides transition guidance to assist certain taxpayers in applying the Final Regulations to digital assets acquired prior to 2025.

## Notice 2025-7

### Temporary Relief

Digital asset brokers may not have in place, by January 1, 2025, the technology needed to accept specific instructions or standing orders communicated by taxpayers. The Treasury Department and IRS acknowledged these technology limitations may leave some taxpayers unable to make adequate identifications in conformity with Treas. Reg. § 1.1012-1U(3)(ii), in which case the Final Regulations provide that any units taxpayers held in the custody of such brokers that are sold, disposed of, or transferred would be determined under the default FIFO rule.

The temporary relief described in Notice 2025-7 allows a taxpayer with digital assets held in the custody of a broker to make an adequate identification during the relief period by:

1. Identifying, no later than the date and time of the sale, disposition, or transfer, on the taxpayer's books and records, the particular units to be sold, disposed of, or transferred by reference to any identifier, such as purchase date and time or the purchase price for the unit, that is sufficient to identify the basis and holding period of the units sold, disposed of, or transferred; or
2. Recording a standing order on the taxpayer's books and records, provided that the recorded standing order includes sufficient information to identify any digital asset units sold, disposed of, or transferred and is entered into the taxpayer's books and records before the units covered by the order are sold, disposed of, or transferred.

If a taxpayer makes an adequate identification under Notice 2025-7, the rule in the Final Regulations that treats taxpayers whose broker offers only one method of making a specific identification as having made a standing order or instruction does not apply during the relief period.

The temporary relief described in Notice 2025-7 does not apply to digital asset units not held in the custody of a broker. Additionally, the relief does not affect how the safe harbor described in Rev. Proc. 2024-28 applies. Taxpayers relying on the safe harbor in Rev. Proc. 2024-28 may also rely on the relief described in Notice 2025-7.

### Effective Date and Relief Period

Notice 2025-7 is effective December 31, 2024. The temporary relief period begins on

January 1, 2025, and ends on December 31, 2025.

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## Get in touch

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