



Release of proposed digital asset reporting regulations

Global Information Reporting

On August 25, 2023, the US Department of the Treasury and the IRS [released proposed regulations](#) covering the digital asset reporting requirements added to the Internal Revenue Code by the Infrastructure Investment and Jobs Act (IIJA) in 2021. The proposed regulations titled “Gross Proceeds and Basis Reporting by Brokers and Determination of Amount Realized and Basis for Digital Asset Transactions,” primarily cover broker reporting of digital asset transactions. The full text of the release is 282 pages, focusing on section 6045 and including coordination with sections 1001, 1012, 3406, 6045A, 6045B, 6050W, 6721, and 6722. Section 6050I, amended under the IIJA, is not discussed in the release. Detailed further below are several notable points about the effective date of the proposed regulations, timing for public comments, and the scope of the rules.

Relevant dates

Under these proposed rules, brokers are required to report the gross proceeds from sales of digital assets on or after January 1, 2025. Adjusted basis reporting for covered securities is proposed to phase in for sales on or after January 1, 2026. The date a digital asset is considered a covered security is generally unmodified from the January 1, 2023 date in the IIJA.

The regulations under sections 1001 and 1012 are proposed to apply to taxable years beginning on or after January 1 of the calendar year following the date the regulations become final. Taxpayers may rely on these proposed regulations until then as long as they consistently follow the proposals in their entirety.

Written or electronic comments on the proposed regulations are due by October 30, 2023. A public hearing has been scheduled for November 7, 2023.

Form and content

Proceeds from the sale or exchange of digital assets will be reported, according to IRS issue number IR-2023-153, on Form 1099-DA, which the IRS will post on the list of draft forms when available. Under the proposed rules, the form must include the following information:

- the name, address, and taxpayer identification number of the customer
- the name and number of units of the digital asset sold
- the sale date and time
- the gross proceeds amount (after reduction for the allocable digital asset transaction costs)
- the transaction ID in connection with the sale, if any
- the digital asset address (or digital asset addresses if multiple) from which the digital asset was transferred in connection with the sale, if any
- whether the sale was for cash stored-value cards, or in exchange for services, or other property
- any other information required by the form in the manner and number of copies required by the form or instructions

For sales of covered securities on or after January 1, 2026, the broker must also report the adjusted basis, the date and time of purchase, and whether any gain or loss is long-term or short-term.

Scope of reporting

Assets that fall into the scope of reporting include any digital representation of value that is recorded on a cryptographically secured distributed ledger (or similar technology), specifically non-fungible tokens (NFTs) and stablecoins. Assets that are outside the scope include fiat currency in digital form (e.g., funds in a bank or payment processor account accessed through the internet) and assets existing only in a closed system (e.g., video game tokens).

Persons defined as brokers with reporting obligations, whether operating through centralized or decentralized exchanges, include, among others:

- digital asset trading platforms that also provide custodial (hosted wallet) services
- operators of noncustodial trading platforms (including platforms that effect transactions through automatically executing contracts or protocols)
- digital asset payment processors
- operators and owners of digital asset kiosks

The proposed rules specifically exclude:

- merchants who sell goods or services in return for digital assets
- persons who are solely engaged in the business of validating distributed ledger transactions
- persons who are solely engaged in the business of selling hardware or licensing software

Certain exceptions to reporting under existing section 6045 rules are modified; for example, the removal of the multiple broker rule and the alteration of the offshore obligation and presumption rules.

Coordinating guidance

For transactions involving the exchange of digital assets for goods (other than digital assets) or services, the proposed regulations treat (i) the provision of the goods or services as reportable under section 6050W to the participating payee on Form 1099-K and (ii) the disposition of the digital assets by the customer as reportable on the new Form 1099-DA.

For transactions involving the sale of real estate, the guidance treats such sales where all or part of the purchase price is satisfied with digital assets as reportable under Treas. Reg. § 1.6045-4 on Form 1099-S.

The existing backup withholding provisions under section 3406 are applied to transactions in digital assets under the new rules. The rules also update the penalty provisions under sections 6721 and 6722, including a suspension of penalties for broker reporting with respect to transactions prior to January 1, 2025, and adjusted basis reporting with respect to transactions prior to January 1, 2026.

The proposed regulations also cover specific rules under section 1001 for determining the amount realized in a disposition of digital assets and under section 1012 for calculating the basis of digital assets.

The Treasury and the IRS intend additional phases of regulatory guidance for transfer statement reporting under section 6045A, including where transfers are made to non-brokers, and issuer reporting under section 6045B.

Section 6050I, which was modified by the IIJA to treat digital assets as equivalent to cash for trade or business reporting purposes (using current Form 8300), was not addressed in the proposed regulation release.

Next steps

The Treasury and the IRS requested public comment on all aspects of the regulation and included 49 specific questions in the “Request for Comments” section of the release. As noted above, the comment period ends on October 30, 2023. All comments are requested to be submitted in written format, with a preference for electronic submission at <https://www.regulations.gov/> (indicate IRS and REG-122793-19 on the site) and will be made available to the public. A subsequent public hearing is scheduled for November 7, 2023. The publication provides a list of contacts for further information.

Deloitte anticipates releasing further guidance on all relevant contents of the proposed regulations, including specific analysis on the rules under sections 1001 and 1012.

For questions, please consult with the listed contacts below.

[Click here](#) for more information about **Global Information Reporting** (GIR) services and our global network of Deloitte tax professionals.

Washington National Tax

[Susan Segar](#)

Managing Director
Deloitte Tax LLP
+1 703 885 6328

[Jonathan Cutler](#)

Senior Manager
Deloitte Tax LLP
+1 704 887 1576

Blockchain and Digital Assets

[Rob Massey](#)

Partner
Global Leader
Deloitte Tax LLP
+1 415 783 6386

[Nate Tasso](#)

Principal
Washington National Tax
Deloitte Tax LLP
+1 202 220 2089

[Conor O'Brien](#)

Senior Manager
Washington National Tax
Deloitte Tax LLP
+1 415 783 7010

Americas

[John Rieger](#)

Partner
Global GIR Leader
Deloitte Tax LLP
+1 212 436 6934

[David Charlton](#)

Principal
US GIR Leader
Deloitte Tax LLP
+1 617 437 2118

[Paddy Killimangalam](#)
Managing Director
GIR
Deloitte Tax India Private Ltd
+1 678 299 0119

[Denise Hintzke](#)

Managing Director
Global GIR Market Leader
Deloitte Tax LLP
+1 212 436 4792

[Kayla Laidlaw](#)
FATCA/CRS Director
Caribbean and Bermuda
Deloitte Ltd
+1 284 394 2814

[Duncan Brennan](#)

Managing Director
GIR
Deloitte Tax LLP
+1 571 766 7552

[Rona Hummel](#)

Managing Director
GIR
Deloitte Tax LLP
+1 212 653 7859

[Jeanne Murphy](#)

Managing Director
GIR PMO
Deloitte Tax LLP
+1 212 436 5910

[Luke Nagle](#)

FATCA/CRS Partner
Canada
Deloitte LLP
+1 416 354 1495

[Peter Larsen](#)

Principal
GIR
Deloitte Tax LLP
+1 415 783 4575

[Anthony Martirano](#)

Managing Director
GIR
Deloitte Tax LLP
+1 973 602 6986

[Susan Schultz](#)

Managing Director
Operations Leader
GIR Global Delivery Center
Deloitte Tax LLP
+1 612 397 4604

[Kristen Starling](#)

Managing Director
GIR
Deloitte Tax LLP
+1 212 436 4281

[Tim Rappoccio](#)

Managing Director
GIR
Deloitte Tax LLP
+1 203 423 4452

[Robert Schlock](#)

Managing Director
GIR
Deloitte Tax LLP
+1 212 436 3541

[Sagun Vijayananda](#)

Partner
GIR
Deloitte Tax LLP
+1 212 436 7329

Asia-Pacific

[Troy Andrews](#)

FATCA/CRS Partner
New Zealand
Deloitte
+64 93030729

[Candy Chan](#)

FATCA/CRS Partner
China / Hong Kong
Deloitte Advisory (HK) Ltd
+852 2852 5886

[Gilbert Chiang](#)

Partner
Taiwan
Deloitte & Touche
+886 2 27259988; ext=3619

[Edmond Lam](#)

FATCA/CRS Director
China / Hong Kong
Deloitte Advisory (HK) Ltd
+852 2238 7564

[Kosaku Maeda](#)

Partner
Japan
Deloitte Tohmatsu Tax Co.
+818034104701

[Alison Noble](#)

FATCA/CRS Partner
Australia
Deloitte Services Pty Ltd
+61 3 9671 6716

[Terence Tan](#)

FATCA/CRS Partner
Australia
Deloitte Tax Services Pty Ltd
+61 3 9671 5782

[Michael Velten](#)

FATCA/CRS Partner
Singapore
Deloitte & Touche LLP
+65 6531 5039

Europe, Middle East & Africa

[Brandi Caruso](#)

Tax Transparency Partner
Switzerland/Liechtenstein

[Eric Centi](#)

FATCA/CRS Partner
Luxembourg

[Pedro De La Iglesia](#)

Counsel
Spain

[Owen Gibbs](#)

UK FATCA/CRS/DAC Partner
United Kingdom

Deloitte AG
+41 58 279 6397

[Petrít Ismajli](#)

Partner
Switzerland
Deloitte AG
+41 58 279 6213

[Luis Pinto](#)

Associate Partner
Portugal
Deloitte Tax
+351 210422500

Deloitte Tax & Consulting
+352 45145 2162

[Keren Binyamin](#)

Senior Manager
Israel
Deloitte Israel & Co.
+972 3 6085302

[Anders Zitawi](#)

Director
Denmark
Deloitte Statsautoriseret
Revisionspartnerselskab
+45 31 21 22 59

Deloitte Ases.Tribut. SLU
+34 914381773

[Jason McGarvey](#)

Global GIR Technology Leader
United Kingdom
Deloitte LLP
+44 20 7303 0412

Deloitte LLP
+44 20 7007 4819

[Karim Ousta](#)

FATCA/CRS Leader
United Arab Emirates
Deloitte LLP
+971 4 5064700

This alert contains general information only and Deloitte is not, by means of this alert, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This alert is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. Deloitte shall not be responsible for any loss sustained by any person who relies on this alert.

As used in this document, "Deloitte" means Deloitte Tax LLP, a subsidiary of Deloitte LLP. Please see www.deloitte.com/us/about for a detailed description of our legal structure. Certain services may not be available to attest clients under the rules and regulations of public accounting.

Copyright © 2023 Deloitte Development LLC. All rights reserved.