



INDIRECT TAX

Illinois Department of Revenue proposes rules on the Digital Asset Tax

Tax Alert

Overview

On June 16, 2026, the Illinois Digital Asset Tax Act (“Act”) was enacted as part of Illinois Senate Bill 3019. The Act imposes a tax on the privilege of receiving digital asset activity by a customer in Illinois, at a rate of 0.2% of the value of a digital asset. For more background on the Act, see this [Tax Alert](#) from June 17, 2026.

The Act is subject to pending litigation in the Circuit Court of Sangamon County, Illinois, challenging the Act’s validity under the Illinois and U.S. Constitutions and the federal Internet Tax Freedom Act. On October 1, 2026, the parties jointly asked the court to enter a stipulated preliminary injunction postponing the Act’s effective date from January 1, 2027 to July 1, 2027. On October 7, 2026, the court signed the order, which postpones the Act’s effective date to July 1, 2027.

On September 28, 2026, the Illinois Department of Revenue (“Department”) issued [proposed rules](#), at 86 Ill. Admin. Code Part 497 (“Proposed Rules”), to provide clarifications regarding the Act, with a public comment period open through October 30, 2026. The Proposed Rules address the Act’s key definitions, taxable events, sourcing, registration, collection, recordkeeping, and penalties, and include illustrative examples. The Proposed Rules remain in proposed form and are subject to revision and adoption following the comment period, in addition to an expected Illinois Joint Committee on Administrative Rules proposed rule process. The Proposed Rules were issued before the order postponing the Act’s effective date and continue to reference the original January 1, 2027 effective date.

Who is taxed

The Act and the Proposed Rules define “digital asset” by reference to section 1-5 of the Illinois Digital Assets and Consumer Protection Act. The Proposed Rules identify specific categories that are included in or excluded from the term. The Proposed Rules exclude the following as a digital asset:

- Tokenized securities and tokenized commodities;
- Non-fungible Tokens (NFTs);
- Loyalty and reward programs (e.g., reward points);
- Video game-publisher currencies (e.g., in-game tokens)
- Non-investment assets; and
- Prepaid cards.

The Proposed Rules include the following as a digital asset:

- Stablecoins;
- Central Bank Digital Currencies; and
- Meme-based assets (e.g., Memecoins).

A taxable activity is limited to a single occurrence of exchanging, transferring, or storing a digital asset, arising when the asset moves as denoted by a blockchain or internal ledger entry. The Proposed Rules exclude a person's own-account, principal-capacity trading, and peer-to-peer transfers between personal wallets made without a broker and consideration. The Proposed Rules treat storage as a one-time taxable event, regardless of the duration, where consideration is paid specifically to store the digital asset and no further blockchain movement occurs. In the case of a bundled sale of a digital asset business activity where there is a singular charge for the exchange or transfer and storage of the digital asset, only one taxable event occurs and storage is considered incidental to the transfer or exchange. Another taxable event may occur if subsequent consideration is paid for the continued storage of the digital asset and will only be imposed one time for the provision of storage separate from the bundled transaction.

The Proposed Rules provide twelve examples illustrating when a transaction constitutes taxable digital asset business activity and when it falls outside the Act. Examples of taxable digital asset business activity include:

- A retailer that accepts digital assets as consideration for goods or services and subsequently converts those assets into fiat currency through a partner exchange. The payment processor acts as the retailer's agent, the retailer is treated as the customer, and the exchange, rather than the payment processor, is treated as the digital asset broker.
- A customer who pays a retailer from an exchange-hosted wallet and incurs a fee charged by the exchange for facilitating the transfer.
- Physically settled derivative transactions, including cash-settled derivatives that settle in stablecoin. By contrast, derivatives settled solely in fiat currency are excluded from tax.

Examples of nontaxable digital asset business activity include:

- Peer-to-peer transfers between personal wallets that do not involve a digital asset broker.
- Internal ledger adjustments that do not result in a blockchain entry. For example, a bank's update of a customer account balance while assets remain in the same custodial wallet is not taxable.
- Certain decentralized-finance ("DeFi") transactions where fees are directed solely to liquidity providers or blockchain validators rather than to a digital asset broker. By contrast, a DeFi transaction may be taxable where a customer pays valuable consideration to a DeFi exchange that qualifies as a digital asset broker.

Who must comply

The Act defines "digital asset broker" by reference to Internal Revenue Code section 6045(c)(1)(D) and any regulations prescribed by the Secretary of Treasury, as any person who for consideration is responsible for regularly providing any service effectuating transfer of digital assets on behalf of another person. The Proposed Rules similarly define a digital asset broker as any person who, for consideration, regularly provides a service effectuating transfers of digital assets on another person's behalf.

The term digital asset broker includes, but is not limited to:

- Centralized exchanges;

- DeFi exchanges that collect fees for the exchange itself; and
- Entities who manage and directly keep custody of digital assets on behalf of their customers in dedicated wallets (e.g., custodians, broker-dealers, and direct payment processors).

The term excludes:

- Exchanges and platforms that collect fees solely dedicated to liquidity pools;
- Entities and persons who have no ability to provide digital asset business activities and offer those services strictly through a third party;
- Issuers of digital assets who only create newly minted digital asset stock and have no ability to offer digital asset business activities; and
- Retailers in Illinois who accept digital assets as a form of payment for their goods and services.

The Proposed Rules reference the Act's statutory nexus standards and state that a digital asset broker establishes nexus by either (1) maintaining a place of business in Illinois where it has a physical presence or agent in the state, or (2) where an out-of-state broker's gross receipts from Illinois customers reach \$100,000 on a rolling 12-month basis reviewed quarterly. A digital asset broker maintaining a place of business in Illinois must register with the Department electronically before engaging in business and may not operate without a certificate of registration. A certificate is valid for one year and automatically renews absent revocation; the Department may deny, refuse to renew, or revoke a certificate for default on amounts due, failure to file, or related delinquencies, following notice and hearing rights.

How the tax applies

The Proposed Rules state that a transaction is taxable only where it involves an Illinois customer who receives digital asset business activity for valuable consideration from a digital asset broker. It defines valuable consideration to include exchange and subscription fees charged by a broker, and to exclude gas, network, mining, staking, and validation fees. The tax is measured against the value of the digital asset at the time the activity is completed, using benchmark rates from a regulated market data provider where needed.

The Proposed Rules source an in-person sale to its physical location and sources an electronic or phone sale to the customer under a rebuttable presumption based on the customer's address, IP address, or place of primary use under the Mobile Telecommunications Sourcing Conformity Act, with the burden on the broker to rebut Illinois sourcing. It permits reliance on federal know-your-customer documentation to establish a customer's location and sources a transaction to the customer even where an intermediary interfaces with the broker on the customer's behalf. The Proposed Rules provide an example to indicate that a broker may rely on a customer's signed W-9 IRS Form to identify the primary address for the purpose of sourcing under the Act.

A broker maintaining a place of business in Illinois must collect the tax from the customer, state it separately from the purchase price, and remit it to the Department, holding any tax collected in trust. A customer not charged the tax on a taxable transaction must self-remit the tax due by the 20th day of the following month.

Compliance mechanics

The Proposed Rules require a monthly return, filed and paid electronically, due the 20th day of the month following the reporting period, with a final return due within one month of ceasing business. A broker is required to retain records of each digital asset business activity, the consideration paid, and customer-location documentation, and to make them available for Department inspection.

The Proposed Rules make a credit memorandum available for an overpayment and permit a verified credit to carry forward without interest, and permit assignment of a credit memorandum to another registered broker under specified conditions.

The Proposed Rules classify a broker's failure to file, fraudulent filing, recordkeeping failure, or willful rule violation as a Class 3 felony, subject to a five-year limitations period for prosecution, and apply the Uniform Penalty and Interest Act, 35 ILCS 735, to the extent not inconsistent with the Act. They incorporate enumerated Retailers' Occupation Tax Act provisions, 35 ILCS 120, for administration and enforcement, substituting "digital asset broker" for "retailer".

Additional considerations and next steps

The Proposed Rules leave several issues open for further clarification, including:

- Whether, and under what circumstances, a tokenized deposit constitutes a digital asset;
- How to identify the digital asset broker responsible for collecting and remitting the tax when multiple parties in a transaction chain satisfy the broker definition;
- Whether a spread, markup, or other amount embedded in an exchange rate constitutes valuable consideration;
- How a broker should determine the value of a digital asset when its own spot price is unavailable or available benchmark rates differ;
- How the sourcing rules apply when customer-location information points to different jurisdictions, and how the \$100,000 receipts threshold applies to affiliated entities and to receipts from transactions involving intermediaries.

Affected businesses should evaluate whether they may qualify as digital asset brokers, review the customer-location information available for sourcing transactions, and assess whether their systems can support registration, collection, filing, and recordkeeping requirements. Interested parties may consider submitting comments or requesting additional examples before the Department's October 30, 2026 comment deadline. Businesses should continue to monitor the formal rulemaking process and the pending litigation concerning the Act.

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