

Treasury Department Releases Proposed Regulations on Digital Asset Broker Rules

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The Treasury Department released Proposed Treasury Regulations (the “**Proposed Regulations**”) refining the definition of digital asset brokers who are subject to reporting requirements. The digital asset reporting rules were introduced as part of the bipartisan 2021 Infrastructure and Jobs Act and requires brokers of digital assets to file information returns and provide payee statements to customers. Similar to securities brokers, the statements must include information such as tax basis and gain or loss for customer transactions.

Currently, Section 6045(c)(1) of the Internal Revenue Code of 1986 broadly defines a digital asset broker as anyone who, for consideration, is responsible for regularly providing any service effectuating transfers of digital assets on behalf of another person. Taxpayers and lawmakers have expressed concern that this definition is too broad and could unintentionally include digital asset service providers such as mining and staking companies, DeFi lending platforms, and other companies that do not have the necessary information needed to comply with the reporting requirements of Section 6045.

The Proposed Regulations instead modify the definition a “broker” of digital assets to include only those persons whose business ordinarily would put them in a position to know (a) the identity of the customer and (2) the nature of the transaction giving rise to gross proceeds, alleviating the concern regarding mining, staking, and lending companies. Additionally, the modified definition of broker includes additional digital asset companies such as centralized and decentralized trading platforms, crypto payment processors, and online wallets that taxpayers use to hold their digital assets. These digital asset brokers will be required to provide this information on a new Form 1099-DA and, if finalized, the Proposed Regulations would go into effect on January 1, 2025.