

	General Rule	Exception(s)
Why are there new reporting regulations?	<i>The Infrastructure Investment and Jobs Act</i> was signed into law by President Biden on November 15, 2021 and increases reporting requirements related to cryptocurrency (crypto) and related digital assets. These regulations intend to clarify the mechanics of the new reporting requirements.	According to IRS Announcement 2023-2, the proposed regulations (regs) are not enforceable until final regs have been issued. A 60-day comment period ends on October 30, 2023. The IRS has also scheduled a public hearing for November 7, 2023.
When is this effective?	<ul style="list-style-type: none"> ■ Phase 1: Beginning with sales on or after January 1, 2025; gross proceeds reporting. ■ Phase 2: Beginning with sales on or after January 1, 2026; basis reporting for digital asset acquired on or after January 1, 2023. <ul style="list-style-type: none"> - Non-digital asset options and forward contracts on digital assets are required to be reported if they were granted, entered into, or acquired on or after January 1, 2023. ■ Phase 3: Timing TBD; transfers. <ul style="list-style-type: none"> - These transfer statements are needed for digital assets that are acquired by taxpayers in one account and transferred to another account to provide the brokers who effect sales of digital assets with the information necessary to report the adjusted basis of the sold digital assets. - Treasury and IRS intend to issue a separate notice of proposed rulemaking to implement these changes. 	<ul style="list-style-type: none"> ■ Treasury and IRS are waving the penalty for voluntary early reporting of gross proceeds and cost basis. ■ Until rulemaking is complete, basis reporting is limited to digital assets that are acquired in a customer's account by a broker providing hosted wallet services. <ul style="list-style-type: none"> - Sale transactions effected by custodial brokers that were not previously acquired in the customer's account and sale transactions effected by non-custodial brokers, such as those that taxpayers may refer to as decentralized exchanges, are not subject to mandatory basis reporting rules.
Who must report?	<ul style="list-style-type: none"> ■ Digital asset brokers. ■ "Broker" defined: Any person, U.S. or foreign, that in the ordinary course of a trade or business, during the calendar year, stands ready to effect sales to be made by others. ■ For this purpose, the term broker includes persons that are not custodians. For example, a non-custodial executing broker, that acts as an agent for customers to effect sales of securities, is included in this definition. ■ This generally includes but is not limited to: <ul style="list-style-type: none"> - Digital asset trading platforms. - Digital asset payment processors. - Certain digital asset, hosted wallet providers. - Persons who regularly offer to redeem digital assets that were created or issued by that person. - Real estate reporting persons who use digital assets to acquire real estate in a reportable real estate transaction. 	<ul style="list-style-type: none"> ■ This generally excludes: <ul style="list-style-type: none"> - A hosted wallet provider that solely holds and transfers digital assets on behalf of its customers, without possessing, or having the ability to possess, any knowledge of gross proceeds from sales. - Distributed ledger validation services, whether through proof of work or proof of stake. - Persons solely engaged in the business of selling hardware or licensing software for which the sole function is to permit persons to control private keys, which are used for accessing digital assets on a distributed ledger. - This does not, therefore, exclude wallet software providers from the definition of facilitative service if the software also provides users with direct access to trading platforms from the wallet platform.

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<p>How does the broker activities and location impact reporting requirements?</p>	<p>U.S. Digital Asset Brokers</p> <ul style="list-style-type: none"> ■ Report information in accordance with proposed regs. (assuming these regs. are finalized). ■ May be subject to backup withholding. ■ Who is a U.S. digital asset broker? <ul style="list-style-type: none"> - U.S. person (including a foreign branch of a U.S. person). - A controlled foreign corporation. - Certain U.S. branches. - A foreign partnership with controlling U.S. partners. - A U.S. trade or business and a foreign person for which 50% or more of its gross income is effectively connected with a U.S. trade or business. 	<p>U.S. Digital Asset Brokers</p> <ul style="list-style-type: none"> ■ Reporting exception – unless the customer is an exempt recipient or exempt foreign person: <ul style="list-style-type: none"> - Examples of exempt recipients and exempt foreign persons include but are not limited to: <ul style="list-style-type: none"> • A corporation. • A tax-exempt organization. • A registered dealer in securities. • A futures commission merchant registered with the CFTC. • A financial institution, such as a bank. • An exempt foreign person where the broker has a beneficial owner withholding certificate.
	<p>CFC Digital Asset Brokers Not Conducting Activities as Money Service Businesses</p> <ul style="list-style-type: none"> ■ Report information in accordance with proposed regs. (assuming these regs. are finalized). ■ Considered effected at an office outside of the U.S. ■ Generally, not subject to backup withholding. 	<p>CFC Digital Asset Brokers Not Conducting Activities as Money Service Businesses</p> <ul style="list-style-type: none"> ■ Reporting exception – unless the customer is an exempt recipient or exempt foreign person.
	<p>Non-U.S. Digital Asset Brokers That Are Not Conducting Activities as Money Service Businesses</p> <ul style="list-style-type: none"> ■ Not required to file informational forms. ■ Considered effected at an office outside the U.S. ■ Generally, not subject to backup withholding. 	<p>Non-U.S. Digital Asset Brokers That Are Not Conducting Activities as Money Service Businesses</p> <ul style="list-style-type: none"> ■ Reporting exception – if obligated to collect documentation or information from customers under applicable Anti Money Laundering (AML) laws or other applicable laws and that documentation or information may include information that indicates that a customer has connections to the U.S. or may be a U.S. person, then report information in accordance with proposed regs. <ul style="list-style-type: none"> - Considered effected at an office inside the U.S. - Generally subject to backup withholding.
	<p>CFC Digital Asset Brokers & Non-U.S. Digital Asset Brokers Conducting Activities as Money Services Businesses</p> <ul style="list-style-type: none"> ■ Report information in accordance with proposed regs. (assuming these regs. are finalized). ■ Generally, subjected to the same rules as U.S. digital asset brokers. ■ May also be subject to backup withholding. 	<p>CFC Digital Asset Brokers & Non-U.S. Digital Asset Brokers Conducting Activities as Money Services Businesses</p> <ul style="list-style-type: none"> ■ Reporting exception: unless the customer is an exempt recipient or exempt foreign person. ■ Reporting exception: sales effected at certain kiosks physically located outside the U.S. <ul style="list-style-type: none"> - Considered effected at an office outside the U.S. - Generally, not subject to backup withholding.

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<p>What type of transactions should be reported?</p>	<ul style="list-style-type: none"> ■ Digital asset sales and exchanges. <ul style="list-style-type: none"> - “Digital asset” defined: Any digital representation of value that is recorded on a cryptographically secured distributed ledger (or any similar technology), without regard to whether each individual transaction involving that digital asset is actually recorded on that ledger, and that is not cash. ■ Transactions generally required to be included but not limited to: <ul style="list-style-type: none"> - Disposition of a digital asset in exchange for cash, one or more stored-value cards, <i>i.e.</i>, gift card or prepaid card, or a different digital asset. - Exchange of digital assets for other property. - Exchange of digital assets for real estate. - Exchange of digital assets for broker services. ■ When a digital asset transaction overlaps with other reporting requirements, there may be a coordination rule requiring the transaction be reported as only a digital asset sale and not reported on another information reporting form: <ul style="list-style-type: none"> - When the digital asset is also a security. - When the digital asset is also a commodity. - When the digital asset represents real estate, <i>i.e.</i>, tokenized real estate. 	<ul style="list-style-type: none"> ■ Transactions generally excluded: <ul style="list-style-type: none"> - Hard forks. - Airdrops. - Receipt of digital assets in return for performance of services. - Not applicable to virtual assets in a closed ecosystem, such as video game tokens that can only be used in the game and cannot be sold or exchanged outside of the game or sold for fiat currency. - Not intended to apply to other uses of distributed ledger technology for ordinary commercial purposes, such as tracking inventory or processing orders for purchase and sale transactions. ■ Transactions the Treasury and IRS did not opine on: <ul style="list-style-type: none"> - Digital asset loans. - Providing liquidity to a liquidity pool. - Wrapping and unwrapping of a token.
<p>What information is collected and reported?</p> <p>Note: This table does not capture each scenario and is meant to be used as an oversimplified guide to help get you started.</p>	<ul style="list-style-type: none"> ■ Information generally required to be reported: <ul style="list-style-type: none"> - The customer’s name, address, and taxpayer identification number. - The name or type of the digital asset sold and the number of units of the digital asset sold. - The sale date and time (in UTC). - The gross proceeds of the sale. - Any other information required by the form or instructions in the manner required by the form or instructions. 	<ul style="list-style-type: none"> ■ Additional information generally required to be reported when cost basis is not required to be reported by the broker: <ul style="list-style-type: none"> - The transaction identification (transaction ID or transaction hash) associated with the digital asset 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 consideration received was cash, different digital assets, other property, or services. ■ Additional information generally required to be reported when the sale is of a digital asset that was held by the broker in a hosted wallet on behalf of the customer and that digital asset was previously transferred into that account: <ul style="list-style-type: none"> - Date and time of such transfer-in transaction. - Transaction ID of such transfer-in transaction, <i>e.g.</i>, “Txid” or “transaction hash.” - Digital asset address (or digital asset addresses if multiple) from which the transferred-in digital asset was transferred. - Number of units transferred in by the customer as part of that transfer-in transaction. ■ If the sale of a digital asset also constitutes a sale of a security, additional information that is relevant to the sale of securities as required by the form or instructions.



Scan the QR code to view the proposed regulations.

For more information, contact a professional at **FORVIS** or visit **forvis.com**.