

Reporting by Brokers for Sales or Exchanges of Digital Assets

Cross References

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The IRS has issued proposed regulations that would require brokers to report sales and exchanges of digital assets by customers.

The proposed regulations cover a range of digital asset issues where there have been questions, including defining brokers and requiring proceeds to be reported to the IRS on new Form 1099-DA.

“These proposed regulations are designed to help end confusion involving digital assets and provide clear information and reporting certainty for taxpayers, tax professionals and others,” said IRS Commissioner Danny Werfel. “A key part of this effort fits in with the larger IRS compliance focus on wealthy taxpayers. We need to make sure digital assets are not used to hide taxable income, and the proposed regulations are designed to provide a clearer line of sight into activities by high-income people as well as others using them. We want to make sure everyone pays what they owe under the tax laws, and our research and experience demonstrate that third-party reporting improves compliance. We welcome comments on these proposed regulations as we work to finalize the rules in this complex and evolving area.”

For sales or exchanges of digital assets that take place on or after January 1, 2025, the proposed regulations would require brokers, including digital asset trading platforms, digital asset payment processors and certain digital asset hosted wallet providers, to report gross proceeds on a newly developed Form 1099-DA and to provide payee statements to customers. Brokers, in certain circumstances, would also be required to include gain or loss and basis information for sales that take place on or after January 1, 2026, on these information returns and statements, so that customers have the information they need to prepare their tax returns.

The proposed regulations would also require real estate reporting persons, such as title companies, closing attorneys, mortgage lenders and real estate brokers, who are treated as brokers for dispositions of digital assets, to report the disposition of digital assets paid as consideration by real estate purchasers to acquire real estate in real estate transactions that close on or after January 1, 2025. These real estate reporting persons would also be required to include on Form 1099-S the fair market value of digital assets paid to sellers of real estate in real estate transactions that close on or after January 1, 2025.

Finally, the proposed regulations set forth gain (or loss) computation rules, basis determination rules and backup withholding rules applicable to digital asset sale and exchange transactions and propose many useful definitions.