



IRS – Digital Assets (DA) Discussion

Tax Accounting for Digital Assets - The IRS is responding to the changes impacting traditional financial markets while adhering to new legislative and policy mandates. How is the IRS addressing individual and business taxpayer digital asset needs to enhance voluntary compliance.

NASACT Conference

August 15, 2023

Presenter:

Julie A. Foerster, Project Director, Digital Assets, IRS



Agenda

TOPIC	SLIDE
Overview of digital assets in the United States	3
The IRS response to digital assets to date	4
Federal government drivers	5
Key federal stakeholders	6
Digital asset taxation in the United States	7
Compliance and enforcement efforts	8
IRS approach to future legislation and regulations	9
Question and answer	10



Digital Assets in the United States

The use of digital assets by U.S. taxpayers has grown in recent years



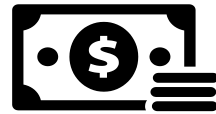
OWNERSHIP



An estimated **16% of U.S. adults** own some type of digital asset such as cryptocurrencies, stablecoins, and NFTs¹



MARKET



In 2022, the global digital asset market cap surpassed **\$3 trillion**² but has since receded. In comparison, the total U.S. stock market cap is currently \$40 trillion³



TRANSACTIONS



In 2021, 6.4 million US taxpayers⁴ checked YES to the Form 1040 question which indicates that they received, sold, exchanged, or otherwise disposed of any financial interest in any virtual currency. This amount is likely understated.



IRS Response to Date

The IRS must have a coordinated and strategic response for this asset class. These efforts include, in part, guidance, enforcement activities and information reporting.



Guidance

- **Notice 2014-21** – provides that federal tax principles applicable to **property** apply to virtual currency transactions
- Frequently Asked Questions (**FAQs**)
- **Revenue Ruling 2019-24** – provides a taxpayer may have ordinary income if they receive units of a new cryptocurrency following a hard fork
- Chief Counsel Advice (**CCA**) memorandums



Enforcement Activities

- IRS has issued John Doe Summonses (**JDS**) to digital asset exchanges and related entities for information relating to U.S. customers
- IRS also uses information reporting on digital asset transactions match amounts reported by U.S. taxpayers



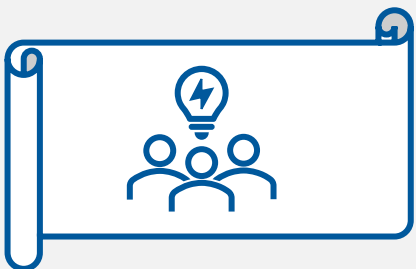
Information Reporting

- **Information reporting** by digital asset brokers will be required pursuant to the Infrastructure Investment and Jobs Act (IIJA).
- **Notice 2014-21** provides guidance that certain filers are required to file Forms such as W-2, 1099-K, 1099-B, 1099-MISC and 1099-NEC when making payments of digital assets.



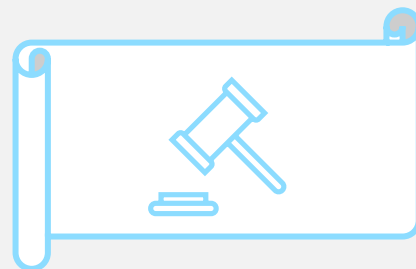
Federal Government Drivers

The IRS administers tax laws passed by the United States Congress



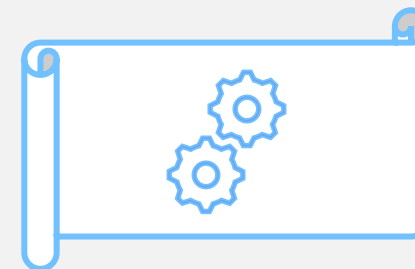
Infrastructure Investment & Jobs Act
November 2021

Requires information reporting by digital asset brokers on dispositions of digital assets



Presidential Executive Order
March 2022

Intended to ensure the responsible development of digital assets, which includes researching the potential benefits and risks of a central bank digital currency (CBDC)



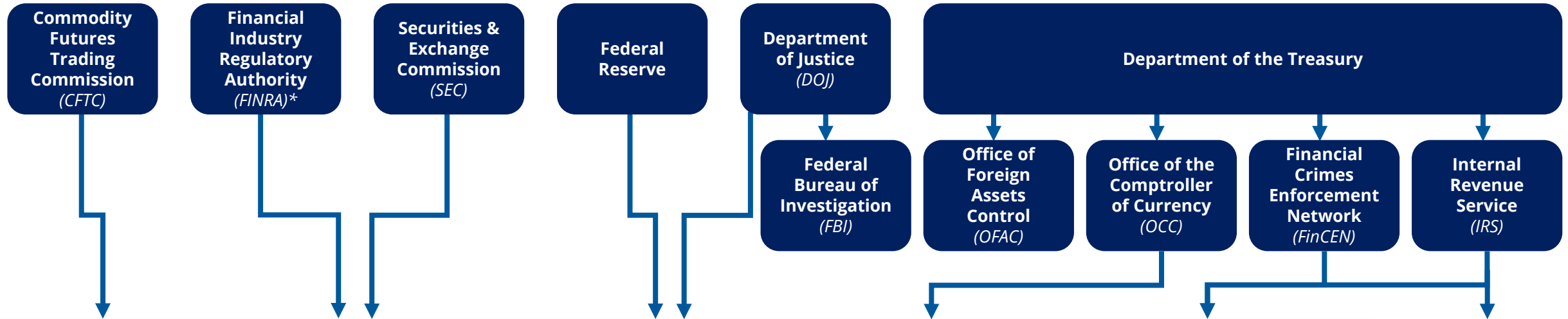
Inflation Reduction Act (IRA)
August 2022

Provides funding for the IRS to perform “digital asset monitoring and compliance activities”



Key Federal Stakeholders

Many federal agencies and regulatory bodies are involved in the regulation and enforcement of federal laws affecting digital assets



Regulating DA Commodities Activities

Regulating futures, swaps, options, and other derivative transactions (though typically not spot transactions)

Regulating DA Securities Activities

Regulating fundraising, securities and securities-based transactions

Regulation of Central Bank Digital Currency (CBDCs)

Conduct research and report on the development of CBDCs, and develop appropriate legislation to reflect the state of the industry

Regulating DA Banking Activities

Provide policy, guidance, advisories, and information about the use of digital assets in the federal banking system

Bank Secrecy Act (BSA)

Money Service Businesses (MSBs) must register with FinCEN to implement AML programs (including KYC measures)

DAI Purpose

Coordinate the IRS's strategic response to digital assets



Taxation of Digital Asset Transactions

General federal tax principles applicable to property transactions apply to digital asset transactions:

EXAMPLES OF TAXABLE DIGITAL ASSET TRANSACTIONS¹



Income, gain or loss **may** result from transactions including, but not limited to:

Sale of a digital asset for fiat

Exchange of a digital asset for property, goods, or services

Exchange or trade of one digital asset for another digital asset

Receipt of a digital asset as payment for property, goods or services

Any other disposition of a financial interest in a digital asset

Receipt or transfer of a digital asset for free (without providing any consideration) that does not qualify as a bona fide gift

Transferring a digital asset as a part sale, part gift transaction



Compliance and Enforcement

Enforcing the tax law fairly and increasing voluntary compliance are core components of the IRS mission and vital to narrowing the tax gap.

CIVIL

In the civil space, the goal is to **increase voluntary tax compliance** through a knowledgeable IRS workforce and clear taxpayer guidance. The IRS promotes voluntary compliance and tax reporting of digital assets by leveraging the following resources:

- Training
- Automated under reporting program
- Correspondence, office & field examinations
- Data sources (e.g., yK1/CKGE)
- Blockchain intelligence tools
- Basis computation tools
- John Doe Summonses
- Predictive analytics
- Voluntary disclosures
- Whistleblowers / informants

CRIMINAL






In the criminal space, CI combats illicit acts by **investigating potential criminal violations** of the Internal Revenue Code and related financial crimes in a manner that fosters confidence in the tax system and compliance with the law by leveraging the following resources:

- General data sources (e.g., open-source Internet data, informants)
- Geolocation and blockchain intelligence tools
- Data sources (e.g., yK1/CKGE)
- John Doe Summonses / seized data
- Asset seizure
- Successful prosecutions



IRS Approach - Future Legislation and Regulations

The **White House Digital Assets Executive Order (March 2022)** and **Inflation Reduction Act (August 2022)** require the Department of Treasury to focus on digital assets. The IRS is responding by doing the following:

-  Ensure robust internal capabilities with proactive hiring, training, and development practices
-  Coordinate with the IRS Chief Counsel and Treasury to implement legislation
-  Update guidance (regulations, Revenue Procedures, Revenue Rulings, Notices, Chief Counsel Advice memorandums, etc.)
-  Issue regulations or other guidance without the need for new legislation (depending on the statute and issue)
-  Solicit recommendations from the public to identify and prioritize the tax issues that should be addressed through guidance

