

OBSERVATIONS

New Digital Asset Info Reporting

November 19, 2021

On Nov. 15, 2021 The Infrastructure Investment and Jobs Act of 2021 (IIJA) was signed into law. The IIJA includes requirements for the reporting of cryptocurrency exchanges using intermediary Form 1099 reporting. Generally, these rules will apply to digital asset transactions starting in 2023.

As you know, if you have a stock brokerage account, then whenever you sell stock or other securities you receive a Form 1099-B at the end of the year. Your broker uses that form to report details of transactions such as sale proceeds, relevant dates, your tax basis for the sale, and the character of gains or losses. Furthermore, if you transfer stock from one broker to another broker, then the old broker is required to furnish a statement with relevant information, such as tax basis, to the new broker.

The IIJA expands the definition of brokers who must furnish Forms 1099-B to include businesses that are responsible for regularly providing any service accomplishing transfers of digital assets on behalf of another person ("Crypto Exchanges"). Thus, any platform on which you can buy and sell cryptocurrency will be required to report digital asset transactions to you and the IRS at the end of each year.

Sometimes you may have a transfer transaction that is not a sale or exchange. For example, transfers between one cryptocurrency wallet to another. For that type of transfer, as with stock, the old Crypto Exchange will be required to furnish relevant digital asset information to the new Crypto Exchange. Additionally, if the transfer is to an account maintained by a party that is not a Crypto Exchange (or broker), the IIJA requires the old Crypto Exchange to file a return with the IRS. It is anticipated that such return will include generally the same information that is furnished in a broker-to-broker transfer.

The IIJA will require businesses to treat digital assets like cash for purposes of this reporting requirement. This means when a business receives \$10,000 or more in cash in a transaction, that business is required to report the transaction, including the identity of the person from whom the cash was received, to the IRS on Form 8300. Form 1099-B reporting will apply on applicable transactions occurring after January 1, 2023. Presumably the IRS will update Forms 1099-B and 8300 for digital asset nuances.

If you use a Crypto Exchange, and it has not already collected a Form W-9 from you (seeking your taxpayer identification number), expect it to do so. Second, the transactions subject to the reporting will include not only selling cryptocurrencies for fiat currencies (like U.S. dollars), but

also exchanging cryptocurrencies for other cryptocurrencies. Third, a reporting intermediary does not always have perfect information, especially when it comes to an entirely new type of reporting.

The first information reporting cycle for digital assets may be a bit bumpy. We are here to assist with any challenges that may develop. If you have questions or concerns about the digital asset reporting rules, please do not hesitate to contact us.