



«CryptoCFOs

**IMPORTANT HIGHLIGHTS
OF THE FINAL
IRS REGULATIONS FOR
DIGITAL ASSET BROKERS**

REPORTING REQUIREMENTS FOR DIGITAL ASSET BROKERS



KEY TAKEAWAY:

CUSTODIAL BROKERS MUST REPORT DIGITAL ASSET DISPOSITIONS TO BOTH THE SELLER AND THE IRS USING FORM 1099-DA.

- BROKERS ARE REQUIRED TO FILE INFORMATION RETURNS AND FURNISH PAYEE STATEMENTS REPORTING GROSS PROCEEDS AND ADJUSTED BASIS ON DIGITAL ASSET TRANSACTIONS.
- THIS REGULATION APPLIES TO SALES OR EXCHANGES OF DIGITAL ASSETS MADE ON BEHALF OF CUSTOMERS IN TAXABLE TRANSACTIONS.



DEFINITION AND INCLUSION OF NON-CUSTODIAL ACTORS



KEY TAKEAWAY:

THE IRS INTENDS TO ISSUE FURTHER REGULATIONS FOR NON-CUSTODIAL ACTORS, SUCH AS DEFI PLATFORMS.

- ALTHOUGH THE FINAL REGULATIONS RESERVE ON DEFINING “DIGITAL ASSET MIDDLEMAN,” THE IRS AND TREASURY HAVE INDICATED THAT NON-CUSTODIAL INDUSTRY PARTICIPANTS MAY STILL BE TREATED AS BROKERS.
- FUTURE REGULATIONS WILL ADDRESS THESE NON-CUSTODIAL PARTICIPANTS, POTENTIALLY EXPANDING REPORTING OBLIGATIONS WITHIN THE DIGITAL ASSET ECOSYSTEM.



STABLECOINS REPORTING REQUIREMENTS



KEY TAKEAWAY:

QUALIFYING STABLECOIN EXCHANGES BELOW \$10,000 ANNUALLY ARE EXEMPT FROM REPORTING, BUT EXCHANGES EXCEEDING THIS AMOUNT MUST BE REPORTED.

- THE ALTERNATIVE REPORTING METHOD ALLOWS BROKERS TO EXCLUDE EXCHANGES OF QUALIFYING STABLECOINS FOR NON-STABLECOIN DIGITAL ASSETS FROM REPORTING.
- EXCHANGES OF QUALIFYING STABLECOINS FOR OTHER ASSETS OR SERVICES, INCLUDING OTHER QUALIFYING STABLECOINS, ARE REPORTED ONLY IF THEY EXCEED \$10,000 IN AGGREGATE ANNUALLY.
- QUALIFYING STABLECOINS MUST EITHER PREVENT A DEPEG OF MORE THAN 3% OVER ANY 10-DAY PERIOD IN THE CALENDAR YEAR OR BE REDEEMABLE FOR FIAT CURRENCY AND ACCEPTED AS PAYMENT BEYOND THE ISSUER.



NON-FUNGIBLE TOKENS (NFTS)



KEY TAKEAWAY:

NFTS ARE TREATED AS DIGITAL ASSETS, BUT SALES OF SPECIFIED NFTS UNDER \$600 ANNUALLY ARE EXEMPT FROM REPORTING.

- BROKERS ARE REQUIRED TO REPORT NFT SALES ON AN AGGREGATED BASIS UNLESS THE ANNUAL GROSS PROCEEDS FROM SPECIFIED NFTS DO NOT EXCEED \$600.
- SPECIFIED NFTS MUST BE INDIVISIBLE AND UNIQUE, DETERMINED BY A UNIQUE DIGITAL IDENTIFIER WITHIN THE ASSET ITSELF, EXCLUDING SEMI-FUNGIBLES, ERC-404S, AND POSSIBLY BTC INSCRIPTIONS.
- PENDING FURTHER GUIDANCE, BROKERS ARE NOT REQUIRED TO BACKUP WITHHOLD ON SPECIFIED NFT SALES.



DUAL CLASSIFICATION ASSETS



KEY TAKEAWAY:

DUAL CLASSIFICATION ASSETS (E.G., TOKENIZED STOCKS) SHOULD GENERALLY BE REPORTED ON FORM 1099-DA, EXCEPT FOR CERTAIN SPECIFIC CASES.

- FORM 1099-DA GENERALLY TAKES PRECEDENCE OVER FORM 1099-B, EXCEPT FOR U.S. MONEY MARKET FUNDS, 1256 CONTRACTS, AND LIMITED-ACCESS REGULATED NETWORKS.
- THE LIMITED-ACCESS REGULATED NETWORK (LARN) EXCEPTION AIMS TO AVOID 1099-DA REPORTING WHEN BLOCKCHAIN TECHNOLOGY IS USED SOLELY FOR ORDER PROCESSING BETWEEN REGULATED FINANCIAL ENTITIES.



DIGITAL ASSET PAYMENT PROCESSORS (PDAPS)



KEY TAKEAWAY:

PDAPS MUST REPORT TRANSACTIONS IF THEY HAVE AGREEMENTS FOR AML-RELATED ID VERIFICATION. NOTICE 2024-56 EXEMPTS THEM FROM BACKUP WITHHOLDING PENDING FURTHER GUIDANCE.

- PDAPS ARE REQUIRED TO ISSUE 1099-DAS ONLY IF THEY HAVE AN AGREEMENT WITH THE PAYER THAT ALLOWS AML-RELATED ID VERIFICATION.
- PDAPS TYPICALLY DO NOT TAKE CUSTODY OF THE GOODS OR ASSETS ACQUIRED BY THE PAYER, THUS HAVING NO WITHHOLDING RESPONSIBILITY.



INFORMATION REPORTING ADJUSTMENTS



KEY TAKEAWAY:

BROKERS MUST REPORT GROSS PROCEEDS FOR TRANSACTIONS AFTER 2024 AND BASIS FOR TRANSACTIONS AFTER 2025, BUT ARE NOT REQUIRED TO REPORT TRANSACTION TIMES OR BLOCKCHAIN ADDRESSES.

- THE FINAL REGULATIONS REMOVE THE REQUIREMENT TO REPORT TRANSACTION TIME, TRANSACTION ID, AND CUSTOMER'S BLOCKCHAIN ADDRESS.
- BROKERS MUST RETAIN TRANSACTION IDS AND BLOCKCHAIN ADDRESSES FOR SEVEN YEARS FOR AUDIT PURPOSES.



EXCLUDED TRANSACTIONS



KEY TAKEAWAY:

TRANSACTIONS LIKE WRAPPING/UNWRAPPING, LIQUIDITY PROVISION, STAKING, AND CERTAIN TYPES OF LENDING AND SHORT SELLING ARE EXCLUDED FROM REPORTING.

- NOTICE 2024-57 EXEMPTS THESE TYPES OF TRANSACTIONS FROM REPORTING, AS THEIR SUBSTANTIVE TAX TREATMENT REMAINS UNCLEAR.
- THIS INCLUDES ACTIVITIES SUCH AS WRAPPING/UNWRAPPING, LIQUIDITY PROVISION, CONSENSUS LAYER AND LIQUID STAKING, LENDING WITH AN OBLIGATION TO RETURN IDENTICAL ASSETS, SHORT SELLING, AND NOTIONAL PRINCIPAL CONTRACTS.



MULTIPLE LOTS AND TRANSACTION COSTS



KEY TAKEAWAY:

THE REGULATIONS GENERALLY APPLY FIFO (FIRST-IN-FIRST-OUT) FOR IDENTIFYING SOLD LOTS UNLESS SPECIFICALLY IDENTIFIED. TRANSACTION COSTS ARE INCLUDED IN THE BASIS OR DEDUCTED FROM THE AMOUNT REALIZED.

- TAXPAYERS WHO ACQUIRE TOKENS AT DIFFERENT PRICES AND THEN SELL LESS THAN THEIR TOTAL HOLDINGS NEED RULES TO DETERMINE WHICH “LOT” THEY SOLD.
- THE FINAL REGULATIONS GENERALLY TREAT A TAXPAYER AS SELLING THE FIRST LOT ACQUIRED TO THE EXTENT HELD IN THE SELLING WALLET.
- ALTERNATIVELY, TAXPAYERS CAN SPECIFICALLY IDENTIFY WHICH LOT THEY SOLD BY MAKING A NOTATION IN THEIR BOOKS BEFORE THE SALE.
- BROKERS CAN RELY ON TAXPAYER-PROVIDED INFORMATION OR APPLY DEFAULT RULES FOR REPORTING.

