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SUMMARY

In 2021, Section 80603 of the Infrastructure Investment and Jobs Act (IIJA, Pub. L. No. 117-58) defined the term "digital asset" in the Internal Revenue Code (IRC) for tax purposes. Several years before the codified tax definition, however, the Internal Revenue Service (IRS) had begun issuing guidance on how cryptocurrency should be treated for tax purposes. The IRS treats digital assets as property, which means that the tax treatment of digital assets is generally guided by the tax principles applicable to property transactions. These principles cover sales, exchanges, the timing of income recognition, substantiation, and valuation.

Detailed judicial decisions and administrative guidance discussing the tax treatment of digital assets remain limited. Since the enactment of the IIJA, federal taxing authorities have concentrated on providing stakeholders with significant digital asset reporting compliance resources. Federal materials that focus on the tax consequences of digital asset transactions have largely addressed foundational concepts and been preliminary. When detailed tax guidance exists, it has generally been fact-specific and limited in scope. Judicial decisions concerning digital assets exhibit similar constraints, which might limit broader applications.

The few detailed decisions and administrative materials on digital assets taxation often turn on a digital asset's characteristics and the facts and circumstances surrounding a particular digital asset transaction. Courts and federal taxing authorities typically look for analogies among traditional asset classes and transactions to assess whether similar tax treatment is warranted. Courts have issued decisions and the IRS has issued guidance and rulings on the tax treatment of digital assets in specific contexts, such as hard forks, airdrops, mining, staking, and non-fungible tokens (NFTs).

Federal lawmakers have proposed legislation aimed at clarifying the existing tax treatment of digital assets and altering the tax treatment of digital assets in certain types of transactions. As digital asset transactions continue to evolve, Congress may consider whether the existing statutory framework adequately captures revenue from digital asset transactions.

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Introduction

In 2021, the Infrastructure Investment and Jobs Act (IIJA) amended the Internal Revenue Code (IRC) to address tax information reporting for "digital asset" transactions.[1] The IIJA added IRC § 6045(g)(3)(D), which defines a digital asset as "any digital representation of value which is recorded on a cryptographically secured distributed ledger or any similar technology as specified by the Secretary" of the Department of the Treasury (Treasury).[2] Several years before the IIJA, the Internal Revenue Service (IRS), a bureau within Treasury, began to issue guidance on the tax treatment of cryptocurrency.[3]

The IRS has described cryptocurrency as a form of virtual currency that uses cryptographic protocols to "secure transactions that are digitally recorded" via distributed ledger technology, such as a blockchain.[4] A single unit of cryptocurrency is commonly called a coin or token.[5] "Distributed ledger technology uses independent digital systems [(i.e., nodes)] to record, share, and synchronize transactions" across multiple locations simultaneously, operating without central data storage or administrative authority.[6] Because a distributed ledger does not have a central database or administrator, a consensus mechanism ensures the validity of the distributed ledger.[7] "A consensus mechanism is a set of protocols" that nodes use to reach agreement on distributed ledger updates.[8] A distributed ledger can identify the owner of fungible tokens (e.g., cryptocurrency) and non-fungible tokens (i.e., NFTs).[9]

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1 Infrastructure Investment and Jobs Act (IIJA), Pub. L. No. 117-58, § 80603, 135 Stat. 429, 1339 (2021); *see* 26 C.F.R. § 1.6045-1(a)(19).

2 *Id.* § 80603(b)(1)(B).

3 I.R.S. Notice 2014-21, 2014-16 I.R.B. 938. The IRS has stated that "digital assets . . . include, but are not limited to, property the Department of the Treasury and the [IRS] . . . previously referred to as convertible virtual currency and cryptocurrency." Rev. Rul. 2023-14, 2023-33 I.R.B. 484 (citing Rev. Rul. 2019-24, 2019-44 I.R.B. 1004 and I.R.S. Notice 2014-21, 2014-16 I.R.B. 938 (Mar. 26, 2014), *as modified by* I.R.S. Notice 2023-34, 2023-19 I.R.B. 837 (Apr. 24, 2023)). In Revenue Ruling 2019-24, the IRS defined "virtual currency," "foreign currency," and "cryptocurrency" for tax purposes. Rev. Rul. 2019-24, 2019-44 I.R.B. 1004. The IRS described virtual currency as "a digital representation of value that functions as a medium of exchange, a unit of account, and a store of value other than a representation of the United States dollar or a foreign currency." *Id.*; *see* I.R.S., FREQUENTLY ASKED QUESTIONS ON VIRTUAL CURRENCY TRANSACTIONS, Q&A 1 (last reviewed or updated on June 30, 2026), https://www.irs.gov/individuals/international-taxpayers/frequently-asked-questions-on-virtual-currency-transactions [https://perma.cc/5G8K-TQUA] (generally applying to "transactions involving digital assets completed before Jan. 1, 2025"). The IRS described foreign currency as "coin and paper money of a country other than the United States that is designated as legal tender, circulates, and is customarily used and accepted as a medium of exchange in the country of issuance." Rev. Rul. 2019-24, 2019-44 I.R.B. 1004 (citing 31 C.F.R. § 1010.100 (2023); *see* I.R.S. Notice 2023-34, 2023-19 I.R.B. 837 (acknowledging that certain foreign jurisdictions have recognized Bitcoin as legal tender but explaining that the status did not affect IRS Notice 2014-21's conclusion that convertible virtual currency does not "generate foreign currency gain or loss for U.S. federal tax purposes."). According to the IRS, cryptocurrency is a "type of virtual currency that utilizes cryptography to secure transactions that are digitally recorded on a distributed ledger, such as a blockchain." Rev. Rul. 2019-24, 2019-44 I.R.B. 1004; I.R.S. Chief Couns. Adv. 202302012 (Jan. 13, 2023).

4 Rev. Rul. 2019-24, 2019-44 I.R.B. 1004. For further discussion of cryptocurrency, see CRS Report R47425, *Cryptocurrency: Selected Policy Issues*, by Paul Tierno (2023), and CRS Report R48963, *Cryptocurrency: Regulatory and Legislative Policy Issues*, by Paul Tierno (2025).

5 Rev. Rul. 2019-24, 2019-44 I.R.B. 1004.

6 *Id.* For further discussion of blockchain, a distributed ledger technology, see CRS Report R45116, *Blockchain: Background and Policy Issues*, by Chris Jaikaran (2018).

7 Rev. Rul. 2023-14, 2023-33 I.R.B. 484.

8 *See id*.

9 I.R.S. Notice 2023-27, 2023-15 I.R.B. 634.

In IRS Notice 2014-21, the IRS responded to some preliminary questions about cryptocurrency, including that cryptocurrency would be treated as property, instead of currency, for federal tax purposes.[10] The IRS expanded on Notice 2014-21 by addressing the receipt of cryptocurrency in specific transactions.[11] In Revenue Rule 2019-24, the IRS used foundational tax principles to determine when the receipt of cryptocurrency constituted "gross income."[12] The IRS has also answered frequently asked questions about virtual currency transactions on its website, expanding on Notice 2014-21.[13]

Following the IIJA's enactment, Treasury and the IRS continued to issue guidance and rulings addressing the tax treatment of digital assets.[14] In Revenue Ruling 2023-14, the IRS addressed when a taxpayer recognizes income from staking—a process where a taxpayer offers tokens as collateral to validate transactions on a distributed ledger and receives validation rewards in exchange.[15] In IRS Notice 2023-27, the IRS informed taxpayers that it intended to issue guidance to address when an individual retirement account's acquisition of an NFT would be treated as an acquisition of a collectible under IRC § 408(m), which can result in a taxable distribution.[16]

Over the same period, the U.S. Tax Court—a specialized court created under Article I of the Constitution to adjudicate federal tax matters expressly provided by statute—has established that taxpayers realize income from the sale and disposition of digital assets based on IRC § 61 and existing case law.[17] Article III courts have issued opinions and orders discussing the tax treatment

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[10] I.R.S. Notice 2014-21, 2014-16 I.R.B. 938 ("Virtual currency is a digital representation of value that functions as a medium of exchange, a unit of account, and/or a store of value."), *as modified by* I.R.S. Notice 2023-34, 2023-19 I.R.B. 837 (acknowledging foreign jurisdictions had enacted laws that characterized Bitcoin as legal tender) ("In certain contexts, virtual currency may serve one or more of the functions of 'real' currency – i.e., the coin and paper money of the United States or of any other country that is designated as legal tender, circulates, and is customarily used and accepted as a medium of exchange in the country of issuance – but the use of virtual currency to perform 'real' currency functions is limited."); I.R.S. Notice 2014-21, 2014-16 I.R.B. 938, § 4, Q&A 1 ("For federal tax purposes, virtual currency is treated as property.").

[11] Rev. Rul. 2019-24, 2019-44 I.R.B. 1004.

[12] *Id.*; *see* I.R.S., FREQUENTLY ASKED QUESTIONS ON VIRTUAL CURRENCY TRANSACTIONS, Q&A 26.

[13] I.R.S., FREQUENTLY ASKED QUESTIONS ON VIRTUAL CURRENCY TRANSACTIONS; I.R.S., FREQUENTLY ASKED QUESTIONS ON DIGITAL ASSET TRANSACTIONS (last reviewed or updated on June 29, 2026), https://www.irs.gov/individuals/international-taxpayers/frequently-asked-questions-on-digital-asset-transactions [https://perma.cc/5G8K-TQUA].

[14] *See, e.g.*, I.R.S. Notice 2024-56, 2024-29 I.R.B. 64 (July 1, 2024) (transitional relief from broker information reporting and backup withholding); I.R.S. Notice 2024-57, 2024-29 I.R.B. 67 (July 1, 2024) (transitional relief from broker information reporting and related penalties); I.R.S. Notice 2025-33, 2025-27 I.R.B. 4 (June 13, 2025) (transitional relief from broker information reporting, backup withholding, and related penalties). On July 9, 2024, the U.S. Department of the Treasury and the IRS issued the final regulations implementing the information reporting requirements under Internal Revenue Code (IRC) § 6045. T.D. 10000, 89 Fed. Reg. 56480 (July 9, 2024) (to be codified at 26 C.F.R. pts 1, 31, and 301); *see also* I.R.S. Ann. 2023-02, 2023-2 I.R.B. 344 (Dec. 23, 2022). The IRS annually releases its Priority Guidance Plan, which contains guidance projects that are priorities. I.R.S. Notice 2025-19, 2025-17 I.R.B. 1418 (Apr. 5, 2025) ("The Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) invite the public to submit recommendations for items to be included on the 2025-2026 Priority Guidance Plan."). For a discussion of Treasury and IRS guidance, see CRS In Focus IF11604, *Reliance on Treasury Department and IRS Tax Guidance*, by Milan N. Ball (2025).

[15] Rev. Rul. 2023-14, 2023-33 I.R.B. 484. A token holder "stakes" a minimum number of tokens as collateral to validate transactions. Paschall v. Comm'r, T.C. Memo. 2026-46, 2026 WL 1597503, *2 (June 4, 2026). If a validation is successful, the token holder receives staking rewards. *Id.*

[16] I.R.S. Notice 2023-27, 2023-15 I.R.B. 634.

[17] *Paschall*, 2026 WL 1597503, *6 (explaining, in a memorandum opinion, that "section 61 and related caselaw doom[ed the taxpayers'] position."); *see* 26 U.S.C. § 7442 (discussing some of the matters within the Tax Court's jurisdiction); HAROLD DUBROFF & BRANT J. HELLWIG, THE UNITED STATES TAX COURT: AN HISTORICAL ANALYSIS (2d (continued...)

of staking rewards.[18] In 2026, the Tax Court issued a memorandum holding that a cash-method taxpayer's staking rewards were includible upon receipt.[19]

Tax Principles Generally Applicable to Property

IRS Notice 2014-21 outlines the general tax principles applicable to convertible virtual currency transactions.[20] The notice only identifies Bitcoin as a convertible virtual currency and states that "[n]o inference should be drawn with respect to virtual currencies not described in this notice."[21] The notice explains Bitcoin is a convertible virtual currency because it "can be digitally traded . . . and can be purchased . . . or exchanged [for] U.S. dollars, Euros, and other real or virtual currencies."[22]

In Notice 2014-21, the IRS first announced that it would treat virtual currencies as property, meaning that the general tax principles that apply to property transactions apply to virtual currencies.[23] While this notice did not address several of the issues surrounding the tax consequences of virtual currency transactions, it did clarify that the IRS would treat convertible virtual currencies as property, not currency.[24] As a result of this property treatment, the use of digital assets as payment for goods or services or the receipt of digital assets for goods or the performance of services can generate tax liability.[25]

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ed. 2014) (examining the origins and the development of the Tax Court). In *Paschall*, the taxpayers cited *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), when contending that IRS Revenue Ruling 2023-14 was "'inapplicable' and that any reliance on it [wa]s misplaced." *Paschall*, 2026 WL 1597503, *6. The Tax Court declined to the address the validity of Revenue Ruling 2023-14 because its decision did not rest on the revenue ruling. *Id.* Rather, its decision was rested on IRC § 61 and related case law. *Id.* The Tax Court is a court with "national jurisdiction over litigation involving the interpretation of the Federal tax statutes." Anderson v. Comm'r, 123 T.C. 219, 236 (2004), *aff'd*, 137 F. App'x 373 (1st Cir. 2005). Absent conflicting Supreme Court or federal appellate court precedent, the Tax Court treats its reviewed decisions (i.e., Division Opinions), as precedent. Trout v. Comm'r, 131 T.C. 239, 245 n.6 (2008) (citing by Golsen v. Comm'r, 54 T.C. 742 (1970) and Lawrence v. Comm'r, 27 T.C. 713 (1957*), rev'd on other grounds*, 258 F.2d 562 (9th Cir. 1958), and *overruled in part by Golsen*, 54 T.C. 742); *see* 26 U.S.C. § 7460. The Tax Court has stated that its Memorandum Opinions are not "controlling precedent." Newman v. Comm'r, 68 T.C. 494, 502 n.4 (1977) (citing Nico v. Comm'r, 67 T.C. 647, 654, *aff'd in part*, *rev'd in part on other grounds*, 565 F.2d 1234 (2d Cir. 1977)).

[18] *See, e.g.*, *Jarrett v. United States*, 79 F.4th 675 (6th Cir. 2023) [hereinafter *Jarrett I*], *aff'g*, No. 3:21-CV-00419, 2022 WL 4793235 (M.D. Tenn. Sept. 30, 2022).

[19] *Paschall*, 2026 WL 1597503. A cash-method taxpayer is a taxpayer that uses the cash receipts and disbursement method to compute taxable income. 26 U.S.C. § 446(c)(1).

[20] I.R.S. Notice 2014-21, 2014-16 I.R.B. 938 (Mar. 26, 2014). "Virtual currency is a digital representation of value that functions as a medium of exchange, a unit of account, and/or a store of value. . . . Virtual currency that has an equivalent value in real currency, or that acts as a substitute for real currency, is referred to as 'convertible' virtual currency." *Id*. § 2. IRS Notice 2014-21 refers to the Financial Crimes Enforcement Network's Regulations to Persons Administering, Exchanging of Using Virtual Currencies (FIN-2013-G001, March 18, 2013) for a more comprehensive description of convertible virtual currencies. *Id*.

[21] I.R.S. Notice 2014-21, 2014-16 I.R.B. 938.

[22] *Id*.

[23] *Id.* § 4 Q&A 1.

[24] *Id*. § 4 Q&A 2; *see also* 26 U.S.C. § 988(e) (providing nonrecognition treatment to individual taxpayers entering certain personal foreign currency transactions).

[25] I.R.S. Notice 2014-21, 2014-16 I.R.B. 938, § 4, Q&A 3, 4; *see* Chief Couns. Adv. 202035011 (Aug. 28, 2020) (determining a taxpayer who received convertible virtual currency in exchange for performing microtask through a crowdsourcing platform had ordinary taxable income).

Pursuant to IRC § 61(a)(3), gains from dealings in property are includible in gross income and thus may be subject to tax.[26] By default, gain from the sale or exchange of property is ordinary in character unless a special rule applies.[27] Under IRC § 1011, a taxpayer's adjusted basis for determining the gain or loss from the sale or disposition of property is generally the cost basis determined under IRC § 1012 adjusted as provided under IRC § 1016.[28] Unless otherwise provided in the IRC, if a taxpayer receives property that is not purchased (e.g., exchanged), the taxpayer's basis in the property is determined by the amount included in gross income, which is the fair market value of the property when it was received.[29]

The taxable year that a taxpayer includes an amount in gross income depends on whether the taxpayer uses a cash method of accounting or an accrual method of accounting.[30] A taxpayer using a cash basis method of accounting includes the amount of any item, such as gain or profit, in gross income in the taxable year in which it is actually or constructively received.[31] A taxpayer using the accrual method of accounting includes an amount of gross income when all events "events have occurred which fix the right to receive such income and the amount of such income can be determined with reasonable accuracy."[32]

Hard Forks and Airdrops

Revenue Ruling 2019-24 addresses two situations involving a hard fork of cryptocurrency.[33] A hard fork occurs when a cryptocurrency on a distributed ledger[34] undergoes a protocol change causing a permanent division from the legacy or existing distributed ledger.[35] A hard fork can produce a new cryptocurrency on a new distributed ledger.[36] After a hard fork, new

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[26] 26 U.S.C. § 61(a)(3); *see id.* §§ 62 (adjusted gross income), 63 (taxable income); *see also id.* § 61(a) (providing that "gross income means all income from whatever source derived"); Comm'r v. Glenshaw Glass Co., 348 U.S. 426 (1955) (stating that gross income includes "undeniable accessions to wealth, clearly realized, and over which the taxpayers have complete dominion"); *see* 26 U.S.C. § 61(a)(1) (providing that "[c]ompensation for services, including fees, commissions, fringe benefits, and similar items" are includable gross income).

[27] Rev. Rul. 2019-24, 2019-44 I.R.B. 1004 (Oct. 10, 2019). *See*, *e.g.*, 26 U.S.C. §§ 1222 (defining short-term capital gain and loss and long-term capital gain and loss), 1231 (providing long-term capital gain treatment to certain gains on the sale or exchange of property used in a trade or business and from involuntary conversion of property used in a trade or business or a capital asset held for more than one year in connection with a trade or business or a transaction entered into for profit), 1234A (providing capital asset treatment to certain rights or obligations with respect to property that is or would be a capital asset in the hands of the taxpayer or to an IRC § 1256 contract that is not the former, which is a capital asset in the hands of the taxpayer).

[28] 26 U.S.C. §§ 1011, 1012, 1016; *see, e.g.*, Rev. Rul. 2019-24, 2019-44 I.R.B. 1004.

[29] Rev. Rul. 2019-24, 2019-44 I.R.B. 1004; *see generally* 26 U.S.C. §§ 61, 1011; 26 C.F.R. § 1.61-2(d)(2)(i).

[30] *See* Rev. Rul. 2019-24, 2019-44 I.R.B. 1004.

[31] 26 U.S.C. § 451(a); 26 C.F.R. §§ 1.451-1(a) (general rule for taxable year of inclusion), 1.451-2(a) (constructive receipt).

[32] 26 U.S.C. § 451(b)(1); *see* 26 C.F.R. § 1.451-1(a). In general, individuals use the cash receipts and disbursements (cash) method of accounting. I.R.S. Chief Coun. Adv. 202444009 (Nov. 1, 2024).

[33] Rev. Rul. 2019-24, 2019-44 I.R.B. 1004; Order, Rogovy v. Comm'r, No. 17513-24 (T.C. Mar. 18, 2026) (order denying taxpayers' motion for partial summary judgment in a hard fork and airdrop tax case).

[34] Rev. Rul. 2019-24, 2019-44 I.R.B. 1004 ("Distributed ledger technology uses independent digital systems to record, share, and synchronize transactions, the details of which are recorded in multiple places at the same time with no central data store or administration functionality.").

[35] *Id.*

[36] *Id.*; *see* Chief Couns. Adv. 202114020 (Apr. 9, 2021) (describing a taxpayer who received Bitcoin Cash as a result of Bitcoin's hard fork on August 1, 2017).

cryptocurrency transactions are recorded on the new distributed ledger and legacy transactions are recorded on the legacy distributed ledger.[37]

An airdrop may follow a hard fork.[38] The IRS describes an airdrop as the distribution of tokens "to the distributed ledger addresses of multiple taxpayers."[39] When an airdrop follows a hard fork, units (or tokens)[40] of the new cryptocurrency are distributed to addresses containing the legacy cryptocurrency.[41] According to the IRS, a taxpayer receives the new cryptocurrency in an airdrop following a hard fork when a taxpayer can exercise "dominion and control" over the cryptocurrency.[42] Generally, this is the date and time the airdrop is recorded on the distributed ledger.[43] That said, under the rule of constructive receipt, a taxpayer may constructively receive income when the taxpayer has the "ability to transfer, sell, exchange, or otherwise dispose of the cryptocurrency."[44] Therefore, a taxpayer may constructively receive cryptocurrency prior to the date and time an airdrop is recorded on a distributed ledger.[45] A taxpayer may receive cryptocurrency after the date and time of the airdrop if the cryptocurrency is airdropped in a cryptocurrency exchange managed wallet and the cryptocurrency exchange "does not support the newly-created cryptocurrency such that the airdropped cryptocurrency is not immediately credited to the taxpayer's account" at the exchange.[46] The taxpayer receives the cryptocurrency if and when the taxpayer can "transfer, sell, exchange, or otherwise dispose of the cryptocurrency."[47]

In Revenue Ruling 2019-24 situation one, a taxpayer owns cryptocurrency that experiences a hard fork, resulting in the creation of a new cryptocurrency.[48] The new cryptocurrency is not airdropped or otherwise transferred to the taxpayer's account or controlled by the taxpayer.[49] The IRS ruled that the taxpayer in situation one does not have gross income under IRC § 61 following the hard fork because the taxpayer did not receive units of the new cryptocurrency.[50]

Like situation one, in situation two, a taxpayer owns cryptocurrency that experiences a hard fork, resulting in the creation of a new cryptocurrency.[51] As a result of the taxpayer owning legacy cryptocurrency, new cryptocurrency is airdropped to the taxpayer on Date 1, and the taxpayer can immediately dispose of the new cryptocurrency.[52] The new cryptocurrency is recorded on the distributed ledger on Date 1 at Time 1.[53] The IRS concluded that in situation two, the taxpayer has

[37] Rev. Rul. 2019-24, 2019-44 I.R.B. 1004.

[38] *Id.*

[39] *Id.*

[40] Rev. Rul. 2019-24, 2019-44 I.R.B. 1004 ("Units of cryptocurrency are generally referred to as coins or tokens").

[41] *Id.*

[42] *Id.*

[43] *Id.*

[44] *Id.*

[45] *Id.*

[46] *Id.*

[47] *Id.*; *see also* I.R.S. Chief Couns. Adv. 202302012 (Jan. 13, 2023) ("A charitable contribution of cryptocurrency is, in general, considered to be made at the date and time the cryptocurrency is transferred, as evidenced by its recording on the blockchain, or at the time legal title passes.").

[48] Rev. Rul. 2019-24, 2019-44 I.R.B. 1004.

[49] *Id.*

[50] *Id.*

[51] *Id.*

[52] *Id.*

[53] *Id.*

gross income under IRC § 61 because of the taxpayer's ability to immediately dispose of the new cryptocurrency received from the airdrop that followed the hard fork.[54]

Mining and Staking

In *Paschall v. Commissioner*, the Tax Court found that "[c]ryptocurrencies typically use two consensus protocols to validate the blockchain and distribute new tokens: proof of work and proof of stake."[55] In a proof-of-work protocol, "miners" solve difficult math problems as a way of validating unverified transactions that are then added to the blockchain.[56] By comparison, in a proof-of-stake protocol, "stakers" are selected by an algorithm to validate the blockchain.[57]

Mining

IRS Notice 2014-21 established a framework for the tax treatment of mining.[58] A miner solves "complex mathematical problems relating to recent unverified transactions" to validate the blockchain.[59] When a miner solves a problem, other nodes review the miner's solution to verify that the miner has reached the correct solution.[60] If the miner's solution is verified as correct, then the miner receives new tokens of the same type as a reward.[61]

In Notice 2014-21, the IRS concluded that taxpayers who successfully "mine[]" must include in their gross income the fair market value of the new virtual currency they receive on the date of receipt.[62] Furthermore, if the taxpayer is in the trade or business of mining, and the taxpayer is not participating in the mining activity as an employee, then the net earnings from the self-employment activity is self-employment income and subject to self-employment taxes.[63]

Staking

Proof of stake is a consensus protocol that cryptocurrencies use to validate the blockchain and distribute new tokens.[64] An algorithm will select validators to confirm new blocks to the blockchain.[65] In order for a token holder to become a validator, often a token holder must "stake" a minimum number of tokens as collateral.[66] A token holder can also satisfy the minimum number of tokens requirement to become a validator by joining a staking pool with other token holders.[67] An algorithm selects a validator based on "quantity of tokens staked, their tenure as validators, or

[54] *Id.*

[55] Paschall v. Comm'r, T.C. Memo 2026-46, 2026 WL 1597503, *2 (June 4, 2026) (footnote omitted).

[56] *Id.*

[57] *Id.*

[58] I.R.S. Notice 2014-21, 2014-16 I.R.B. 938, § 4 Q&A 8.

[59] *Paschall*, 2026 WL 1597503, *2.

[60] *Id.*

[61] *Id.*

[62] I.R.S. Notice 2014-21, 2014-16 I.R.B. 938, § 4 Q&A 8 (Mar. 26, 2014). The IRS explains that a taxpayer who "mines" virtual currency includes a taxpayer who "uses computer resources to validate Bitcoin transactions and maintain the public Bitcoin transaction ledger." *Id*.

[63] I.R.S. Notice 2014-21, 2014-16 I.R.B. 938, § 4 Q&A 9 (Mar. 26, 2014); *see* 26 U.S.C. §§ 1401–1402.

[64] *Paschall*, 2026 WL 1597503, at *2.

[65] *Id.*

[66] *Id.*

[67] *Id.* at *2 n.3.

luck."[68] If a validator succeeds in validating a transaction on the blockchain, the validator receives rewards of the same token.[69] If the validator "dishonestly or incorrectly validate[s a] transaction[]," the validator risks forfeiting the staked rewards.[70]

Revenue Ruling 2023-14 addressed the tax treatment of a cash-method taxpayer's staking rewards, including when the value of staking rewards was includible in gross income.[71] The taxpayer owned units of a cryptocurrency that was a convertible virtual currency.[72] The taxpayer received additional units of the cryptocurrency as a reward for staking units of the cryptocurrency and validating transactions on the cryptocurrency's blockchain.[73] The IRS concluded that the fair market value of the validation rewards was included in the taxpayer's gross income in the taxable year in which the taxpayer exercised "dominion and control" over the validation rewards.[74] The IRS also ruled that the fair market value of staking rewards was determined as of the date and time the taxpayer gained dominion and control over rewards.[75] The taxpayer exercised dominion and control over the validation rewards when the taxpayer had the ability to sell, exchange, or dispose of them.[76] The revenue ruling further explained that the same tax treatment would apply if the taxpayer staked the cryptocurrency through a cryptocurrency exchange.[77]

Relying on Revenue Ruling 2023-14, in IRS Chief Counsel Advice 202444009, the IRS concluded that a cash-method taxpayer who had received rewards in the form of digital assets from staking and other activities had to include the fair market value of those digital assets in gross income, even though the platform where the digital assets were held had filed a Chapter 11 bankruptcy petition and had frozen its customers' accounts.[78] The platform's user agreement

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[68] *Id.* at *2.

[69] *Id.*

[70] *Id.*

[71] Rev. Rul. 2023-14, 2023-33 I.R.B. 484. A trial date has not been set. *Id*. In *Jarrett I*, married taxpayers filed a lawsuit seeking a refund for taxes paid on income from staking rewards related to their 2019 tax return. 79 F.4th 675 (6th Cir. 2023), *aff'g*, No. 3:21-CV-00419, 2022 WL 4793235 (M.D. Tenn. Sept. 30, 2022). The taxpayers contended that they did not "realize" income from staking until the new tokens that they had received as staking rewards were sold or transferred. *Jarrett I*, 79 F.4th at 676. The U.S. Court of Appeals for the Sixth Circuit (Sixth Circuit) affirmed the U.S. District Court for the Middle District of Tennessee's decision to dismiss the taxpayers' claim as moot because the government had granted the taxpayers' request for refund. *Id.* Following the filing of taxpayers' refund action, and before the district court issued its decision, the Attorney General had "approved" the taxpayers' refund request and "directed the IRS 'to schedule an overpayment.'" *Id.* at 677. The IRS mailed a refund check and a "'Notice of Adjustment,' which stated that the payment was 'made in accordance with the concession authorized in [the case].'" *Id.* (alteration in original). In 2024, the taxpayers in *Jarrett I* filed another lawsuit seeking a refund for taxes paid on income from staking rewards related to the 2020 tax year. Complaint, Jarrett v. United States, No. 3:24-CV-01209 (M.D. Tenn. Oct. 10, 2024) [hereinafter *Jarrett II*]. As of the date of this report, the plaintiffs' and the government's motions for summary judgment are pending before the U.S. District Court for the Middle District of Tennessee. Order, *Jarrett II* (M.D. Tenn. Aug. 3, 2026).

[72] Rev. Rul. 2023-14, 2023-33 I.R.B. 484; *see* I.R.S. Notice 2014-21, 2014-16 I.R.B. 938 ("Virtual currency that has an equivalent value in real currency, or that acts as a substitute for real currency, is referred to as 'convertible' virtual currency.").

[73] Rev. Rul. 2023-14, 2023-33 I.R.B. 484.

[74] *Id.* (citing Comm'r v. Glenshaw Glass Co., 348 U.S. 426, 431 (1955)).

[75] Rev. Rul. 2023-14, 2023-33 I.R.B. 484.

[76] *Id.*

[77] *Id.*

[78] I.R.S. Chief Couns. Adv. 202444009 (Nov. 1, 2024). IRC § 6110(i)(1)(A) describes Chief Counsel Advice as

> written advice or instruction, under whatever name or designation, prepared by any national office component of the Office of Chief Counsel which (i) is issued to field or service center employees of the Service or regional or district employees of the Office of Chief Counsel; and (ii) conveys (I)

(continued...)

provided that rewards would be distributed to the taxpayer's account "following any applicable lockup or waiting period" and the rewards were the taxpayer's property once credited to the taxpayer's account.[79] When the rewards were credited to the taxpayer's account, the taxpayer could "sell, exchange, or transfer the rewards."[80] The taxpayer's digital asset rewards were credited to the taxpayer's account before the Chapter 11 bankruptcy petition and the freezing of customer accounts.[81] The IRS determined that the user agreement established that the taxpayer had gross income from the credited rewards because the taxpayer had dominion and control over the rewarded digital assets before the platform filed for bankruptcy and froze his account.[82]

On June 4, 2026, in *Paschall*, the Tax Court ruled that the income attributable to cryptocurrency staking rewards was includible in gross income upon receipt.[83] The Tax Court rejected the married taxpayers' arguments that staking rewards should be treated like stock dividends or self-created property and subject to tax upon disposition.[84] The Tax Court expressly stated that its decision did not rest on Revenue Ruling 2023-14.[85]

In *Paschall*, the husband held Cardano, a cryptocurrency using a proof-of-stake consensus protocol to validate a distributed ledger.[86] He held his Cardano in an account (i.e., wallet) with the digital assets trading platform eToro.[87] On October 1, 2020, the platform announced a staking service.[88] As part of the staking service, by default, a customer's Cardano tokens were staked.[89] Customers using the staking service retained ownership over their Cardano tokens and received staking rewards in "proportion to the number of tokens they held in their eToro accounts" reduced by a platform fee.[90] The fee fluctuated between 10% to 25% of staking rewards depending on a customer's membership level.[91]

Because the husband in *Paschall* did not opt out of the platform's staking service, his Cardano tokens were staked for all of the 2021 tax year.[92] Each month, the husband received Cardano

> any legal interpretation of a revenue provision; (II) any Internal Revenue Service or Office of Chief Counsel position or policy concerning a revenue provision; or (III) any legal interpretation of State law, foreign law, or other Federal law relating to the assessment or collection of any liability under a revenue provision.

26 U.S.C. § 6110(i)(1)(A).

[79] I.R.S. Chief Couns. Adv. 202444009.

[80] *Id.*

[81] *Id.*

[82] *Id.*

[83] Paschall v. Comm'r, 2026 WL 1597503, *4–6 (June 4, 2026).

[84] *Id*. at *5–6.

[85] *Id.* at *6.

[86] *Id.* at *2.

[87] *Id.*; *see id.* ("Cryptocurrencies are held in accounts also known as wallets."); 26 C.F.R. § 1.6045-1(a)(25)(i) ("A *wallet* is a means of storing, electronically or otherwise, a user's private keys to digital assets held by or for the user."), (ii) ("A *hosted wallet* is a custodial service that electronically stores the private keys to digital assets held on behalf of others."); *see also United States v. Rezapour*, No. 21-50103, 2022 WL 3210689, at *2 (9th Cir. Aug. 9, 2022) ("Although a digital wallet does not serve exactly the same function as a bank account, the overarching purpose (storage and transfer of funds) is analogous.").

[88] *Paschall*, 2026 WL 1597503, at *2.

[89] *Id.*

[90] *Id.*

[91] *Id.*

[92] *Id.* at *3.

tokens as staking rewards in his platform account.[93] The parties stipulated that, in 2021, the husband received $33,354 in Cardano tokens as staking rewards in his platform account.[94] The husband did not have to take any action to accept the Cardano tokens that he was rewarded, and the tokens were "indistinguishable from the existing tokens in his account."[95]

On November 23, 2021, the trading platform notified the husband that, in early 2022, it would be delisting Cardano from the platform.[96] From November 23, 2021, to the end of 2021, the platform "restricted [the husband's] ability to transfer his Cardano tokens to another account or platform."[97] The husband could still sell his Cardano tokens during this period, but he decided against it.[98] The husband transferred his Cardano tokens to a different platform the following year.[99]

The trading platform issued the husband a 2021 Form 1099-MISC reporting $33,354 of other income "attributable to the staking rewards."[100] In 2023, the IRS issued the married taxpayers a notice showing an income tax deficiency of $24,599 for the 2021 tax year and an accuracy related penalty of $4,920 under IRC § 6662(a).[101]

In *Paschall*, the question before the Tax Court was whether the husband's staking rewards were taxable upon receipt in 2021.[102] In reaching its decision, the Tax Court referenced caselaw and IRS revenue rulings and notices.[103] The Tax Court first decided that "[c]ryptocurrency [wa]s treated as property for federal income tax purposes."[104] The Tax Court acknowledged the IRS's conclusions in Revenue Ruling 2023-14—staking rewards for staked cryptocurrency were includible in a cash-method taxpayer's gross income when the taxpayer had dominion and control over the staking rewards and the amount included was the fair market value of the staking rewards on the date received.[105] Despite referencing Revenue Ruling 2023-14, the Tax Court stated that its holding did not "rest" on the revenue ruling.[106] The court remarked that the taxpayers' position was "doom[ed]" by IRC Section 61 and associated caselaw.[107]

In *Paschall*, the taxpayers made several arguments for why the staking rewards were not includible in gross income upon receipt.[108] The taxpayers contended that (1) the platform's restrictions prevented the husband from having dominion and control over the staked tokens,

[93] *Id.*

[94] *Id.*

[95] *Id.*

[96] *Id.*

[97] *Id.*

[98] *Id.*

[99] *Id.*

[100] *Id.*

[101] *Id.* at *1; *see* 26 U.S.C. § 6662(a) (providing the imposition of the accuracy-related penalty on underpayments).

[102] *Paschall*, 2026 WL 1597503, at *3.

[103] *Id.* at *3–6.

[104] *Id.* at *3; *see* Kim v. Comm'r, T.C. Memo. 2023-91, 2023 WL 4635935, at *2 (July 20, 2023).

[105] *Paschall*, 2026 WL 1597503, at *3–4; *see* Rev. Rul. 2023-14, 2023-33 I.R.B. 484. The Tax Court also acknowledged that in IRS Notice 2014-21, the IRS had concluded that (1) cryptocurrency could be treated as a capital asset and (2) cryptocurrency generated from mining was included in gross income upon receipt. *Paschall*, 2026 WL 1597503, *3; *see* I.R.S. Notice 2014-21, 2014-16 I.R.B. 938; *Kim*, 2023 WL 4635935, at *2 (considering whether a taxpayer owes capital gains from virtual currency transactions).

[106] *Paschall,* 2026 WL 1597503, at *6.

[107] *Id.*

[108] *Id.* at *4–6.

(2) tax on the income from staking rewards should be deferred "until realized through a sale or disposition" because the rewards were like stock dividends and represented "growth or accretion in value" and (3) "staking rewards constitute[d] self-created property," and thus income recognition should be deferred.[109]

First, the Tax Court addressed the argument that the husband lacked dominion and control over the staked tokens because the platform prevented him from transferring the tokens to a wallet hosted by another trading platform.[110] To the Tax Court, the husband's inability to transfer the staked tokens to another wallet was inconsequential.[111] The court determined that the husband had dominion and control over the staked tokens because the husband "could convert the tokens to cash at any time."[112] In support of its conclusion, the Tax Court quoted the 1940 case *Helvering v. Horst* in which the Supreme Court reasoned that the "power to dispose of income [wa]s the equivalent of ownership of it."[113] The Tax Court also looked to its 2015 decision in *Webber v. Commissioner*, a case discussing investor control over assets underlying insurance policies and annuities.[114] In *Webber*, the Tax Court relied on the decision of the U.S. Court of Appeals for the Eighth Circuit (Eighth Circuit) in *Christoffersen v. United States*.[115] In *Christoffersen*, the Eighth Circuit reasoned that a "limitation of withdrawals to cash, rather than shares, d[id] not reflect a lack of ownership or control."[116]

In *Paschall*, the married taxpayers' second argument was based on the premise that staking rewards were like stock dividends, and any gain from "growth or accretion in value" should be taxed when "realized through a sale or disposition."[117] Specifically, the taxpayers likened the husband's staking rewards to the pro-rata stock dividend in the 1920 case *Eisner v. Macomber*, where the Supreme Court held that a pro-rata stock dividend was not income subject to tax upon receipt.[118] The Tax Court rejected the taxpayers' argument that staking rewards and the pro-rata stock dividend in *Macomber* were analogous and highlighted the differences between the two cases.[119] The Tax Court explained that in *Macomber*, it was paramount that "the stock dividend . . . created no increase or shift in the value owned."[120] The Tax Court reiterated that, before and after the stock dividend in *Macomber,* the corporation's shareholders had the same "proportionate interest" in the corporation with the same "intrinsic value."[121] By contrast, in *Paschall*, the Tax Court found that when the husband received his staking rewards, his proportion of all outstanding Cardano tokens increased.[122] The Tax Court also found that (1) the automatic

[109] *Id.* The taxpayers cited the outcome of *Jarret I* as support for their arguments. *Id.* at *6 n.9; *see supra* note 71 (discussing *Jarrett I*). The Tax Court concluded that similar arguments made by the taxpayers in *Jarrett I* were not addressed on the merits in that case and the government's decision to concede and provide the taxpayers in that case with a refund was not binding on Tax Court. *Id.*

[110] *Id.* at *4.

[111] *Id.*

[112] *Id.*

[113] *Id*. (quoting Helvering v. Horst, 311 U.S. 112, 118 (1940)).

[114] *Paschall*, 2026 WL 1597503, at *4 (citing Webber v. Comm'r, 144 T.C. 324 (2015)).

[115] *Webber*, 144 T.C. at 359 (citing Christoffersen v. United States, 749 F.2d 513, 514–16 (8th Cir. 1984)).

[116] *Webber*, 144 T.C. at 359 (quoting *Christoffersen*, 749 F.2d at 516) (alteration in original).

[117] *Paschall*, 2026 WL 1597503, at *5.

[118] *Id.* (citing Eisner v. Macomber, 252 U.S. 189 (1920)).

[119] *Paschall*, 2026 WL 1597503, at *5.

[120] *Id.*

[121] *Id.* (quoting *Macomber*, 252 U.S. at 211).

[122] *Paschall*, 2026 WL 1597503, at *5. In *Paschall*, the Tax Court noted that other Cardano token holders'
(continued...)

staking of Cardano tokens was a feature of the trading platform, not the underlying asset; (2) customers could opt out of the platform's staking service; and (3) in order to receive the staking rewards, customers had to "stake their tokens and risk potential forfeiture."[123]

Next, the taxpayers in *Paschall* contended that staking rewards should be treated like self-created property, which is subject to tax upon sale.[124] The taxpayers likened token holders that staked their tokens to bakers baking cakes and writers writing books.[125] The Tax Court rejected this line of reasoning, because it concluded that token holders staking tokens "d[id] not create anything by themselves."[126] The Tax Court maintained that a cryptocurrency's proof-of-stake consensus protocol grants new tokens to a person when the person's "staked tokens validate transactions on the blockchain."[127] The Tax Court also noted that the taxpayers in *Paschall* did not have the "power to decide whether (and when)" property was created because they "were not owners or operators of a staking pool."[128]

Non-Fungible Tokens

Unlike cryptocurrency, an NFT is type of digital asset that does not function as a medium of exchange.[129] An NFT is a "unique digital identifier that is recorded using distributed ledger technology and may be used to certify authenticity and ownership of an associated right or asset."[130] NFT ownership can provide an NFT holder with certain rights with respect to a digital file, such as a digital image,[131] digital music, a digital trading card, or a digital sports moment that is typically separate from the NFT.[132]

In IRS Notice 2023-27, the IRS announced that it intended to issue guidance related to the tax treatment of certain NFTs as collectables under IRC § 408(m).[133] In general, items treated as collectibles do not have the same advantages as other capital assets.[134] For example, under

proportionate interest in all outstanding Cardano could change due to other platforms not offering similar rewards, the use of un-hosted wallets, or not opting into a staking service. *Id.*

[123] *Id.*

[124] *Id.* at *6.

[125] *Id.*

[126] *Id.*

[127] *Id.*

[128] *Id.*

[129] I.R.S., FREQUENTLY ASKED QUESTIONS ON DIGITAL ASSET TRANSACTIONS (last reviewed or updated on June 29, 2026), https://www.irs.gov/individuals/international-taxpayers/frequently-asked-questions-on-digital-asset-transactions [https://perma.cc/5G8K-TQUA].

[130] I.R.S. Notice 2023-27, 2023-15 I.R.B. 634, § 2 (Mar. 21, 2023); I.R.S. News Release IR-2023-50 (Mar. 21, 2023).

[131] I.R.S. Notice 2023-27, 2023-15 I.R.B. 634, § 2 ("A digital file is not the same as a digital asset, as defined in section 6045(g). For purposes of reporting by brokers under section 6045(g), a digital asset is defined as, except as provided by the Secretary, any digital representation of value that is recorded on a cryptographically secured distributed ledger or any similar technology as specified by the Secretary.").

[132] *Id.* § 2.

[133] *Id.* § 1. In IRS Notice 2023-27, the IRS solicited feedback for forthcoming guidance on the tax treatment of NFTs as IRC § 408(m) collectables. *Id.* §§ 1, 3 ("Does this notice provide an accurate definition of an NFT or are there other definitions of NFTs that should be used in future guidance? . . . What other guidance relating to NFTs would be helpful?"); I.R.S. News Release IR-2023-50. As of the date of this report, the IRS has not published further guidance in the *Internal Revenue Bulletin* on NFTs.

[134] I.R.S. Notice 2023-27, 2023-15 I.R.B. 634, § 1 (referring to IRC § 1); I.R.S. News Release IR-2023-50; *see* 26 U.S.C. § 1(h) (subjecting noncorporate taxpayers to a 28% rate on the net gain attributable to collectables) ("The (continued...)

IRC § 408(m)(1), when an individual retirement account (IRA) or an individually directed account of a qualified plan acquires a collectible, the acquisition is treated as a distribution from the account equal to the cost to the account of the collectible.[135] IRC § 408(m)(2) lists specific items that constitute collectibles for certain purposes, such as any works of art, rugs, antiques, metals, gems, stamps, coins, and alcoholic beverages.[136]

In Notice 2023-27, the IRS announced that, pending additional guidance, it intends to apply a "look-through analysis" to determine when an NFT is treated as a collectible.[137] Under this analysis, an NFT is treated as a collectible if the NFT's associated right or asset falls under the definition of collectible in the IRC.[138] For example, if a gem is a collectible under IRC § 408(m), an NFT that certifies ownership of a gem would also be treated as a collectible.[139]

Charitable Contributions

On January 13, 2023, the IRS issued Chief Counsel Advice 202302012, which addresses deductions for charitable contributions of cryptocurrency under IRC § 170.[140] In general, if a taxpayer satisfies certain substantiation requirements, then the taxpayer can take a deduction for a contribution to a charitable organization in the taxable year the contribution is made.[141] For example, for charitable contributions of $250 or more, a taxpayer must substantiate a charitable contribution deduction by obtaining and retaining a contemporaneous written acknowledgment from the donee charitable organization.[142] For charitable donations of property for which a deduction of more than $5,000 is claimed, IRC § 170(f)(11)(C) requires taxpayers to substantiate their charitable contribution deductions by obtaining a qualified appraisal of such property for the taxable year in which the contribution is made and attach to a tax return such information as required by the Treasury Secretary.[143] For charitable donations of property for which a deduction

terms 'collectibles gain' and 'collectibles loss' mean gain or loss (respectively) from the sale or exchange of a collectible (as defined in section 408(m) without regard to paragraph (3) thereof) which is a capital asset held for more than 1 year but only to the extent such gain is taken into account in computing gross income and such loss is taken into account in computing taxable income.").

[135] 26 U.S.C. § 408(m)(1); I.R.S. Notice 2023-27, 2023-15 I.R.B. 634, § 2; I.R.S. News Release IR-2023-50.

[136] I.R.S. Notice 2023-27, 2023-15 I.R.B. 634, § 2; I.R.S. News Release IR-2023-50.

[137] I.R.S. News Release IR-2023-50.

[138] *Id.*

[139] *Id.*

[140] I.R.S. Chief Couns. Adv. 202302012 (Jan. 13, 2023).

[141] 26 U.S.C. § 170(a)(1), (c).

[142] *Id.* § 170(f)(8).

[143] *Id.* § 170(f)(11)(C). A qualified appraisal is an appraisal that (1) is treated as a qualified appraisal under regulations or other guidance provided by the Secretary of Treasury and (2) is conducted by a qualified appraiser in accordance with generally accepted appraisal standards and any regulations or other guidance prescribed by the Secretary of Treasury. *Id.* § 170(f)(11)(E)(i); 26 C.F.R. § 1.170A-17. The contents that a qualified appraisal must include are listed in Treasury Regulation § 1.170A-17(a)(3). 26 C.F.R. § 1.170A-17(a)(3). A qualified appraiser means an individual who (1) "has earned an appraisal designation from a recognized professional appraiser organization or has otherwise met minimum education and experience requirements set forth in regulations prescribed by the Secretary," (2) "regularly performs appraisals for which the individual receives compensation," and (3) "meets such other requirements as may be prescribed by the Secretary in regulations or other guidance." 26 U.S.C. § 170(f)(11)(E)(ii); *see* 26 C.F.R. § 1.170A-17(b). Generally accepted appraisal standards mean "the substance and principles of the Uniform Standards of Professional Appraisal Practice, as developed by the Appraisal Standards Board of the Appraisal Foundation." *Id.* § 1.170A-17(a)(2).

of more than $500,000 is claimed, taxpayers must also attach the qualified appraisal to their tax returns.[144]

As explained in the IRC and regulations, qualified appraisals are not required for certain "readily valued property," including cash, stock in trade, inventory, property primarily held for sale to customers in the ordinary course of business, publicly traded securities, intellectual property, and certain vehicles.[145] In Chief Counsel Advice 202302012, the IRS concluded that cryptocurrency held for personal investment required a qualified appraisal because it did not fit within any of the categories for "readily valued property."[146]

Tax-Exempt Organizations

In IRS Private Letter Ruling 202019028, the IRS determined that an organization formed to advance a cryptocurrency did not qualify as a 501(c)(3) organization—that is, a charity that meets the requirements for federal tax exemption under IRC Section 501(c)(3).[147] The IRS determined that the organization was not an educational organization, did not operate for an exclusively charitable purpose, and benefited private interest.[148] The organization's activities included paying transaction fees and digital asset rewards to validators and facilitating payments to its development team.[149]

Considerations for Congress

The dynamism of digital assets complicates the formulation of a flexible and clear digital assets tax regime. Several Members of Congress have introduced legislative proposals aiming to reform

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[144] 26 U.S.C. § 170(f)(11)(D).

[145] I.R.S. Chief Couns. Adv. 202302012; *see* 26 U.S.C. §§ 170(e)(1)(B)(iii) (intellectual property), 170(f)(11)(A)(ii)(I) ("cash, property described in subsection (e)(1)(B)(iii) or section 1221(a)(1), publicly traded securities (as defined in section 6050L(a)(2)(B)), and any qualified vehicle described in [IRC § 170(f)(12)(A)(ii)] for which an acknowledgement under [IRC § 170(f)(12)(B)(iii)] is provided"), 1221(a)(1) ("stock in trade," inventory, and "property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business"); 26 C.F.R. § 1.170A-16(d)(2); 26 U.S.C. § 6050L(a)(2)(B) ("The term 'publicly traded securities' means securities for which (as of the date of the contribution) market quotations are readily available on an established securities market.")

[146] I.R.S. Chief Couns. Adv. 202302012 (Treasury Regulation "Section 1.170A-13(c)(7)(xi) defines the term 'publicly traded securities' for purposes of section 170 to mean securities as defined by section 165(g)(2). . . . Cryptocurrency B is none of the items listed in section 165(g)(2), and therefore does not satisfy the definition of a security in section 165(g)(2)."); *see* 26 U.S.C. § 165(g)(2) (providing a deduction for losses attributable to worthless securities) ("For purposes of this subsection, the term 'security' means (A) a share of stock in a corporation; (B) a right to subscribe for, or to receive, a share of stock in a corporation; or (C) a bond, debenture, note, or certificate, or other evidence of indebtedness, issued by a corporation or by a government or political subdivision thereof, with interest coupons or in registered form.").

[147] I.R.S. P.L.R. 202019028 (May 8, 2020). Revenue Procedure 2026-1 describes a private letter ruling as "a written determination issued to a taxpayer by an Associate office in response to the taxpayer's written inquiry, filed prior to the filing of returns or reports that are required by the tax laws, about its status for tax purposes or the tax effects of its acts or transactions." Rev. Proc. 2026-1, 2026-1 I.R.B. 1, § 2.01. In a private letter ruling, the IRS "interprets the tax laws and applies them to the taxpayer's specific set of facts." *Id.* In general, a taxpayer cannot use a private letter ruling issued to another taxpayer as precedent binding the IRS. 26 U.S.C. § 6110(k)(3); McKenny v. United States, 973 F.3d 1291, 1300 n.6 (11th Cir. 2020); 26 C.F.R. § 301.6110-7(b). Still, courts consider private letter rulings and the Supreme Court has used private letter rulings as evidence of the IRS's position. Rowan Companies, Inc. v. United States, 452 U.S. 247, 261 n.17 (1981), *superseded in part on other grounds by statute*, Social Security Amendments of 1983, Pub. L. No. 98-21, § 324(a)(3)(A), 97 Stat. 65, 123; Glass v. Comm'r, 471 F.3d 698, 709 (6th Cir. 2006).

[148] I.R.S. P.L.R. 202019028.

[149] *Id.*

and clarify the tax treatment of digital assets.[150] Some of these proposals seek to change the tax consequences of specific digital asset transactions.[151] For example, the Tax Clarity for Mining and Staking Act in the 119th Congress would permit a taxpayer to defer the recognition of income from mining and staking activities until a taxpayer disposes of the tokens.[152] These proposals also seek to eliminate unfavorable tax treatment resulting from treating digital assets as property.[153] For instance, the Charitable Deductions for Digital Asset Donations Act in the 119th Congress would except "widely traded digital assets" from qualified appraisal requirements.[154] As new types of digital assets emerge, Congress may evaluate whether existing tax laws adequately address the new digital asset and determine whether new and more targeted legislation is needed.

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[150] *See, e.g.*, H.R. 9178, 119th Cong. (2026); H.R. 9176, 119th Cong. (2026); H.R. 9175, 119th Cong. (2026); H.R. 9174 , 119th Cong. (2026); H.R. 9173, 119th Cong. (2026); H.R. 9172, 119th Cong. (2026); H.R. 8899 , 119th Cong. (2026); S. 2207 , 119th Cong. (2025); S. 2281 , 118th Cong. (2023); *see* STAFF OF THE J. COMM. ON TAX'N, 119TH CONG., DIGITAL ASSET TAXATION, JCX-18-26 (2026) (discussing legislative proposals relating to the taxation of digital assets).

[151] *See, e.g.*, H.R. 9176, 119th Cong.; H.R. 9175, 119th Cong.; H.R. 8899, 119th Cong.

[152] H.R. 9175 § 1400W-2.

[153] *See, e.g.*, H.R. 9173, 119th Cong.; H.R. 8899, 119th Cong.

[154] H.R. 9173, 119th Cong.