Congressional Research Service
Informing the legislative debate since 1914

IN FOCUS

Income Tax Treatment of Cryptocurrency

November 20, 2026

Under the tax code as interpreted by the Internal Revenue Service (IRS), cryptocurrency is treated as property rather than currency. Sales of digital assets can generate taxable capital gains, which are taxed at ordinary income tax rates if held for less than a year and lower capital gains tax rates if held for a year or longer. Transactions that can generate gain include selling crypto for cash, swapping one token for another, and paying for goods and services with crypto

Income in the form of new cryptocurrency through mining and staking (methods of validating transactions and securing the network that tracks digital assets) is subject to regular income taxes on the fair market value less costs. Earnings in a trade or business or employees receiving compensation in the form of crypto are also subject to payroll as well as income taxes. Currency received through an airdrop (a marketing and distribution strategy where blockchain projects send free tokens or coins to multiple holders) is also treated as income.

This tax treatment has generated debate about several issues. Some argue that crypto should be treated as a currency. There are concerns about the burden of reporting small transactions, as well as concerns about tax evasion.

History of Tax Treatment

The treatment of digital assets is discussed in CRS Report R49334, *Judicial and Administrative Developments in the Tax Treatment of Digital Assets*, by Milan N. Ball and by the Joint Committee on Taxation (JCX-18-26). The Internal Revenue Service issued a notice in 2014 classifying cryptocurrency as property and indicating that rewards or cryptocurrency from activities such as mining is considered income upon receipt.

The IRS ruled in 2019 that taxpayers include the digital asset received from an airdrop in income, based on including in income when constructively received (when they have control of the asset and can sell it). A 2026 court case rejected arguments that earnings (in this case, from staking) should be treated like stock dividends or as self-created property subject to tax when sold. IRS information for taxpayers is provided in frequently asked questions on the IRS website.

Information Reporting

Brokers are required to report basis for purchases in 2026 and after, along with gross proceeds for cryptocurrency on form 1099-DA. Individuals are required to indicate on their individual income tax return whether they engaged in transactions of digital assets. Because there is no de minimis transaction amount, gains are taxable on small purchases with cryptocurrency. This has resulted in some criticism relating to administrative burden on taxpayers and brokers. H.J.Res. 25 exempted decentralized finance (DeFi) platforms from broker reporting.

Issues for Discussion

The taxation of digital assets has centered largely on two issues: (1) the administrative burden and related barriers to using digital assets as a medium of exchange and (2) tax evasion. There is also some interest in conforming the treatment of digital assets with the treatment of securities.

Administrative Burden and Use As Medium of Exchange

Even small transactions, such as purchasing a cup of coffee with cryptocurrency, require reporting. The transaction is treated as if the cryptocurrency were sold to purchase the coffee. Critics have argued that this places an unreasonable burden on taxpayers, that it is a barrier to using digital assets as a medium of exchange, and that it complicates tax administration by generating reporting requirements. They note the de minimis rules for gains on foreign currency as an example and suggest applying such a rule to cryptocurrency. Under Section 988 of the Internal Revenue Code, gains on transactions for personal use (such as buying goods and services with foreign currency) are exempt if the gain is less than $200.

The rules on sale of digital assets also require reporting of transactions with stablecoins (the value of which is tied to some other commodity of fiat money, such as the dollar) even though the gain is typically small or zero.

Critics of treating all cryptocurrency to an exemption from reporting express concerns that allowing an exemption that extends beyond stablecoins could lead to tax avoidance by using appreciated cryptocurrency in a wide range of purchases.

Tax Evasion

Another issue is the avoidance of taxes through a variety of mechanisms. One technique is wash sales, where a taxpayer can sell a cryptocurrency and recognize a loss without changing their portfolio by purchasing an essentially similar asset shortly before or after. Wash sale rules disallow recognition of this loss for securities if the purchase was made within 30 days before or 30 days after the sale, but they do not apply to digital assets, which are characterized as property.

Another method defers capital gains taxes or avoids the higher rate on capital gains held for less than a year by not actually selling an asset but engaging in another transaction that protects the asset's appreciation, such as a short sale (borrowing and selling an asset then purchasing and returning the asset in the future), entering a futures contract, or using derivatives. Securities are subject to a constructive sales rule that recognizes the gain in these circumstances, but the rule does not apply to digital assets, which are treated as property.

There are also concerns that digital assets are not subject to FATCA (see CRS In Focus IF12166, *The Foreign Account Tax Compliance Act (FATCA)*, by Jane G. Gravelle et al.). FATCA requires foreign financial entities to report holding of specified

U.S. financial assets by U.S. citizens to prevent these individuals from avoiding income taxes on interest, dividends, and capital gains. Digital assets are not listed in Section 6038D of the tax code as specified financial assets.

Dealer-Trader Conformity With Securities

Dealers in digital assets and traders in digital assets are not covered under rules that require securities dealers to use mark-to-market accounting, where an asset's value is recorded as the current market price. Traders may elect to do so. Since dealers treat securities as inventories rather than investment, mark-to-market better reflects their income. Mark-to-market can be beneficial to active traders who qualify. Gains and losses are treated as ordinary income and loss, the $3,000 limit on offsetting capital losses against ordinary income does not apply, wash sale rules do not apply, and accounting is simplified. There are also costs for mark-to-market for traders because all gain and loss is recognized at year end (which means higher taxes if assets are not sold and have gains) and they cannot use the lower capital gains rates for assets held longer than a year.

Another area of nonconformity is that donations of digital assets of more than $5,000 are required to have an appraisal even if they are widely traded assets with an established value, because they are treated as property.

Administration Proposals

The Biden Administration's FY2023 Budget Proposals proposed several reforms to cryptocurrency, including covering digital assets under FATCA, requiring reporting on tax returns of taxpayers with large foreign digital asset accounts, treating digital asset loans as nonrecognition events and assigning the income to lenders, and adding digital assets to assets that dealers or traders could mark-to-market (including in income gain or loss as values change).

Legislative Proposals

The Build Back Better Act

The Build Back Better Act (H.R. 5376), the House version of the FY2022 reconciliation bill, would have extended the wash sale and constructive sales rule to digital assets as passed by the House in the 117th Congress. However, this bill was replaced by an amendment in the nature of a substitute in the Senate. The enacted version, P.L. 117-169 (sometimes called the Inflation Reduction Act), did not include this wash sale provision.

The Digital Asset Tax Certainty Act

The Digital Asset Tax Certainty Act, H.R. 10357, ordered reported by the Ways and Means Committee on September 16, 2026, would make several digital asset tax treatment changes, largely aimed at addressing administrative and abuse issues. This legislation reflects several prior bills, including

- H.R. 9178 to provide an exemption for network fees of $10 or less for most taxpayers (with exceptions for traders, etc.), to allow taxpayers to use a simplified accounting for gains and losses by aggregating sales and purchases of like digital assets, and to provide that the basis for stablecoins tied to the dollar is the redemption value;
- H.R. 9176 to provide an election for dealers and traders in digital assets for mark-to-market treatment (but does not require mark-to-market for dealers);
- H.R. 9175 to allow deferral of recognition of income from new cryptocurrency received by activities such as mining and staking;
- H.R. 9174 to allow voluntary disclosure of past noncompliance and avoid penalties and punitive actions for eligible taxpayers;
- H.R. 9173 to exempt charitable donations of digital assets from appraisal requirements; and
- H.R. 9172 to subject digital assets to standard wash sale rules and constructive sales rules.

Other provisions would treat cryptocurrency loans as nonrecognition events, as is the case with securities loans. The proposal would also add digital assets to the passive income earned by controlled foreign corporations that is subject to immediate U.S. taxation at full rates under Subpart F of the tax code. Subpart F rules are aimed at income that is easily shifted to low-tax countries abroad to reduce taxes. Another provision provides that U.S. stablecoin lending is treated as debt and repayments treated as interest subject to tax. The bill also narrows the scope of broker reporting, no longer requiring reporting for U.S. stablecoins or for asset fees of less than $10.

Revenue Effects

The Joint Committee on Taxation estimated the revenue effects of H.R. 10357. **Table 1** provides estimates for provisions with the largest loss or gain and the total for all provisions. Some of the revenue gain largely reflects timing, and, while the total provisions gain revenue over the 10-year period, the 10th year shows a loss.

Table 1. Revenue Effects of Digital Asset Provisions in H.R. 10275

Provision	Ten Year Revenue Effect	Revenue Effect in 10th Year
Transaction Exemption	-2,365	-482
Mark-to-Market	2,332	60
Wash Sales	1707	147
Charitable Appraisals	-640	-102
Subpart F Rules	571	90
Stablecoin Lending	552	104
Broker Reporting	-338	-51
Total	2,497	-182

Source: Joint Committee on Taxation, *Estimated Revenue Effects Of The Chairman's Amendment In The Nature Of A Substitute To H.R. 10357, The "Digital Asset Tax Certainty Act" Scheduled For Markup By The Committee On Ways And Means On September 16, 2026*, JCX-52-26, September 15, 2026.
Notes: Total excludes effects of the unrelated wagering provision.

Jane G. Gravelle, Senior Specialist in Economic Policy

IF13359

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.