

LEGAL UPDATES

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Services

Crypto, Digital
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Federal Tax Planning
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U.S. Government Targets Digital Assets for Additional Revenue

On Friday, November 5, the House of Representatives passed the Bipartisan Infrastructure Framework bill, formally known as the Infrastructure Investment and Jobs Act (the "Act"). Of particular note, the Act contains provisions requiring reporting of various digital assets, aimed primarily at cryptocurrency, but likely encompassing other digital assets such as nonfungible tokens.

The Act's cryptocurrency provisions include the following:

Defining a "broker" of digital assets as follows: "any person who (for consideration) is responsible for regularly providing any service effectuating transfers of digital assets on behalf of another person."

Defining "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."

Require that brokers track (and report to investors and the IRS) investors' basis in digital assets, just as they are currently required track basis in stocks and other securities.

Require that brokers track and report basis and holding periods when digital assets are transferred to another broker.

Require brokers to obtain Forms W-9 from investors or withhold 24% of the proceeds of sales.

Require similar reporting of digital assets as for cash for purposes of transactions of more than \$10,000.

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The reporting provisions are effective beginning in 2023. Many have raised concerns over these requirements, especially as to the definitions of broker and digital assets. It is highly likely that the IRS will issue regulatory guidance further defining both terms prior to 2023.

The Joint Committee on Taxation estimates that these reporting provisions will raise \$28 billion in tax revenue over ten years, indicating that they view as significant the amount of unreported and untaxed digital asset transactions presently taking place.

Contact us

If you have questions about the effect of these provisions on your activities, or how to ensure you are compliant when the reporting provisions go into effect, contact Robert Romashko, Femi Masha or your Husch Blackwell attorney.