

December 10, 2021

Dear Client:

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

**Existing reporting rules.** As you probably 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.

**Digital asset broker reporting.** 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.

**Transfer reporting.** Sometimes you may have a transfer transaction that is not a sale or exchange. For example, if you transfer cryptocurrency from your wallet at one Crypto Exchange to your wallet at another Crypto Exchange, the transaction is not a sale or exchange. 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.

**Digital assets.** For the reporting requirements, a "digital asset" is any digital representation of value which is recorded on a cryptographically secured distributed ledger or any similar technology. Furthermore, the IRS can modify this definition. As it stands, the definition will capture most cryptocurrencies as well as potentially include some non-fungible tokens (NFTs) that are using blockchain technology for one-of-a-kind assets like digital artwork.

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**Cash transaction reporting.** You may be aware that 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. The IIJA will require businesses to treat digital assets like cash for purposes of this reporting requirement.

**When reporting begins.** These digital asset reporting rules will apply to information reporting that is due after December 31, 2023. For Form 1099-B reporting, this means that applicable transactions occurring after January 1, 2023 will be reported. Whether the IRS will refine the Form 1099-B for digital asset nuances, or come up with an entirely new form, is yet to be seen. Form 8300 reporting of cash transactions will presumably follow the same effective dates.

**Closing.** Some parting thoughts to keep in mind: First, 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. Thus, the first information reporting cycle for digital assets may be a bit bumpy. Remember that we are here to help you and can provide solutions for any challenges that may develop.

If you have questions or concerns about the digital asset reporting rules, please do not hesitate to contact us.

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**Reference:** For reporting of digital assets, see [FTC 2d/FIN ¶S-3700](#) et seq., [FTC 2d/FIN ¶S-3740](#) et seq., [FTC 2d/FIN ¶S-4000.1](#) , [FTC 2d/FIN ¶V-1804](#) .