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KPMG Information Reporting & Withholding
Tax Services

IRS Provides Additional Transitional Relief for Brokers Required to File Information Returns and Backup Withhold on Certain Digital Assets Sales

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On June 12th, the Internal Revenue Service (IRS) issued Notice 2025-33, which extends for an additional year certain transitional relief initially provided in sections 3.01, 3.02, and 3.06 of Notice 2024-56. Last year, the U.S. Treasury and IRS released final regulations on digital asset tax information reporting requirements, which require brokers to report customer gross proceeds from digital asset sales occurring on or after January 1, 2025. In addition to the final regulations, supplemental transitional relief and guidance was provided through Notice 2024-56, Notice-2024-57, and Revenue Procedure 2024-28.

Specifically, Notice 2024-56 provided general transitional relief from reporting penalties and backup withholding for any broker who does not timely and accurately file information returns and furnish payee statements for sales and exchanges of digital assets during the 2025 calendar year, provided that the broker makes a good faith effort to comply with the reporting obligations. In addition, the notice also provided transitional relief from backup withholding tax and associated penalties for brokers who fail to pay that tax with respect to certain sales of digital assets: (1) for any sale of a digital asset effected by a broker during calendar year 2025; (2) for any sale of a digital asset effected by a broker during calendar year 2026 for a customer (payee) if the broker submits that payee's name and tax identification number (TIN) combination to the IRS's TIN Matching Program and receives a response that the name and TIN combination furnished by the payee matches the name and TIN combination for that payee in IRS records; (3) for any sale of a digital asset effected by a broker in return for specified nonfungible tokens (specified NFTs); (4) for any digital asset for real property sale effected by a real estate reporting person; and (5) for certain sales of digital assets effected by processors of digital asset payments (PDAPs). Notice 2024-56 also provided transitional relief from penalties for brokers who fail to pay the full backup withholding tax due if such failure is due to a decrease in

the value of withheld digital assets in a sale of digital assets in return for different digital assets effected on or before December 31, 2026, and the broker immediately liquidates the withheld digital assets for cash.

Notice 2025-33 extends the transitional relief for some of the above items. Specifically, the notice extends for one additional year the backup withholding relief provided by section 3.01 of Notice 2024-56 with respect to sales of digital assets. Therefore, backup withholding tax obligations will not be required on any digital asset sale effected by a broker during calendar year 2025 or calendar year 2026.

Also extended is the relief provided by section 3.02 of Notice 2024-56 to permit brokers to rely on uncertified TINs of payees that are preexisting customers if the broker, prior to effecting the digital asset sale transaction for the customer, submits the payee's name and TIN combination to the IRS TIN Matching Program and receives a response that the submitted name and TIN combination matches the name and TIN combination for that payee in the IRS records. This alternative TIN collection relief will also be permitted for digital asset sales effected in calendar year 2027 on behalf of payees that are preexisting customers.

The notice also establishes that the IRS will not impose penalties on brokers that fail to file information returns and furnish payee statements with respect to sales of digital assets effected during calendar year 2027 for any customer with an account established prior to January 1, 2026, if the customer has not been previously classified as a U.S. person by the broker and the information the broker has in its files for the customer includes a residence address that is not a U.S. address. Additionally, backup withholding will not be required during calendar year 2027 for these customers, and penalties will not be imposed on brokers that would otherwise be required to file Form 945, Annual Return of Withheld Federal Income Tax, for the backup withholding tax due on such sales effected during calendar year 2027 for these customers.

Finally, Notice 2025-33 extends the relief provided by section 3.06 of Notice 2024-56 to limit the amount that the broker must pay as backup withholding tax for reportable digital asset sales effected in calendar year 2027 to the amount that the broker receives upon the immediate liquidation of 24 percent of the customer's received digital assets, notwithstanding that such amount may be less than 24 percent of customer's received digital assets at the time of the transaction giving rise to the backup withholding obligation. This relief also includes the associated penalty relief related to that backup withholding and Form 945 reporting of that backup withholding.

KPMG Observations and Background

While the additional relief under Notice 2025-33 is welcome, it is notable that the penalty relief was not extended for brokers who make a good faith effort to report sales of digital assets on information returns or furnish payee statements. That relief remains only for reporting in 2026 for sales of digital assets effected in calendar year 2025.

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