



TaxNewsFlash

United States

No. 2024-494
December 27, 2024

Information reporting by non-custodial brokers of digital asset transactions

The U.S. Treasury Department and IRS today released for publication in the Federal Register [final regulations](#) (T.D. 10021) requiring non-custodial brokers that regularly provide services effectuating certain digital asset sales and exchanges (i.e., brokers providing trading front-end services) to file information returns and furnish payee statements reporting gross proceeds in such transactions occurring on or after January 1, 2027.

The Treasury Department and IRS issued final regulations in July 2024 requiring information reporting for sales on or after January 1, 2025, by brokers who take possession of the digital assets being sold by their customers. Those final regulations did not finalize the portion of the definition of broker that would have treated certain non-custodial industry participants as brokers for purposes of the information reporting requirements. The final regulations issued today treat brokers that provide trading front-end services (as described in Treas. Reg. § 1.6045-1(a)(21)(iii)) as brokers subject to the information reporting requirements when the nature of the service arrangement is such that the person providing that service ordinarily would know, or be in a position to know, the nature of the transaction potentially giving rise to gross proceeds from the sale of digital assets.

Transitional relief under Notice 2025-3

The IRS also today issued [Notice 2025-3](#) providing transitional relief from penalties for brokers providing trading front-end services (as described in Treas. Reg. § 1.6045-1(a)(21)(iii)(A) (DeFi brokers)) who fail to report sales of digital assets on information returns (Form 1099-DA, Digital Asset Proceeds From Broker Transactions) or furnish payee statements under section 6045, for sales of digital assets effected in calendar year 2027, provided that the broker makes a good faith effort to file the appropriate information return and furnish the associated payee statement accurately.

The notice also provides transitional relief from the liability for the payment of backup withholding tax required to be withheld under section 3406 and its accompanying regulations, as well as from penalties for DeFi brokers who fail to pay that tax with respect to certain sales of digital assets required to be reported under section 6045. Specifically, the notice provides certain relief from penalties (1) for any sale of a digital asset effected by a DeFi broker during calendar year 2027, and (2) for any sale of a digital asset effected by a DeFi broker during calendar year 2028 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. For sales effected before January 1, 2029, the notice also provides that a DeFi broker may treat a customer as an exempt foreign person if the customer has not been previously classified as a U.S. person by the DeFi broker, and the information that the DeFi broker has for the customer includes a residence address that is not a U.S. address.

The notice further provides transitional relief from penalties for DeFi brokers who fail to backup withhold and 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, 2028, and the broker immediately liquidates the withheld digital assets for cash.

Notice 2025-3 also notes that DeFi brokers are also eligible for the relief provided in sections 3.03 and 3.05 of [Notice 2024-56](#). Section 3.03 of Notice 2024-56 provides that backup withholding under section 3406 will not be required on any digital asset sale effected by a broker where the reportable proceeds is a specified nonfungible token (NFT) until further guidance is issued. Section 3.05 of Notice 2024-56 provides that backup withholding under section 3406 will not be required on any sale effected by a processor of digital asset payments (PDAP) until further guidance is issued.

Finally, the notice states that the Treasury Department and IRS intend to issue proposed regulations under Treas. Reg. § 31.3406(h)-2(b) that would provide brokers with greater flexibility to satisfy their backup withholding obligations with respect to digital asset transactions.

Read the related [Treasury release](#)

kpmg.com/socialmedia



The information contained in TaxNewsFlash is not intended to be "written advice concerning one or more Federal tax matters" subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230, as the content of this document is issued for general informational purposes only, is intended to enhance the reader's knowledge on the matters addressed therein, and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.

KPMG International Limited is a private English company limited by guarantee and does not provide services to clients. No member firm has any authority to obligate or bind KPMG International or any other member firm vis-à-vis third parties, nor does KPMG International have any such authority to obligate or bind any member firm.

Direct comments, including requests for subscriptions, to [Washington National Tax](#). For more information, contact KPMG's Federal Tax Legislative and Regulatory Services Group at +1 202.533 3712, 1801 K Street NW, Washington, DC 20006-1301.

To unsubscribe from TaxNewsFlash, reply to [Washington National Tax](#).

[Privacy](#) | [Legal](#)