H. R. 5082

To amend the Internal Revenue Code of 1986 to clarify the definition of a broker, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 23, 2021

Mr. SOTO introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to clarify the definition of a broker, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Cryptocurrency Tax Clarity Act”.

SEC. 2. INFORMATION REPORTING FOR BROKERS AND DIG-
ITAL ASSETS.

(a) CLARIFICATION OF DEFINITION OF BROKER.—

Section 6045(c)(1) of the Internal Revenue Code of 1986 is amended—
(1) by striking “and” at the end of subparagraph (B),

(2) in subparagraph (C)—

(A) by striking “any other person who (for a consideration)” and inserting “any person who (for consideration)”, and

(B) by striking the period at the end and inserting “, and”, and

(3) by adding at the end the following new subparagraph:

“(D) any person who (for consideration) regularly effectuates transfers of digital assets on behalf of another person.”.

(b) REPORTING OF DIGITAL ASSETS.—

(1) BROKERS.—

(A) TREATMENT AS SPECIFIED SECURITY.—Section 6045(g)(3)(B) of the Internal Revenue Code of 1986 is amended by striking “and” at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

“(iv) any digital asset, and”.

(B) DEFINITION OF DIGITAL ASSET.—Section 6045(g)(3) of such Code is amended by
adding at the end the following new subpara-
graph:

“(D) DIGITAL ASSET.—Except as other-
wise provided by the Secretary, the term ‘digital
asset’ means any digital representation of value
which is recorded on a cryptographically se-
cured distributed ledger or any similar tech-
nology as specified by the Secretary.”.

(C) APPLICABLE DATE.—Section

6045(g)(3)(C) of such Code is amended—

(i) in clause (ii), by striking “and” at
the end,

(ii) by redesignating clause (iii) as
clause (iv), and

(iii) by inserting after clause (iii) the
following:

“(iii) January 1, 2023, in the case of
any specified security which is a digital
asset, and”.

(2) FURNISHING OF INFORMATION.—

(A) IN GENERAL.—Section 6045A of such
Code is amended—

(i) in subsection (a), by striking “a
security which is”, and
(ii) by adding at the end the following:

“(b) Return Requirement for Certain Transfers of Digital Assets Not Otherwise Subject to Reporting.—Any broker, with respect to any transfer (which is not part of a sale or exchange executed by such broker) during a calendar year of a covered security which is a digital asset from an account maintained by such broker to an account which is not maintained by, or an address not associated with, a person that such broker knows or has reason to know is also a broker, shall make a return for such calendar year, in such form as determined by the Secretary, showing the information otherwise required to be furnished with respect to transfers subject to subsection (a).”.

(B) Reporting Penalties.—Section 6724(d)(1)(B) of such Code is amended by striking “or” at the end of clause (xxv), by striking “and” at the end of clause (xxvi), and by inserting after clause (xxvi) the following new clause:

“(xxvii) section 6045A(d) (relating to returns for certain digital assets),”.

(C) Treatment as Cash for Purposes of Section 6050I.—Section 6050I(d) of such
Code is amended by striking “and” at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting “, and”, and by inserting after paragraph (2) the following new paragraph:

“(3) any digital asset (as defined in section 6045(g)(3)(D)).”.

(c) Effective Date.—The amendments made by this section shall apply to returns required to be filed, and statements required to be furnished, after December 31, 2023.

(d) Rules of Construction.—

(1) Definition of Broker.—Nothing in this section or the amendments made by this section shall be construed to create any inference that a person described in section 6045(c)(1)(D) of the Internal Revenue Code of 1986, as added by this section, includes any person solely engaged in the business of—

(A) validating distributed ledger transactions, without providing other functions or services, or

(B) selling hardware or software for which the sole function is to permit persons to control
private keys which are used for accessing digital assets on a distributed ledger.

(2) Brokers and treatment of digital assets.—Nothing in this section or the amendments made by this section shall be construed to create any inference, for any period prior to the effective date of such amendments, with respect to—

(A) whether any person is a broker under section 6045(c)(1) of the Internal Revenue Code of 1986, or

(B) whether any digital asset is property which is a specified security under section 6045(g)(3)(B) of such Code.