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

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 17, 2021

Mr. McHenry (for himself, Mr. Ryan, Mr. Brady, Mr. Khanna, Mr. Emmer, Mr. Swalwell, Mr. Davidson, Mr. Soto, Mr. Gonzalez of Ohio, and Mr. Budd) 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 broker, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Keep Innovation in America Act”.

SEC. 2. CLARIFICATION OF DEFINITION OF BROKER.

(a) IN GENERAL.—Section 6045(c)(1)(D) of the Internal Revenue Code of 1986 is amended to read as follows:
“(D) any person who (for consideration) stands ready in the ordinary course of a trade or business to effect sales of digital assets at the direction of their customers.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns required to be filed and statements required to be furnished after December 31, 2025.

SEC. 3. REPORTING OF DIGITAL ASSETS.

(a) BROKERS.—

(1) DEFINITION OF DIGITAL ASSET.—Section 6045(g)(3)(D) of the Internal Revenue Code of 1986 is amended to read as follows:

“(D) DIGITAL ASSET.—The term ‘digital asset’ means any digital representation of value which is recorded on a cryptographically secured distributed ledger.”.

(2) APPLICABLE DATE.—Section 6045(g)(3)(C)(iii) of such Code is amended to read as follows:

“(iii) January 1, 2025, in the case of any specified security which is a digital asset, and”.

(b) FURNISHING OF INFORMATION.—Section 6045A(d) of such Code is amended to read as follows:
“(d) 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 wholly controlled and 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). Information reported by brokers under this section shall be limited to customer information that is voluntarily provided by the customer and held by the broker for a legitimate business purpose.”.

(c) Delayed Effective Date for Certain Information Reporting Changes; Reversal of Certain Additions to 6050I.—Section 80603 of the Infrastructure Investment and Jobs Act is amended—

(1) by striking subsection (b)(3), and

(2) in subsection (c), by striking “December 31, 2023” and inserting “December 31, 2025”.

(d) Effective Dates.—
(1) The amendments made by subsections (a) and (b) shall apply to returns required to be filed and statements required to be furnished after December 31, 2025.

(2) The amendment made by subsection (c) shall take effect as if included in the enactment of section 80603 of the Infrastructure Investment and Jobs Act.

SEC. 4. STUDY AND REPORT ON TREATMENT OF DIGITAL ASSETS AS CASH FOR PURPOSES OF SECTION 6050I.

(a) STUDY.—The Secretary, in consultation with representatives of the digital asset industry, organizations focused on individual privacy and civil liberties, organizations engaged in advocacy, research or developing standards relating to digital asset use, shall conduct a study on the effect of expanding the definition of cash, solely for purposes of section 6050I of the Internal Revenue Code of 1986, to include any digital asset (as defined in section 6045(g)(3)(D) of such Code).

(b) REPORT.—Not later than 365 days after the date of the enactment of this Act, the Secretary shall provide to relevant committees a report that contains all findings and determinations made in carrying out the study under subsection (a), including an analysis of—
(1) the interpretation of, regulations under, and enforcement of section 6050I for cash,

(2) the privacy and liberty rights and interests of taxpayers and other persons affected,

(3) the cost-benefit analysis of compliance,

(4) the effect on the use of and access to digital assets and the financial system,

(5) the effect on innovation, and

(6) the effect on the economic competitiveness of the United States.

(c) DEFINITIONS.—For purposes of this section—

(1) RELEVANT COMMITTEES.—The term “relevant committees” means—

(A) the Committee on Financial Services of the House of Representatives,

(B) the Committee on Banking, Housing, and Urban Affairs of the Senate,

(C) the Committee on Ways and Means of the House of Representatives, and

(D) the Committee on Finance of the Senate.

(2) SECRETARY.—The term “Secretary” means the Secretary of the Treasury (or the Secretary’s delegate).
SEC. 5. FINDINGS.

Congress finds the following:

(1) Advances in technology have led to the creation of digital assets and blockchain technology that will improve the United States financial system and create a more fair and equitable structure for everyday Americans.

(2) The reporting requirements under current law require digital asset market participants to adhere to standards that are incompatible with this technology’s operation. This will hinder the development of digital assets and its underlying technology in the United States, shifting its development outside the United States.

(3) The Chinese Government’s recent ban of cryptocurrency transactions provides the United States an opening to further enhance its role as the leading nation in the development of innovative blockchain technologies. Providing clear rules for both consumers and developers of digital assets is essential to taking advantage of this opportunity.

(4) Miners and validators, hardware and software developers, and protocol developers are not actual brokers and do not collect or have reason to collect the information required under the Infrastructure Investment and Jobs Act.
(5) It is not in the interest of American taxpayers for Congress to create uncertainty.

(6) Consistent and accurate reporting on digital asset transactions is necessary. Congress must work to bring legal and regulatory certainty to the digital asset industry. Clear rules of the road fosters technology and innovation.

(7) Any amendments made by this Act will not impact revenue estimated from the Infrastructure Investment and Jobs Act.