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HOUSE OF REPRESENTATIVES

REPORT
119–7

PROVIDING FOR CONGRESSIONAL DISAPPROVAL UNDER CHAPTER 8 OF TITLE 5, UNITED STATES CODE, OF THE RULE SUBMITTED BY THE INTERNAL REVENUE SERVICE RELATING TO "GROSS PROCEEDS REPORTING BY BROKERS THAT REGULARLY PROVIDE SERVICES EFFECTUATING DIGITAL ASSET SALES"

FEBRUARY 28, 2025.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SMITH of Missouri, from the Committee on Ways and Means, submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.J. Res. 25]

The Committee on Ways and Means, to whom was referred the joint resolution (H.J. Res. 25) providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Internal Revenue Service relating to "Gross Proceeds Reporting by Brokers That Regularly Provide Services Effectuating Digital Asset Sales", having considered the same, reports favorably thereon without amendment and recommends that the joint resolution do pass.

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I. SUMMARY AND BACKGROUND

A. Purpose and Summary

H.J. Res. 25, a joint resolution disapproving of the rule promulgated by the Department of the Treasury relating to "Gross Proceeds Reporting by Brokers That Regularly Provide Services Effectuating Digital Asset Sales," was ordered reported favorably by the Committee on Ways and Means on February 26, 2025.

Under the resolution, the Treasury regulations published and finalized on December 30, 2024,[1] are disapproved under the Congressional Review Act (the "CRA"), and will be treated as if they had never taken effect.

B. Background and Need for Legislation

On December 27, 2024, the U.S. Department of the Treasury ("Treasury") released final regulations titled, "Gross Proceeds Reporting by Brokers that Regularly Provide Services Effectuating Digital Asset Sales." These final regulations created reporting requirements for trading front-end service providers that work directly with users on digital asset transactions, sometimes referred to as "DeFi brokers." The final regulations were finalized as part of the Infrastructure Investment and Jobs Act, Public Law 117–58. Under these new regulations, users engaging in digital asset trades on DeFi platforms, including newly defined "DeFi brokers", would be required to file a Form 1099–DA and disclose information including taxpayer information for those involved in digital asset transactions as well as the financial details of those transactions.

Upon publication in the Federal Register, the regulations relating to "Gross Proceeds Reporting by Brokers That Regularly Provide Services Effectuating Digital Asset Sales," was challenged in court, with opponents contending that the rule exceeded places unlawful compliance burdens on software developers and American entrepreneurs, stifles innovation, and threatens the viability of the digital asset industry. The rule would also create a large increase in taxpayer information reported to the Internal Revenue Service ("IRS") as well, placing an overwhelming incumbrance on the IRS to analyze and ultimately process these claims. Additionally, due to the unique structure of "DeFi" exchanges and the nature of these platforms—including the fact that DeFi brokers do not collect any of the information that would be required to be reported to the IRS under this final rule—the finalized rule would especially harm DeFi brokers who may be unable to meet the reporting requirements.

[1] T.D. 10021, 89 Fed. Reg. 106928, December 30, 2024.

C. Legislative History

Background

House Joint Resolution 25 was introduced on January 21, 2025, and was referred to the Committee on Ways and Means.

Committee Hearings

On February 26, 2025, the Committee held a markup of H.J. Res. 25.

Committee Action

The Committee on Ways and Means marked up H.J. Res. 25, a joint resolution to disapprove and render ineffective regulations relating to "Gross Proceeds Reporting by Brokers That Regularly Provide Services Effectuating Digital Asset Sales" on February 26, 2025, and ordered the resolution favorably reported (with a quorum being present).

D. Designated Hearing

Pursuant to clause 3(c)(6) of rule XIII, the following hearing was used to develop and consider H.J. Res. 25:

On January 22, 2025, the Committee held a hearing entitled, "Member Day Hearing on Matters within the Committees Tax Jurisdiction".

II. EXPLANATION OF THE RESOLUTION

A. Disapproval of the Rule Relating to Gross Proceeds Reporting by Brokers That Regularly Provide Services Effectuating Digital Asset Sales (Secs. 6045 and 6045A of the Internal Revenue Code and Secs. 801 Through 808 of Title 5 of the United States Code)

PRESENT LAW

Gross proceeds reporting by persons regularly providing services related to digital asset sales

In 2021, Congress clarified that broker information reporting includes reporting with respect to transactions involving digital assets by amending the provisions of the Internal Revenue Code of 1986 ("the Code")[2] that generally require brokers to report sales, and in the case of certain broker-to-broker transactions, basis.[3] A broker is defined to include "any person who (for consideration) is responsible for regularly providing any service effectuating transfers of digital assets on behalf of another person."[4] Except as provided by the Secretary of the Treasury (the "Secretary"), digital assets are defined as "any digital representation of value which is recorded on a cryptographically secured distributed ledger or any similar technology as specified by the Secretary."[5]

[2] All section references in the document are to the Code, unless otherwise stated.
[3] Pub. L. No. 117–58, sec. 80603 (Information reporting for brokers and digital assets); secs. 6045(c)(1)(D) and 6045A(d).
[4] Sec. 6045(c)(1)(D).
[5] Sec. 6045(g)(3)(D).

Regulatory guidance to implement the reporting requirement was proposed in 2023,[6] and finalized in a Treasury Decision published in July 2024 titled "Gross Proceeds and Basis Reporting by Brokers and Determination of Amount Realized and Basis for Digital Asset Transactions" (hereinafter, "July 2024 Regulations").[7] The July 2024 Regulations address the general rules for gross proceeds and basis reporting for persons within scope of the regulations. The guidance also provides the rules for determining the amount realized from the sale, exchange, or disposition of digital assets by persons subject to the broker reporting rules, as well as the determination of basis in assets in such transactions.

In defining the class of persons within scope of the reporting rules, the regulations introduce the terms "U.S. digital asset broker," "customer," and "digital asset middleman." A U.S. digital asset broker is defined as "a person that effects sales of digital assets on behalf of others and that is . . . a U.S. payor or U.S. middleman"[8] and is required to report with respect to each sale by a customer if, in the ordinary course of business in which "the broker stands ready to effect sales to be made by others, the broker effects the sale or closes the short position opened by the sale."[9] A customer, with respect to a sale effected by a broker, is defined as the person (other than such broker) that makes the sale if the broker acts as (1) an agent for such person in the sale; (2) a principal in the sale; (3) the participant in the sale responsible for paying to such person or crediting to such person's account the gross proceeds of the sale; or (4) a digital asset middleman that effects the sale of a digital asset for such person.[10] A digital asset middleman is defined as any person who provides certain facilitative services with respect to a sale of digital assets.[11]

In the preamble to the July 2024 Regulations (the "Preamble"), Treasury distinguished between custodial and non-custodial industry participants. Custodial industry participants, such as custodial digital asset trading platforms and certain digital asset hosted wallet providers, generally act as principals or agents to effect digital asset transactions on behalf of their customers. In contrast, non-custodial industry participants are described as participants that do not take possession of a customer's digital assets, such as operators of non-custodial digital asset trading platforms (sometimes referred to as decentralized finance or, colloquially, "DeFi"). As explained in the Preamble, the decentralized finance industry offers services that allow for transactions that use automatically executing software (sometimes referred to as "smart contracts") that do not require taking custody of a digital asset customer's private access code (or "private key") needed to access such customer's digital account.

As discussed above, the regulations defined a digital asset middleman as any person who provides certain facilitative services with respect to a sale of digital assets. The Secretary finalized the

[6] 88 Fed. Reg. 59576, August 29, 2023.
[7] T.D. 10000, 89 Fed. R. 56480, July 9, 2024.
[8] Treas. Reg. sec. 1.6045–1(g)(4)(i)(A) (defines U.S. digital asset broker). The term "U.S. middleman" is defined in regulations under rules on interest reporting and intermediaries. Treas. Reg. secs. 1.6049–5(c)(5)(i) (defining U.S. middleman).
[9] Treas. Reg. sec. 1.6045–1(c)(2).
[10] Treas. Reg. sec. 1.6045–1(a)(2)(i).
[11] Former Treas. Reg. sec. 1.6045–1(a)(21).

definition of digital asset middleman as applied to custodial industry participants by specifying certain facilitative services, such as acceptance or processing of digital assets as payment for property of a type which when sold would constitute a sale by a broker that is in the business of effecting sales of such property. However, Treasury reserved on and did not finalize the definition of digital asset middleman as applied to non-custodial industry participants, noting that such rules would be provided in a separate set of final regulations. The July 2024 Regulations are otherwise in effect and generally require gross proceeds reporting for sales of digital assets occurring on and after January 1, 2025, and basis reporting for certain sales occurring on and after January 1, 2026.[12]

The regulations finalized in December 2024, titled "Gross Proceeds Reporting by Brokers That Regularly Provide Services Effectuating Digital Asset Sales" (hereinafter, the "December 2024 Regulations") address only a revised definition of digital asset middleman to encompass certain persons who participate in effectuating decentralized financial transactions (non-custodial industry participants).[13] In the definition of digital asset middleman, the December 2024 regulations replace "facilitative services" with "effectuating services" and provide that an "effectuating service" includes both the previously-defined "facilitative services" (as included in the July 2024 Regulations) as well as trading front-end services where the nature of the service arrangement is such that the person providing that service ordinarily would know or be in a position to know that the nature of the transaction potentially gives rise to gross proceeds from the sale of digital assets.[14] Trading front-end services generally facilitate trading for customers who may otherwise need to write software code in order to communicate, and thus transact, with other decentralized finance participants.

The December 2024 Regulations generally apply to sales of digital assets occurring on or after January 1, 2027.[15]

The Congressional Review Act

Under the Congressional Review Act (the "CRA"),[16] Congress may overturn certain Federal agency actions by passing a joint resolution of disapproval that is introduced within 60 days of the date on which the rule is submitted to Congress for review.[17] Under a CRA joint resolution of disapproval, if a disapproved rule has not yet gone into effect, the rule will not take effect;[18] if a disapproved rule has already gone into effect, the rule shall be treated as though it had never taken effect.[19] Rules that do not take effect or do not continue due to a CRA joint resolution of disapproval may not be reissued in substantially the same form, and new rules that

[12] Treas. Reg. sec. 1.6045–1(q).
[13] T.D. 10021, 89 Fed. Reg. 106928, December 30, 2024.
[14] Treas. Reg. sec. 1.6045–1(a)(21).
[15] Treas. Reg. sec. 1.6045–1(q) (the revised rule of Treas. Reg. sec. 1.6045–1(a)(21) is applicable to sales of digital assets occurring on or after Jan. 1, 2027).
[16] 5 U.S.C. secs. 801–808.
[17] 5 U.S.C. secs. 801(a), 801(d), and 802. The date of submission is the date on which a report on the rule is submitted to Congress, generally not later than the date on which the rule is published in the Federal Register. If the session of Congress in which the report was submitted adjourns until the first day of the following session of the same or next Congress, the rule is treated as if published, in the case of the House, on the 15th legislative day of the new session of Congress.
[18] 5 U.S.C. sec. 801(b)(1).
[19] 5 U.S.C. sec. 801(f).

are substantially the same as disapproved rules may not be issued absent a change in law.[20]

REASONS FOR CHANGE

The Committee is concerned that the December 2024 Regulations may be broad, ambiguous, overly burdensome, and impractical. First, the Committee believes that the regulations fall outside the explicit scope of the statutory language that extended third-party information reporting requirements to digital asset transactions. Second, the noncustodial nature of the activities presents for parties subject to the regulations barriers to collecting the information necessary to comply with the regulations.

EXPLANATION OF THE PROVISION

The provision is a joint resolution disapproving of the rules published on December 30, 2024, by the Department of the Treasury relating to "Gross Proceeds Reporting by Brokers That Regularly Provide Services Effectuating Digital Asset Sales." Under the CRA, the December 2024 Regulations immediately cease to have effect and are treated as though they had never taken effect. The July 2024 Regulations are not affected by the resolution.

EFFECTIVE DATE

The joint resolution is effective on date of enactment.

III. VOTE OF THE COMMITTEE

Pursuant to clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of H.J. Res. 25, disapproving of the rule promulgated by the Department of the Treasury relating to "Gross Proceeds Reporting by Brokers That Regularly Provide Services Effectuating Digital Asset Sales," on February 26, 2025.

The resolution, H.J. Res. 25, disapproving of the rule promulgated by the Department of the Treasury relating to "Gross Proceeds Reporting by Brokers That Regularly Provide Services Effectuating Digital Asset Sales," was ordered favorably reported to the House of Representatives by a recorded vote of 26 yeas and 16 nays, with a quorum being present.

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smith (MO)	X	....	....	Mr. Neal	....	X	....
Mr. Buchanan	X	....	....	Mr. Doggett	....	X	....
Mr. Smith (NE)	X	....	....	Mr. Thompson	....	X	....
Mr. Kelly	X	....	....	Mr. Larson	....	X	....
Mr. Schweikert	X	....	....	Mr. Davis	....	X	....
Mr. LaHood	X	....	....	Ms. Sánchez	....	X	....
Mr. Arrington	X	....	....	Ms. Sewell	....	....	....
Mr. Estes	X	....	....	Ms. DelBene	....	X	....
Mr. Smucker	X	....	....	Ms. Chu	....	X	....
Mr. Hern	X	....	....	Ms. Moore (WI)	....	X	....
Mrs. Miller (WV)	X	....	....	Mr. Boyle	....	....	....
Dr. Murphy	X	....	....	Mr. Beyer	....	X	....
Mr. Kustoff	X	....	....	Mr. Evans	....	X	....
Mr. Fitzpatrick	X	....	....	Mr. Schneider	....	X	....

[20] 5 U.S.C. sec. 801(b)(2).

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Steube	X	....	....	Mr. Panetta	....	X	....
Ms. Tenney	X	....	....	Mr. Gomez	....	X	....
Mrs. Fischbach	X	....	....	Mr. Horsford	....	....	....
Mr. Moore (UT)	X	....	....	Ms. Plaskett	....	X	....
Ms. Van Duyne	X	....	....	Mr. Suozzi	....	X	....
Mr. Feenstra	X	....	....				
Ms. Malliotakis	X	....	....				
Mr. Carey	X	....	....				
Mr. Yakym	X	....	....				
Mr. Miller (OH)	X	....	....				
Mr. Bean	X	....	....				
Mr. Moran	X	....	....				

IV. BUDGET EFFECTS OF THE RESOLUTION

A. Committee Estimate of Budgetary Effects

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the resolution, H.J. Res. 25, as reported. The estimate prepared by the Joint Committee on Taxation ("JCT") is included below.

The staff of the Joint Committee on Taxation estimates the resolution to have the following effect on Federal fiscal year budget receipts for the period 2025 through 2034:

FISCAL YEARS

[Billions of dollars]

	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2025–2029	2025–2034
Repeal of Treasury December 2024 regulations	−0.1	−0.2	−0.3	−0.3	−0.4	−0.5	−0.5	−0.5	−0.5	−0.5	−1.3	−3.9

B. Statement Regarding New Budget Authority and Tax Expenditures Budget Authority

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the resolution involves no new or increased budget authority.

C. Cost Estimate Prepared by the Congressional Budget Office

The Congressional Budget Act of 1974, as amended stipulates that revenue estimates provided by the staff of the Joint Committee on Taxation ("JCT") will be the official estimates for all tax legislation considered by Congress. As such CBO incorporates these estimates into its cos estimates of the effects of the legislation. The estimates for the revenue provisions of H.J. Res. 25 were provided by JCT (See Section IV, Subsection).

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee made findings and recommendations that are reflected in this report.

B. Statement of General Performance Goals and Objectives

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the resolution does not authorize funding, so no statement of general performance goals and objectives is required.

C. Applicability of House Rule XXI, Clause 5(b)

Rule XXI 5(b) of the Rules of the House of Representatives provides, in part, that "A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present." The Committee has carefully reviewed the resolution, and states that the resolution does not provide such a Federal income tax rate increase.

D. Information Relating to Unfunded Mandates

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4).

The Committee has determined that the resolution does not contain Federal mandates on the private sector. The Committee has determined that the resolution does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

E. Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the resolution, and states that the provisions of the resolution do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

F. Duplication of Federal Programs

In compliance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the resolution establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95–220, as amended by Pub. L. No. 98–169).

G. Tax Complexity Analysis

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (the "IRS Reform Act") requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Treasury Department) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses.

The staff of the Joint Committee on Taxation has determined that there are no provisions that are of widespread applicability to individuals or small businesses.

VI. CHANGES IN EXISTING LAW MADE BY THE RESOLUTION, AS REPORTED

As reported by the Committee, H.J. Res. 25 makes no changes to existing law.

VII. DISSENTING VIEWS

Committee Democrats find it ironic that Republicans, who claim to be stewards of fiscal responsibility, are once again contributing to our ever-growing deficit by proposing an additional $4 billion tax giveaway.

Gains on the sales and exchanges of cryptocurrency are subject to tax, just like other assets. The Congressional Review Act resolution in question does not address a new tax, nor does it change taxpayers' tax filing obligations. Rather, it repeals a Biden Administration regulation clarifying that cryptocurrency transactions conducted on a decentralized exchange are subject to reporting rules, where the exchange is responsible for providing reports to both the taxpayer and the IRS.

The fact that this resolution would cost nearly $4 billion is a testament to the very need for these regulations. Too many taxable gains from the sale of cryptocurrency currently go unreported. When taxpayers with gains shirk their tax obligations, that leaves honest taxpayers—and their children and grandchildren—holding the bag.

To make matters worse, the CRA in question does not repeal the entirety of the broker reporting regulations, rather, only those regulations that deal with rules that respect decentralized exchanges. Not only would this let the more sophisticated cryptocurrency investors who use decentralized exchanges off the hook for tax reporting, it would likely encourage those who would otherwise transact on centralized exchanges (generally more friendly to retail investors) to move their transactions to decentralized exchanges, knowing that evading tax liability was easier when they do so. This will only serve to bolster the operations of those decentralized exchanges, which are known to be the source of transactions that facilitate the sale of fentanyl, terrorism financing, and a host of other nefarious purposes.

For these reasons, Committee Democrats dissent.

RICHARD E. NEAL,
Ranking Member.

DISSENTING VIEWS

The bill before us today would repeal sensible, and important, Treasury regulations ensuring that taxpayers meet their tax filing obligations, and do not skirt the law by selling cryptocurrency without reporting the gains. It's that simple.

By repealing this regulation, Republicans are allowing taxpayers to raid the fisc of an additional $4 billion. And make no mistake about it, this bill is unpaid for—a pattern we are seeing from my colleagues across the aisle, notwithstanding their fidelity to so-called fiscal responsibility.

I guess it shouldn't surprise us that Republicans are here today, weakening the tools that the IRS has to enforce the tax laws. They are the party that has consistently underfunded the IRS. They are the party that actively seeks to repeal the funding boost that Democrats gave the IRS. And they are the party that has stood idly by, while Elon Musk and his cronies have fired 6,700 IRS employees during tax season.

This is a bad bill, in service of bad tax policy, and I will be voting no.

RICHARD E. NEAL,
Ranking Member.

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