



Legislative & Administrative Update (tax and non-tax)

2026 BLOCKCHAIN TAX CONFERENCE

JANUARY 30, 2026



Presenters

- Jen Brown, Vice President – BGR Government Affairs, LLC
- Chris Land, Staff Director of Senate Banking Committee's Subcommittee on Digital Assets; General Counsel for Senator Lummis – U.S. Senate
- David Forst, Partner – Fenwick

This presentation is a Q&A on current legislative activities,

These slides are provided by Annette Nellen with links to current legislation on taxation of digital assets, recent hearings on the topic, and items on the Treasury/IRS Business Plans for guidance this year.

Digital Assets Taxation Legislative Outlook

- Hearings in Congress:
 - House Ways & Means: [Making America the Crypto Capital of the World: Ensuring Digital Asset Policy Built for the 21st Century](#), 7/16/25
 - Senate Finance Committee: [Examining the Taxation of Digital Assets](#), 10/1/25
 - JCT report for 10/1 hearing – [JCX-44-25](#) (9/29/25)
- Senator Lummis digital assets bill with tax changes – [S. 2207](#)
 - De minimis, lending, wash sales, §475 application, mining and staking, exception for qualified appraisals for donations
 - See next slide --→
- Rep. Max Miller and Rep. Horsford have bipartisan proposal at 12/20/25
 - See next slides ---→

Senator Lummis Updated Crypto Tax Provisions Released (7/3/25)

- Unlike past bills, this one just has tax provisions covering
 - De minimis gain exclusion for personal transactions capped at \$300 per transaction and \$5K yearly
 - Expands §1058 on lending digital assets to include “actively traded digital assets”
 - Wash sale loss limitation of §1091 would apply to digital assets other than stablecoins
 - New §475(g) allows dealers and traders to elect mark-to-market treatment for digital assets
 - New §451(l) allows deferral of income recognition for mining and staking income, treat it as ordinary income when recognized
 - §170(f) modified to exempt actively traded digital assets from qualified appraisal requirement

<https://www.lummis.senate.gov/press-releases/lummis-unveils-digital-asset-tax-legislation/>

S. 2207 - <https://www.congress.gov/bill/119th-congress/senate-bill/2207/>

Cryptocurrency Tax Framework Proposal by Reps. Miller and Horsford

- Bipartisan proposal - *Digital Asset Protection, Accountability, Regulation, Innovation, Taxation, and Yields (PARITY) Act*
- [12/20/25 press release of Rep. Horsford](#) (D-NV)
- [12/20/25 press release of Rep. Miller](#) (R-OH)
 - Goal – allow tax code to reflect modern financial technology, clarify tax rules
 - Need “guardrails that allow innovation to grow while protecting taxpayers and the integrity of our tax system”
 - Includes link to draft of bill which includes some explanatory text.

Digital Asset Protection, Accountability, Regulation, Innovation, Taxation, and Yields (PARITY) Act

Rep. Horsford [summary](#) of bill:

- "Create a deemed-basis rule for regulated, dollar-pegged payment stablecoins to treat digital dollars used like cash as cash—reducing IRS administrability burdens from routine transactions and preventing misuse by trading or arbitrage activity."
- Provide clear tax certainty for foreign investors trading on U.S. digital asset platforms.
- Extend established securities-lending tax principles to qualifying digital asset loans.
- Apply wash-sale rules to digital assets.
- Align tax treatment of professional digital asset dealers and active traders with existing securities markets by permitting a mark-to-market election.
- Resolve "phantom income" problem for miners and stakers by providing a clear, administrable election for when digital assets rewards are taxed.
- Modernize charitable contribution rules for digital assets.
- Apply constructive sale rules to digital assets.
- Clarify that passive, protocol-level staking by investment funds is not a trade or business."

Digital Asset Protection, Accountability, Regulation, Innovation, Taxation, and Yields (PARITY) Act

Rep. Miller [summary](#) of bill:

- "Establishes a commonsense tax treatment for regulated payment stablecoins and ensures everyday payment transactions do not trigger unnecessary tax reporting."
- Clarifies source-of-income rules for digital asset trading, providing certainty for U.S. and foreign market participants while maintaining strong tax enforcement standards.
- Extends existing securities-lending tax rules to digital assets, ensuring that bona fide digital asset lending is not treated as a taxable sale.
- Applies wash-sale and constructive-sale rules to digital assets, closing loopholes that allow taxpayers to artificially harvest losses or defer gains.
- Allows mark-to-market elections for digital asset traders and dealers, aligning tax treatment with established financial market practices.
- Creates an elective framework for staking and mining rewards, treating rewards as income while allowing deferral of taxation to address liquidity and phantom income concerns.
- Modernizes charitable contribution rules, distinguishing between highly liquid digital assets and speculative or illiquid tokens to prevent abuse while supporting legitimate charitable giving."

Digital Asset Projects on Treasury/IRS Priority Guidance Plan Released 9/30/25

6 items listed although one already completed:

1. Guidance on tax treatment of transactions involving digital assets.
2. Guidance regarding digital assets held by §301.7701-4(c) investment trusts.
3. Regs under §6045 regarding reporting by U.S. brokers of digital asset transactions of certain foreign persons in connection with OECD's Crypto Asset Reporting Framework.
4. Guidance regarding electronic furnishing of information returns, including regs under §6045 regarding electronic furnishing of payee statements regarding digital asset sales.
5. Regs regarding information reporting of digital assets, as amended by Infrastructure Investment and Jobs Act.
6. Final regs removing regulations regarding gross proceeds reporting by brokers that regularly provide services effectuating digital assets sales.
 - PUBLISHED on 07/11/25 in FR as revocation of TD 10021 (FILED 07/10/25).
 - <https://www.irs.gov/pub/irs-counsel/2025-2026-initial-pgp.pdf>