New Cryptocurrency Tax Reporting Requirements

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Embedded in the recently enacted Investment and Jobs Act, commonly referred to as the "Infrastructure Bill," was language increasing the tax reporting requirements for cryptocurrency transactions starting in tax year 2023.

First, a cryptocurrency "broker" will be required to reports transactions involving "digital assets" to the IRS and its customer. A "broker," as defined in the Bill, is any person who for consideration is responsible for regularly providing any service effectuating transfers of digital assets on behalf of another person. Many argue the new definition of "broker" is too broad and could include wallet developers, crypto miners, and others who do not have the ability to access the customer information that a "broker" is now required to report to the IRS.

"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. Under the Bill, a "broker" will now be required to report:

- the name, address and phone number of each customer;
- the gross proceeds from any sale of digital assets; and
- capital gains or losses and whether such capital gains or losses were short-term or long-term.

While the Bill does not specify what IRS Form is to be used to report cryptocurrency transactions, it is assumed that it will be a Form 1099-B, just as traditional brokers do. A failure by a "broker" to report transactions involving "digital assets" to the IRS can result in a $250 penalty per customer, up to a maximum $3 million penalty.

Second, the Bill classifies a "digital asset" with a value of $10,000 or more as cash. Now a person who receives more than $10,000 of cash (including "digital assets") in one or more multiple transactions must file a Form 8300 with the IRS. A Form 8300 provides:

- the name, address and Taxpayer Identification Number from whom cash was received;
- the amount of case received; and
- the date and nature of the transaction.

Failure to file a Form 8300 can result in severe civil and criminal penalties that vary depending on the nature of non-compliance with Form 8300 filing requirements. Businesses and individuals need to be aware of and adhere to the new reporting requirements established by the IRS regarding cryptocurrency tranactions if they accept cryptocurrency as a form of payment or they could be subjected to civil and criminal penalties.

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