



TaxNewsFlash

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Final regulations: Information reporting, determination of amount realized and basis, and backup withholding for digital asset transactions

The U.S. Treasury Department and IRS today released for publication in the Federal Register [final regulations](#) (T.D. 10000) regarding information reporting under sections 6045 and 6050W, the determination of amount realized under section 1001 and basis under section 1012, and backup withholding under section 3406, for certain digital asset sales and exchanges.

The final regulations require:

- Brokers (including operators of custodial digital asset trading platforms, certain digital asset hosted wallet providers, digital asset kiosks, and certain processors of digital asset payments (PDAPs)) to file information returns, and furnish payee statements, on dispositions of digital assets effected for customers in certain sale or exchange transactions
- Real estate reporting persons to file information returns and furnish payee statements with respect to real estate purchasers who use digital assets to acquire real estate in transactions with closing dates on or after January 1, 2026

The final regulations, which finalize proposed regulations published in the Federal Register on August 28, 2023 (read [TaxNewsFlash](#)), are effective on the date that is 60 days after the date of publication in the Federal Register (which is scheduled to be July 9, 2024).

As explained in a related IRS release—[IR-2024-178](#) (June 28, 2024), the final regulations require brokers to report certain sale and exchange transactions that take place beginning in calendar year 2025 and will be reported on the soon-to-be released Form 1099-DA. The final regulations focus on reporting by brokers who take possession of the digital assets being sold by their customers in order to cover the greatest number of taxpayers while allowing more time to consider the nuances of transactions involving non-custodial and decentralized brokers, for which Treasury and the IRS intend to provide rules in a different set of final regulations.

Treasury and the IRS are also providing transitional and penalty relief from reporting and backup withholding rules on certain transactions to help phase in implementation:

- [Notice 2024-56](#) provides general transitional relief from reporting penalties and backup withholding for any broker who does not timely and accurately file information returns and furnish payee statements for sales and exchanges of digital assets during calendar year 2025, provided that the broker makes a good faith effort to comply with the reporting obligations. Additionally, the notice provides more limited relief from backup withholding for certain sales of digital assets during 2026 for brokers using the IRS's taxpayer identification number (TIN)-matching system in place of certified TINs. Finally, the notice provides backup withholding relief for exchanges of digital assets in return for specified non-fungible tokens (NFTs) and real property and for certain sales effected by PDAPs.
- [Notice 2024-57](#) informs brokers that until Treasury and the IRS issue further guidance, brokers will not have to file information returns or furnish payee statements on digital asset sales and exchanges for the following six types of transactions:
 - Wrapping and unwrapping transactions
 - Liquidity provider transactions
 - Staking transactions
 - Transactions described by digital asset market participants as lending of digital assets
 - Transactions described by digital asset market participants as short sales of digital assets
 - Notional principal contract transactions
- [Revenue Procedure 2024-28](#) generally permits taxpayers to rely on any reasonable allocation of units of unused basis to wallets or accounts that hold the same number of remaining digital asset units based on the taxpayers' records of unused bases and remaining units in those wallets or accounts.

Read the related [Treasury release](#)

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