Zero One Strategies

ANALYSIS

PRESIDENT'S WORKING GROUP ON DIGITAL ASSET MARKETS

Taxation

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The President's Working Group on Digital Asset Markets (PWG) was established by Executive Order 14178, Strengthening American Leadership in Digital Financial Technology[1], and directed to submit a report to the President within 180 days recommending regulatory and legislative proposals to support responsible growth and use of digital assets, blockchain technology, and related technologies across all sectors of the economy. The PWG report[2] on Strengthening American Leadership in Digital Financial Technology, released July 30, 2025, proposes recommendations related to market structure, banking, stablecoins and payments, countering illicit finance, and taxation.

The below analysis focuses on the PWG recommendations for digital asset tax guidance and legislation.

The PWG report provides an overview of existing tax law, noting that the IRS generally treats digital assets as property for federal income tax purposes. The report outlines key policy priorities and recommendations for administrative guidance and legislative action. These priorities and recommendations include:

Corporate Alternative Minimum Tax (CAMT)

The CAMT is a minimum tax of 15 percent on the adjusted financial statement income of large corporations averaging over $1 billion in income over three years, with IRS rules allowing adjustments for certain financial statement and tax differences. For digital assets, industry stakeholders seek guidance that unrealized gains and losses are excluded from the tax calculation. On June 23, 2025, the IRS issued Notice 2025-27 stating Treasury and the IRS anticipate releasing interim guidance under CAMT to address unrealized gains and losses reported on financial statements.

The PWG recommends Treasury and the IRS publish guidance addressing the determination of AFSI and the financial accounting of unrealized gains and losses on investment assets (other than stock and partnership interests).

[1] https://www.whitehouse.gov/presidential-actions/2025/01/strengthening-american-leadership-in-digital-financial-technology/
[2] https://www.whitehouse.gov/crypto

Staking – Grantor Trust Classification

It is uncertain whether a grantor trust holding digital assets as exchange-traded products (ETPs) can stake those assets and receive staking rewards without jeopardizing their status as a grantor trust.

The PWG recommends Treasury and the IRS publish guidance addressing whether a trust that otherwise qualifies as an investment trust treated as a grantor trust fails to qualify as such if the trust stakes digital assets owned by the trust.

Wrapping

Wrapping is used to convert a digital asset on one blockchain into a digital asset native to a different blockchain. The digital asset can be unwrapped, or converted back into the original digital asset, at any time.

The PWG recommends Treasury and the IRS publish guidance addressing whether wrapping and unwrapping transactions are taxable events.

IRS FAQs

The PWG recommends Treasury and the IRS update IRS FAQs to reflect recently published guidance.

Characterization as Securities or Commodities

While the IRS characterizes digital assets as property, it does not address whether a digital asset should be treated as a security or commodity. The Internal Revenue Code defines “security” and “commodity” differently from securities law.

The PWG recommends either: 1) legislation be enacted that treats digital assets as a new class of assets subject to modified tax rules, including mark-to-market elections[3], trading safe harbors[4], securities loans[5], publicly traded partnership rules[6], and wash sale[7] and

[3] Section 475
[4] Section 864(b)
[5] Section 1058
[6] Section 7704
[7] Section 1091

constructive sales[8] rules; or 2) legislation clarify when a digital asset is treated as a security or commodity for federal tax purposes.

Stablecoins

The current tax characterization of stablecoins is uncertain, as they do not meet the characterization of debt. Payment stablecoins function as currency, but statute and case law do not directly define "money" or "currency." Indirect definitions of "currency" require coin or paper money issued or guaranteed by any government. The PWG says, "Treatment of payment stablecoins as money or currency for federal income tax purposes does not seem likely under current law." For example, the Code does not contemplate gain or loss on money.

The PWG recommends legislation be enacted "that would characterize payment stablecoins for federal income tax purposes… Characterization as debt seems most appropriate given the ways in which payment stablecoins are structured and the potential for gain or loss on disposition." The report goes on to suggest legislation that addresses wash sale rules for payment stablecoins, including providing that wash sale rules do not apply to payment stablecoins; that wash sale rules do not apply to de minimis losses from payment stablecoins up to an aggregate threshold; or that gains or losses on payment stablecoins are not taxable. Alternatively, the PWG recommends Treasury and the IRS clarify the tax classification of payment stablecoins.

Wash Sales

Current law prohibits a wash sale, in which a taxpayer sells a security at a loss on one day and repurchases the same security within 30 days, claiming the loss for tax purposes while being in a substantially similar position economically. Digital assets are not considered securities under current wash sale rules.

The PWG recommends legislation to add digital assets to wash sale rules and clarify that wash sale rules not apply to payment stablecoins. The PWG also recommends digital asset broker information reporting regulations be amended to reflect these changes.

[8] Section 1259

Crypto Lending

In a loan of securities, current law does not treat as a taxable event when the security is returned, subject to certain conditions.

The PWG recommends Congress enact legislation to add loans of actively traded fungible digital assets to Section 1058, to allow the Treasury Secretary authority to determine when a digital asset is actively traded, and to address differences between the standard terms of securities loans and crypto loans.

Mark-to-Market Rules

Current law allows securities traders and commodities dealers and traders to elect to mark-to-market for tax purposes.

The PWG recommends Section 475 be amended to include actively traded fungible digital assets.

Trading in Securities or Commodities Safe Harbors

Non-U.S. traders may trade through a U.S. agent without being engaged in a trade or business in the U.S., subject to U.S. income taxes.

The PWG recommends adding actively traded fungible digital assets to the current safe harbor statute.

De Minimis Digital Asset Receipts

Taxpayers are required to treat as a taxable event the receipt of new digital assets that may have minimal or speculative value, such as unsolicited airdrops, hard forks, or validation rewards.

The PWG recommends Treasury and the IRS issue guidance that applies a de minimis exemption to receipts of digital assets, such as airdrops, hard forks, staking, and mining rewards for taxpayers who do not operate a node or carry out digital asset mining.

The PWG cites the administrative burdens for taxpayers to track and record high-volume/low-value digital asset receipts, and the fact that taxpayers do not have control over when they receive the asset.

The PWG does not, however, address a de minimis exemption for low-dollar payment transactions.

Timing of Income from Mining and Staking

Under IRS Rev. Ruling 2023-14[9], mining and staking rewards are taxable as ordinary income at the moment of receipt and any gain or loss at disposition is subject to capital gains taxation.

The PWG recommends Treasury and the IRS consider clarifying, modifying, or reversing that guidance in relation to the timing of taxation. The PWG also recommends, if Congress passes legislation regarding the timing of taxation of mining and staking rewards, the legislation include similar rules for rewards from other digital asset validation methods, the character of income, and differences between the FMV at time of receipt versus at time of sale or disposition.

Section 6038D Digital Asset Reporting

Under current law, individuals that hold over $50,000 in value in a financial account at a foreign financial institution or in certain foreign assets not held in a financial account are required to attach a reporting statement to their tax return. This statement allows the IRS to cross-check the information from U.S. taxpayers against information provided by foreign financial institutions.

The PWG recommends Congress enact legislation requiring taxpayers to report digital asset custodial accounts maintained by foreign digital asset exchanges or digital asset service providers.

In addition, the information reported to the IRS under Section 6038D is similar to the information reported to the Treasury Financial Crimes Enforcement Network (FinCEN) on the Report of Foreign Bank and Financial Accounts (FBAR).

The PWG recommends legislation to streamline this reporting to a single form available to both the IRS and FinCEN.

[9] https://www.irs.gov/pub/irs-drop/rr-23-14.pdf

Electronic Furnishing of Digital Asset Payee Statements (Form 1099-DA)

Taxpayers must affirmatively consent to receiving third party statements electronically, such as the Form 1099. Digital asset exchanges tend to communicate with customers electronically.

The PWG recommends Treasury and the IRS propose regulations allow digital asset brokers to furnish Form 1099-DA electronically.

Crypto-Asset Reporting Framework (CARF) Implementation

CARF is an international tax transparency standard seeking to improve tax compliance by requiring digital asset service providers to report certain transactions to their tax authority, which then exchanges appropriate information with other participating jurisdictions. For more information on CARF, see Zero One Strategies' primer OECD Crypto-Asset Reporting Framework[10].

The PWG recommends Treasury and the IRS propose regulations implementing CARF. They recommend the regulations not impose new reporting requirements on DeFi transactions.

CARF requires digital asset exchanges identify and report on the controlling person of certain passive entities, however, the IRS does not have authority to require exchanges to report on controlling persons of shell companies. As a result, major trading partners with the U.S. are unwilling to share information on U.S. persons controlling shell companies transacting on foreign digital asset exchanges if those jurisdictions do not receive similar information from the IRS.

The PWG recommends Congress pass legislation to require digital asset brokers to report information on foreign controlling persons of certain passive entities.

Basis Reporting on Transferred Digital Assets

Digital asset brokers are required to report gross proceeds from sales of digital assets and the basis of certain digital assets sold. Reliable basis information is critical for taxpayers to calculate their gain or loss from a digital asset sale. The IRS final regulations on digital asset broker information reporting require digital asset brokers to report basis only if they have reliable basis information. In the common situation in which a taxpayer acquires an asset on

[10] https://zeroonestrategies.com/publications/carf

one exchange and sells it through a second exchange, neither exchange has visibility into the complete transaction. These transfers between centralized exchanges are similar to transfers of securities between securities brokers, in which the IRS requires the first broker to provide basis information to the second broker and the second broker reports to the taxpayer and the IRS both the gross proceeds and the basis of the security sold.

The PWG recommends Treasury and the IRS propose regulations requiring basis information to be similarly reported when digital assets are transferred between centralized digital asset exchanges.

Digital Assets Received in a Trade or Business

Under current law, a person in the course of a trade or business who receives more than $10,000 in cash in exchange for goods or services must file detailed information about the payer and transaction with the IRS and FinCEN. The Infrastructure Investment and Jobs Act (IIJA) of 2021 requires digital assets to be treated as cash for the purposes of this information reporting. Requiring information reporting for these digital assets transactions has raised concerns among stakeholders.

The PWG recommends Treasury and the IRS propose regulations implementing reporting of digital assets paid to a trade or business in a manner that takes stakeholder concerns into consideration. The PWG also recommends Congress consider legislation to require conforming information be reported to FinCEN for BSA purposes; the legislation could also reexamine threshold amounts and the applicable breadth of uses of digital assets.

Non-Priority Issues

The PWG lists additional policies that might warrant future consideration, including:

- Mining and staking, such as timing of mining and staking reward taxation; character of mining and staking rewards (whether staking activity is a trade or business); source of income from staking rewards; whether airdrops and hard forks invalidate investment trust status; and whether staking benefits from trading safe harbors.
- Valuation, including how to value digital assets traded on multiple exchanges
- NFTs
- Losses, such as proof of worthlessness or abandonment and treatment in bankruptcy
- Charitable deduction, specifically removing the current requirement for a qualified appraisal on donations above $5,000