



Discussion Draft: *Digital Asset Protection, Accountability, Regulation, Innovation, Taxation, and Yields (PARITY) Act*, Reps. Max Miller (R-OH) and Steven Horsford (D-NV)

Brief Summary

Section 1. De Minimis Gain from Sale or Exchange of Regulated Payment Stablecoins

- For the sale or exchange of regulated payment stablecoins: Gain excluded from gross income, loss recognition allowed.
- For routine consumer payments using regulated payment stablecoins: Per-transaction de minimis exclusion up to \$200, possible annual cap to apply.

Section 2. Sources of Income (Non-U.S. Trading Safe Harbor)

- Expands the current “trading safe harbor” so non-U.S. persons can trade digital assets through U.S. intermediaries or exchanges for their own account without being treated as engaged in a U.S. trade or business, excluding dealers.
- Limits the safe harbor to digital assets and transactions of a kind customarily dealt in and consummated on digital asset exchanges, tying the rule to standard market practice.

Section 3. Digital Asset Lending

- Extends §1058 nonrecognition to lending of fungible digital assets, clarifies that fixed-term loans in ordinary course qualify, and confirms basis and income-inclusion mechanics for substitute payments and the return of lent assets.

Section 4. Wash Sales for Digital Assets

- Applies wash-sale loss disallowance to a broad category of “specified assets” including securities and actively traded digital assets, related derivatives, and contracts.

Section 5. Mark-to-Market Election for Digital Asset Dealers and Traders

- Allows dealers and traders in digital assets to elect mark-to-market treatment, but only for digital assets that meet an “actively traded” standard.

Section 6. Constructive Sales of Digital Assets

- Conceptually extends constructive sale rules to digital assets where offsetting positions substantially eliminate both risk of loss and opportunity for gain in appreciated positions.

Section 7. Election for Digital Asset Mining and Staking Rewards

- Creates an election regime (statutory text to come) for mining and staking rewards by allowing taxpayers to defer ordinary income recognition on rewards for up to five years, then set basis at FMV on recognition with subsequent appreciation treated as capital gain.

Section 8. Charitable Contributions and Qualified Appraisals

- Adds “actively traded digital assets” to the list of property exempt from qualified appraisal requirements where reliable market pricing exists and that also meet a minimum average yearly market capitalization, with possible additional thresholds. For illiquid/speculative digital assets, the donor’s deduction would be limited to the amount actually realized by the charity on disposition.

Section X. CAMT Clarification

- Would exclude unrealized gains and losses from purely accounting-driven mark-to-market investments from the corporate alternative minimum tax base.

Section X. Grantor Trusts / PTPs

- Aims to clarify that passive, protocol-level staking by investment vehicles holding digital assets is not a trade or business for §§512 and 864, while active, customer-facing validation remains an ordinary business activity.

Detailed Summary

SEC. 1. DE MINIMIS GAIN FROM SALE OR EXCHANGE OF REGULATED PAYMENT STABLECOINS.

Core rule (new §139J):

- Excludes from gross income any gain (and allows recognition of loss) from the sale or exchange of a “Regulated Payment Stablecoin”, subject to threshold and anti-abuse limits.
- “Regulated Payment Stablecoin” is a digital asset under §6045(g)(3)(D) that is a “payment stablecoin” under 12 U.S.C. §5901(22), issued by a “permitted payment stablecoin issuer” under 12 U.S.C. §5901(23), pegged solely to the U.S. dollar, and has maintained market price within 1% of \$1.00 for at least 95% of trading days over the prior 12 months, with the taxpayer’s acquisition price also within 1% of \$1.00.

Exception and deemed basis:

- The de minimis exclusion does not apply where the transaction price is outside \$0.99–\$1.01 per unit of stablecoin.
- In those out-of-band cases, basis is deemed to be \$1.00 per unit for gain/loss computation, unless Treasury (after consulting federal banking agencies) determines this rule does not reduce administrative burden and limits its use.

Treasury authority and broker/dealer exclusion:

- Treasury may carve out specific taxpayers, transactions, or stablecoins from the exclusion if application would undermine policy objectives, including restrictions on brokers and dealers.
- The exclusion does not apply to sales or exchanges by taxpayers who are brokers or dealers in securities or commodities under Exchange Act §§3(a)(4), 3(a)(5).

Explanatory note:

- Still under technical drafting: Create a per-transaction \$200 de minimis threshold, mirroring §988’s foreign currency rule, to eliminate low-value gain recognition from routine consumer payments in regulated payment stablecoins. Technical work is ongoing on whether to add an aggregate annual cap so the rule is an administrative simplification, not an investment gain shelter.
- Regulations and guidance are expected to add targeted anti-abuse rules, including treatment of transactions with related persons and coordinated arrangements

designed to multiply the exclusion; Treasury may adopt attribution-style rules analogous to §267 to address “exemption-stacking” and similar schemes.

- Guidance may cover recordkeeping and information reporting, basis allocation and characterization of appreciation where the exclusion does not apply, and mixed transactions involving both eligible property and other goods or services.
- Does not foreclose future de minimis relief for other digital assets and is framed to follow existing statute (including references to GENIUS) rather than making a normative judgment about other asset types.

Effective date:

- Applies to taxable years beginning after December 31, 2025.

SEC. 2. SOURCES OF INCOME.

Expansion of §864(b)(2) trading safe harbor to digital assets:

- Inserts new §864(b)(2)(C) to treat certain trading in digital assets as not constituting a U.S. trade or business for non-U.S. persons, paralleling the existing securities/commodities safe harbor.

Safe harbor covers:

- Trading in digital assets through a resident broker, commission agent, custodian, digital asset exchange, or other independent agent.
- Trading for the taxpayer’s own account (directly or via employees or agents with or without discretionary authority), except for dealers in digital assets, who are excluded.

Definitions and limitation:

- “Digital asset exchange” is a centralized or decentralized platform that facilitates digital asset transfers; “digital asset” cross-references §6045(g)(3)(D).
- The safe harbor applies only where the digital assets are of a kind customarily dealt in on a digital asset exchange and the transaction is of a kind customarily consummated on such an exchange, anchoring the rule in standard market practice.

Effective date:

- Applies to taxable years beginning after the date of enactment.
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SEC. 3. TAX TREATMENT OF DIGITAL ASSET LENDING AGREEMENTS AND RELATED MATTERS.

Extension of §1058 nonrecognition to digital assets:

- Amends §1058(a) to include “digital assets” alongside securities, so qualified lending of digital assets can occur without immediate recognition of gain or loss.
- A drafting bracket suggests that for this section, digital assets would be those designated under §6045, limited to fungible tokens, with Treasury authority to carve out exceptions.

Fixed-term lending and basis adjustments:

- Clarifies that a “fixed-term transfer that occurs in the ordinary course of a securities lending or investment management business” qualifies under §1058(b)(1), confirming ordinary lending structures are covered even with specified terms.
- Requires appropriate basis adjustments as determined by Treasury upon return of lent securities (including digital assets), codifying basis continuity mechanics.

Definitions and income inclusion:

- Redefines “securities” for §1058 to include any digital asset defined in §6045(g)(3)(D) and removes any call-option requirement for digital assets.
- Provides that income equivalent to what would have accrued to the lender but for the lending transaction must be included in the lender’s gross income, aligning tax treatment of substitute payments or similar income streams.

Regulatory and classification limits:

- Includes an explicit rule of construction: nothing in this section implies any conclusion about whether a digital asset is a “security” under the Securities Act of 1933 or Exchange Act of 1934.
- Grants Treasury authority to adopt rules implementing the amendments, including coverage of forks, airdrops, and similar subsidiary value associated with lent digital assets.

Explanatory note – key policy details:

- The policy goal is to extend §1058 nonrecognition principles to bona fide lending of fungible, liquid digital assets where: (i) the lender is entitled to the return of identical digital assets; (ii) the lender’s risk of loss and upside are preserved; and (iii) the transaction is not used to effect a sale or disposition.
- The intent is to exclude NFTs, illiquid or thinly traded assets, and tokenized or synthetic instruments (e.g., tokenized securities or derivative-like products) that pose valuation, classification, or manipulation risks.
- Treasury is expected to define administrable standards for fungibility and liquidity, and to issue rules preventing the use of digital asset lending arrangements for disguised sales, basis-shifting, or other tax-avoidance structures, potentially using rules that look through to underlying economic exposure rather than formal structure.

Effective date:

- Applies to sales and exchanges in taxable years beginning after the date of enactment.
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SEC. 4. LOSS FROM WASH SALES OF DIGITAL ASSETS.

Rewrite of §1091 to “specified assets”:

- Replaces §1091 with a broadened wash sale rule disallowing loss deductions on dispositions of “specified assets” where the taxpayer acquires, contracts to acquire, or enters into long notional principal contracts for substantially identical specified assets within 30 days before or after the loss transaction.
- Traders and dealers using the mark-to-market method for the specified asset are exempt from wash sale disallowance under the trader/dealer exception.

Allocation rules and basis adjustments:

- Requires regulations to determine which losses are disallowed when the quantity of acquired specified assets is more or less than the quantity sold.
- Increases basis of replacement assets (or contracts/options/long NPCs) by the amount of disallowed loss, with detailed priority rules for situations involving both contracts/options and direct acquisitions.

Short sales and cash-settled instruments:

- Extends wash sale principles to losses on closing short sales or terminating contracts/options/short NPCs where the taxpayer enters into another short or similar position in substantially identical assets within the 30-day window.
- Clarifies that cash-settled contracts or options are still subject to wash sale rules.

Definition of “specified asset”:

- Includes:
 - Any security as defined in §165(g)(2).
 - Any actively traded digital asset (within §1092(d)(1)), any notional principal contract on such digital assets, and any evidence of interest or derivative in such digital assets (options, forwards, futures, shorts, similar instruments), subject to Treasury’s ability to narrow coverage.
- By default, includes contracts/options to acquire or sell, and NPCs with respect to, any specified asset.

Effective date:

- Applies to sales, dispositions, and terminations in taxable years beginning after enactment.

SEC. 5. MARK-TO-MARKET ELECTION.

New §475(g):

- Creates an elective mark-to-market regime for digital asset dealers: a dealer in digital assets (as defined in §6045(g)(3)(D)) may elect to apply §475(a) mark-to-market treatment to digital assets held in the dealer business, paralleling securities.
- Allows a person engaged in a trade or business as a trader in digital assets to elect into a mark-to-market regime under §475(f)(1) for digital assets held in that trading business.
- Limits any such election to digital assets treated as “actively traded” under standards set by the Secretary.

Effective date:

- Applies to taxable years beginning after the date of enactment.

SECTION 6. CONSTRUCTIVE SALES.

Statutory placeholder:

- Provides that §1259 will be modified to also apply to digital assets, but the statutory text is bracketed [to be drafted].

Explanatory note – key policy details:

- Recognizes that §1259 currently prevents gain deferral where taxpayers use short sales, forward contracts, futures, or notional principal contracts to lock in stock or other positions while deferring tax, but that analogous digital asset strategies are not clearly covered.
- The policy goal is to treat a taxpayer as having made a constructive sale of a digital asset when the taxpayer enters into one or more transactions that substantially eliminate both risk of loss and opportunity for gain with respect to an appreciated digital asset, bringing digital asset positions within the same realization-based anti-deferral framework as equities.

SECTION 7. DIGITAL ASSET [STAKING AND MINING ELECTION]

Statutory placeholder:

- Adds a new section at the end of Part II of Subchapter B of Chapter 1 to address digital asset staking and mining, but the statutory text is not yet drafted.

Explanatory note – key policy details:

- Provision is intended to serve as a compromise between current law immediate taxation of rewards upon dominion and control and proposals that provide for full deferral until disposition, via an election that aims to resolve “phantom income”¹ while preserving the tax base.
- “Mining or staking activity” would mean “the act of validating transactions on a cryptographically secured distributed ledger, and any activities closely related thereto,” subject to Treasury’s ability to narrow or tailor the definition.

¹ “Phantom income” in the mining/staking context refers to being taxed on value that exists on paper at the time of receipt, but that the taxpayer never actually realizes in cash or liquid value and may never be able to monetize. For example, because a digital asset may be highly volatile or may be illiquid, the USD value at receipt can quickly fall, leaving the taxpayer with a tax bill based on a higher historical value than the asset is actually worth or can be sold for later.

- Taxpayers would be allowed to elect to defer recognition of rewards received from mining or staking until the end of the fifth taxable year after receipt; at that recognition point, income is ordinary, equal to the asset’s fair market value on the recognition date, with basis set accordingly and subsequent appreciation treated as capital gain—an approach analogized to §83(b) mechanics in terms of election structure and timing.
- Taxpayers must report to IRS, each taxable year, the assets for which they have made the election, providing an administrative record for deferred rewards.
- The note signals an intent not to apply the election to taxpayers using mark-to-market, subject to careful consideration, so that timing regimes do not conflict or create arbitrage opportunities.

SEC. 8. CHARITABLE CONTRIBUTIONS AND QUALIFIED APPRAISALS.

Statutory amendment:

- Amends §170(f)(11)(A)(ii)(I) to add “actively traded digital assets (as defined in section 6045(g)(3)(D)” to the list of property types exempt from the qualified appraisal requirement, alongside publicly traded securities and qualified vehicles.

Explanatory note – key policy details (bracketed as drafting direction):

- Provision is intended to modernize charitable contribution rules by distinguishing highly liquid, widely traded digital assets from speculative or illiquid ones, consistent with existing §170 substantiation principles.
- Qualified appraisal waiver would apply only to a narrow class of digital assets with robust market pricing and information reporting, potentially limited to §6045(g)(3)(D) digital assets that also meet a minimum average yearly market capitalization (e.g., \$10 billion), with possible additional thresholds like volume-to-market-cap ratios or minimum annual trading volume over a multi-year period.
- For digital assets that do not meet liquidity/trading standards, the deduction would be deferred until the charity actually sells or disposes of the asset, and the donor’s deduction would be capped at the amount realized by the charity (net of customary selling expenses), aligning the tax benefit with the charity’s realized economic benefit and echoing the approach of §170(f)(12) for motor vehicles.

- Treasury would be provided authority to refine liquidity thresholds and further limit appraisal waivers to assets with market quotations that are readily available and resistant to manipulation.
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[SEC. XX. CLARIFYING APPLICABILITY OF THE CORPORATE ALTERNATIVE MINIMUM TAX.]

- Would amend §56A to exclude unrealized gains and losses from investments marked to market solely for accounting purposes from the CAMT base, but this provision is entirely bracketed as a draft concept.
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[SEC. XX. GRANTORY TRUSTS AND PUBLICALLY TRADED PARTNERSHIPS.]

- Would amend §7701 to clarify treatment of investment vehicles holding digital assets.
- Explanatory note states that passive, protocol-level staking would not constitute a trade or business for §512 and §864, while active, customer-facing validation would retain ordinary trade or business characterization, providing clarity for funds and structures with staking exposure.