[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. __

To amend the Internal Revenue Code of 1986 to provide for the tax treatment of digital assets.

IN THE HOUSE OF REPRESENTATIVES

Mr. MILLER of Ohio (and Mr. Horsford of Nevada) introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to provide for the tax treatment of digital assets.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 139I the following new section:

"SEC. 139J. DE MINIMIS GAIN FROM SALE OR EXCHANGE OF REGULATED PAYMENT STABLECOINS.

"(a) IN GENERAL.—Except as provided in this section, gross income shall not include gain and loss shall be recognized from the sale or exchange of any Regulated Payment Stablecoin.

(b) Regulated Payment Stablecoin. – For purposes of this section, the term 'Regulated Payment Stablecoin' means a digital asset (as defined in section 6045 (g) (3) (D)) that is a payment stablecoin (within the meaning of section 5901(22) of title 12, United States Code) and meets the following requirements:

(1) Issuer Status. – The payment stablecoin was issued by a permitted payment stablecoin issuer (within the meaning of section 5901 (23) of title 12, United States Code).
(2) Peg Requirement. – The payment is pegged solely to the United States dollar.
(3) Market Price Stability. – The payment stablecoin has been actively traded and maintained a price –
    a. Within 1 percent of $1.00 for at least 95 percent of the trading days in the preceding 12 months; and
    b. Was in fact, acquired by the taxpayer for a price within 1 percent of $1.00

(c) Exception for Significant Gain or Loss. – Subsection (a) shall not apply to the sale or exchange of a regulated payment Stablecoin if the sale or exchange occurs outside the range of 99 cents to $1.01, inclusive, per unit of the stablecoin.

(d) Deemed Basis Rule. –

(1) In General. – If the exception in subsection (c) applies, the taxpayer's basis with respect to the Regulated Payment Stablecoin shall be deemed to be $1.00 per unit for purposes of calculating gain or loss on the sale or exchange.
(2) Purpose. – The rule under paragraph (1) shall not apply to the extent provided by the Secretary of the Treasury, after consultation with the Federal banking agencies, if the Secretary determines that the application of such rule would not alleviate administrative burden.

(e) Treasury Authority. – The Secretary of the Treasury may provide by regulation that subsection (a) shall not apply to any class of taxpayer, transaction, or Regulated Payment Stablecoin if the Secretary determines such application would undermine the policy objectives of this section, including the restriction on brokers and dealers under subsection (f).

(f) Exclusion for Brokers and Dealers. – This section shall not apply to the sale or exchange of any Regulated Payment Stablecoin by a taxpayer who is a broker or dealer in securities or commodities (as defined in sections 3 (a) (4) and 3 (a) (5) of the Securities Exchange Act of 1934).

(g) REGULATIONS AND GUIDANCE.— [The Secretary shall prescribe such regulations or other guidance as may be necessary to carry out the purposes of this section and prevent the avoidance of tax.]

(i) Explanatory Note.—This section reflects agreed policy direction but remains under technical drafting review. The following information provides a summary of agreed upon policy goals:

-The provision is intended to establish a per-transaction de minimis threshold of $200, consistent with the foreign currency transaction exception under section 988, to eliminate low-value gain recognition arising from routine consumer payment use of regulated payment stablecoins. Technical drafting remains ongoing with respect to whether, and to what extent, an aggregate annual limitation is appropriate to ensure the provision operates as an administrative simplification rather than a mechanism for sheltering investment gains.

- “Regulations and Guidance” are expected to include targeted anti-abuse rules to prevent the avoidance of tax. Ongoing technical work is evaluating appropriate principles to guide this standard, including transactions involving related persons or entities, or coordinated arrangements designed to obtain multiple unintended applications of the exclusion from gross income. Consistent with that objective, [Treasury may consider rules defining related transactions or applying attribution principles analogous to those under section 267, as appropriate, to address exemption-stacking and similar arrangements.] Guidance may also address [recordkeeping and information reporting, allocation of basis and characterization of appreciation where the exclusion does not apply, and the treatment of mixed transactions involving both goods or services and property eligible for the exclusion.]

-Nothing in this provision reflects a determination that other digital assets are inappropriate for future de minimis treatment. Rather, it reflects our judgment that tax legislation should follow existing statute (e.g., GENIUS).

[(b) Clerical amendment.- The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 139I the following new item:

"Sec. 139X. De minimis gain or loss from sale or exchange of regulated payment stablecoins.".]

(c) Effective date. – The amendments made by this section shall apply to taxable years beginning after December 31, 2025.

SEC. 2. SOURCES OF INCOME.

(a) IN GENERAL.—Paragraph (2) of section 864(b) of the Internal Revenue Code of 1986 is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) DIGITAL ASSETS.—

"(i) IN GENERAL.—Trading in digital assets through a resident broker, commission agent, custodian, digital asset exchange, or other independent agent.

"(ii) TRADING FOR TAXPAYER'S OWN ACCOUNT.—Trading in digital assets for the taxpayer's own account, whether by the taxpayer or the taxpayer's employees or through a resident broker, commission agent, custodian, digital asset exchange, or other agent, and whether or not any such employee or agent has discretionary authority to make decisions in effecting the transactions. This clause shall not apply in the case of a dealer in digital assets.

"(iii) DEFINITIONS.—For purposes of this subparagraph—

"(I) DIGITAL ASSET EXCHANGE.—The term 'digital asset exchange' means a centralized or decentralized platform which facilitates the transfer of digital assets.

"(II) DIGITAL ASSET.—The term 'digital asset' has the meaning given such term in section 6045(g)(3)(D).

"(iv) LIMITATION.—This subparagraph shall apply only if the digital assets are of a kind customarily dealt in on a digital asset exchange and if the transaction is of a kind customarily consummated at such exchange.".

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 864(b)(2) of the Internal Revenue Code of 1986, as redesignated by subsection (a), is amended by striking "(A)(i) and (B)(i)" and inserting "(A)(i), (B)(i), and (C)(i)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of enactment of this Act.

SEC. 3. TAX TREATMENT OF DIGITAL ASSET LENDING AGREEMENTS AND RELATED MATTERS.

(a) IN GENERAL.—Subsection (a) of section 1058 of the Internal Revenue Code of 1986 is amended by inserting ", or digital assets," after "(as defined in section 1236(c))".

(b) [Digitals Assets for the purposes of this section are designated as under 6045, shall be considered fungible tokens, except to the extent provided by the secretary]

(c) FIXED TERM.—Paragraph (1) of subsection (b) of section 1058 of the Internal Revenue Code of 1986 is amended by inserting ", including a fixed-term transfer that occurs in the ordinary course of a securities lending or investment management business" after "transferred".

(d) BASIS.—Subsection (c) of section 1058 of the Internal Revenue Code of 1986 is amended by adding at the end the following: "All appropriate basis adjustments to an agreement under subsection (b) shall be made, as determined by the Secretary, including upon the return of the lent securities to the taxpayer.".

(e) SECURITIES.—Section 1058 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsections:

"(d) SECURITIES.—For purposes of this section, the term 'securities' has the meaning given such term by section 1236(c), except that such term includes any digital asset (as defined in section 6045(g)(3)(D)) and, with respect to a digital asset, does not require a call option.

"(e) INCOME.—An amount equal to the income which would otherwise accrue to the lender but for a lending transaction under this section shall be included in the gross income of the lender.".

(f) RULE OF CONSTRUCTION.—Nothing in this section, or any amendments made by this section, shall be construed to create any inference with respect to the classification of any digital asset as a security under the Securities Act of 1933 (15 U.S.C. 77a et seq.) or the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.).

(g) RULEMAKING AUTHORITY.—The Secretary of the Treasury (or the Secretary's delegate) may adopt rules to implement the amendments made by this section, including the application of the amendments made by this section to forks, airdrops, and similar subsidiary value.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges in taxable years beginning after the date of enactment of this Act.

(i) Explanatory Note.—This section reflects agreed policy direction but remains under technical drafting review. The following information provides a summary of agreed upon policy goals:

- The provision is intended to extend the nonrecognition principles of section 1058 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 opportunity for gain are preserved during the lending period, and (iii) the arrangement is not used to effectuate a sale or other disposition.

- The provision is intended to exclude non-fungible tokens (NFTs), illiquid or thinly traded digital assets, and tokenized or synthetic instruments (including tokenized securities or derivative-like exposures) that present heightened valuation, classification, or manipulation concerns. Treasury is expected to be granted authority to define administrable standards for fungibility and liquidity and to issue regulations or other guidance necessary to prevent the use of digital asset lending arrangements to effectuate disguised sales, basis-shifting, or other arrangements with a principal purpose of tax avoidance, and potentially, if appropriate, [rules that look to the underlying economic exposure of certain arrangements rather than their form.]

SEC. 4. LOSS FROM WASH SALES OF DIGITAL ASSETS.

(a) IN GENERAL.—Section 1091 of the Internal Revenue Code of 1986 is amended to read as follows:

"SEC. 1091. LOSS FROM WASH SALES OF SPECIFIED ASSETS.

"(a) DISALLOWANCE OF LOSS DEDUCTION.—

"(1) IN GENERAL.—No deduction shall be allowed with respect to any loss claimed to have been sustained from any sale or other disposition (including any termination) of specified assets where it appears that, within a period beginning 30 days before the date of such sale or other disposition and ending 30 days after such date, the taxpayer has—

"(A) acquired (by purchase, by an exchange on which the entire amount of gain or loss was recognized by law, or by entering into) substantially identical specified assets, or

"(B) entered into a contract or option to acquire, or long notional principal contract in respect of, substantially identical specified assets.

"(2) EXCEPTION FOR TRADERS AND DEALERS.—Paragraph (1) shall not apply if the taxpayer is applying the mark to market method of accounting to the specified asset.

"(b) SPECIFIED ASSETS ACQUIRED LESS THAN SPECIFIED ASSETS SOLD.—If the amount of specified assets acquired (or covered by the contract or option to acquire or long notional principal contract) is less than the amount of specified assets sold or otherwise disposed of, then the particular specified assets the loss from the sale or other disposition of which is not deductible shall be determined under regulations prescribed by the Secretary.

"(c) SPECIFIED ASSETS ACQUIRED NOT LESS THAN SPECIFIED ASSETS SOLD.—If the amount of specified assets acquired (or covered by the contract or option to acquire or long notional principal contract) is not less than the amount of specified assets sold or otherwise disposed of, then the particular specified assets the acquisition of which (or the entering into of the contract or option to acquire or long notional principal contract of which) resulted in the non-deductibility of the loss shall be determined under regulations prescribed by the Secretary.

"(d) ADJUSTMENT TO BASIS IN CASE OF WASH SALE.—

"(1) IN GENERAL.—The basis of the specified asset acquired (or the contract, option, or long notional principal contract entered into) shall be increased by the amount of the deduction disallowed under subsection (a) (reduced by any amount of such deduction taken into account under this subsection to increase the basis of any specified asset previously acquired or any contract, option, or long notional principal contract previously entered into).

"(2) RULES WITH RESPECT TO CERTAIN ACQUISITIONS.—

"(A) IN GENERAL.—In any case in which—

"(i) the taxpayer enters into a contract or option to acquire, or long notional principal contract in respect of, substantially identical specified assets (within the period specified in subsection (a)), and

"(ii) the taxpayer also acquires (within the period specified in subsection (a)) substantially identical specified assets and such acquisition would, but for the entering into of the contract, option, or long notional principal contract described in clause (i), have triggered a disallowance under subsection (a),

then, subject to such exceptions as the Secretary may prescribe, paragraph (1) shall apply to the substantially identical specified assets described in clause (ii) and not to the contract, option, or long term principal contract described in clause (i).

"(B) SPECIAL RULE FOR CONTRACTS AND OPTIONS.—Subject to such exceptions as the Secretary may prescribe, if the acquisition of any substantially identical specified asset is pursuant to a contract or option described in subparagraph (A)(i), then, notwithstanding whether such asset was acquired within the period specified in subsection (a), paragraph (1) shall apply to the substantially identical specified asset acquired pursuant to the contract or option and not to the contract or option.

"(e) CERTAIN SHORT SALES OF SPECIFIED ASSETS AND CONTRACTS TO SELL.—Rules similar to the rules of subsection (a) shall apply to any loss realized on the

closing of a short sale of (or the sale, disposition, or termination of a contract or option to sell or a short notional principal contract in respect of) specified assets if, within a period beginning 30 days before the date of such closing and ending 30 days after such date, another such short sale of (or contract or option to sell or short notional principal contract in respect of) substantially identical specified assets was entered into by the taxpayer.

"(f) CASH SETTLEMENT.—This section shall not fail to apply to a contract or option to acquire or sell specified assets solely by reason of the fact that the contract or option settles in (or could be settled in) cash or property other than such specified assets.

"(g) SPECIFIED ASSET.—For purposes of this section, the term 'specified asset' means any of the following:

"(1) Any security (as defined in section 165(g)(2)).

"(2) Except as otherwise provided by the Secretary—

"(A) any digital asset (as defined in section 6045(g)(3)(D)) which is actively traded (within the meaning of section 1092(d)(1)),

"(B) any notional principal contract with respect to any digital asset described in subparagraph (A), and

"(C) any evidence of an interest in, or a derivative instrument in, any digital asset described in subparagraph (A) or (B), including any option, forward contract, futures contract, short position, and any similar instrument in such a digital asset.

Such term shall, except as provided in regulations, include contracts or options to acquire or sell, or notional principal contracts in respect of, any specified assets.

(b) CONFORMING AMENDMENTS.—

(1) Section 1223(3) of the Internal Revenue Code of 1986 is amended—

(A) by striking "stock or securities" the first place it appears and inserting "specified assets (as defined in section 1091(g))",

(B) by striking “stock or securities” the second and third place it appears and inserting “specified assets (as so defined)”, and

(C) by striking “(or the contract or option to acquire which)” and inserting “(or the entering into of a contract or option to acquire or long notional principal contract in respect of which)”.

(2) Section 6045(g)(3)(D)(g)(2)(B) of such Code is amended—

(A) in clause (i)(I)—

(i) by striking “security (other than stock” and inserting “covered security (other than stock”, and

(ii) by striking “stock sold or transferred” and inserting “covered security sold or transferred”, and

(B) in clause (ii)—

(i) by striking “stock or securities” and inserting “specified assets”, and

(ii) by striking “identical securities” and inserting “identical specified assets (as defined in section 1091(g))”.

(3) The table of sections for part VII of subchapter O of chapter 1 of such Code is amended by striking the item relating to section 1091 and inserting the following new item:

“Sec. 1091. Loss from wash sales of specified assets.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales, dispositions, and terminations in taxable years beginning after the date of enactment of this Act.

SEC. 5. MARK-TO-MARKET ELECTION.

(a) IN GENERAL.—Section 475 of the Internal Revenue Code of 1986 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) ELECTION OF MARK TO MARKET FOR DEALERS AND TRADERS IN DIGITAL ASSETS.—

"(1) DEALER IN DIGITAL ASSETS.—In the case of a dealer in digital assets (as defined in section 6045(g)(3)(D)) who elects the application of this subsection, this section shall apply to digital assets held by such dealer in the same manner as this section applies to dealers in securities under subsection (a).

"(2) TRADER IN DIGITAL ASSETS.—In the case of a person who is engaged in a trade or business as a trader in digital assets (as defined in section 6045(g)(3)(D)) and who elects to have this paragraph apply to such trade or business as a trader in digital assets, subsection (f)(1) shall apply to digital assets held by the trader in connection with such trade or business in the same manner as such subsection applies to securities held by a trader in securities.

"(3) LIMITATION.—An election under this section shall only apply to digital assets treated as actively traded (as defined by the Secretary).

"(4) REGULATIONS AND GUIDANCE.—The Secretary shall issue such regulations and guidance as are necessary to carry out the provisions of this subsection.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of enactment of this Act.

SECTION 6. CONSTRUCTIVE SALES.

(a) IN GENERAL.— [Statutory text modifying section 1259 to also apply to digital assets.]

(b) EXPLANATORY NOTE.— This section reflects agreed policy direction but remains under technical drafting review. The following information provides a summary of agreed upon policy goals:

- Under current law, section 1259 prevents taxpayers from using certain offsetting transactions—such as short sales, forward contracts, futures contracts, and notional principal contracts—to lock in gains on appreciated stock or other financial positions while deferring tax. Comparable strategies are increasingly available in digital asset markets but are not clearly covered by existing statutory language, allowing gain deferral that is inconsistent with the realization principle.

- This provision is intended to treat a taxpayer as having made a constructive sale of a digital asset where the taxpayer enters into one or more transactions that substantially eliminate both the risk of loss and the opportunity for gain with respect to an appreciated digital asset position.

SECTION 7. DIGITAL ASSET [STAKING AND MINING ELECTION]

(a) IN GENERAL.—Part II of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

(b) EXPLANATORY NOTE.—This section reflects agreed policy direction but remains under technical drafting review. The following information provides a summary of agreed upon policy goals:

- This provision is intended to reflect a necessary compromise between immediate taxation upon dominion & control and full deferral until disposition. The election is intended to provide the administrable, durable approach necessary to resolve the phantom income problem while preserving the tax base and securing durable consensus across the broader bill.

- [Except as otherwise provided by the Secretary,] the term "mining or staking activity" means "the act of validating transactions on a cryptographically secured distributed ledger, and any activities closely related thereto."

- Taxpayers can elect to defer the recognition of awards received until [the end of the fifth taxable year] after the receipt of such award. The income is ordinary income and is equal to the fair market value of the asset on the date of recognition. Upon recognition of income, basis will be set and any subsequent appreciation is treated as capital gain. As analogous with Section 83B.

- Taxpayers must report to the IRS the assets with respect to which they have made the election at the end of each taxable year.

- [With careful consideration of taxpayers which use mark-to-market, our intent is for this election not to apply.]

SEC. 8. CHARITABLE CONTRIBUTIONS AND QUALIFIED APPRAISALS.

(a) IN GENERAL.—Section 170(f)(11)(A)(ii)(I) of the Internal Revenue Code of 1986 is amended by inserting "actively traded digital assets (as defined in section 6045(g)(3)(D)),"" before "and any qualified vehicle".

[(b) EXPLANATORY NOTE.— This section reflects agreed policy direction but remains under technical drafting review. The provision is intended to modernize the charitable contribution rules for digital assets by distinguishing between highly liquid, widely traded assets and speculative or illiquid assets, consistent with existing substantiation principles under section 170. The following information provides a summary of agreed upon policy goals:

- Qualified Appraisal Waiver for Highly Liquid Digital Assets: The qualified appraisal waiver is intended to apply only to a narrow subset of digital assets that are subject to robust market pricing and information reporting. Consistent with that objective, digital assets eligible for the appraisal waiver would be limited to those described in section 6045(g)(3)(D) [which also meet] and have an average yearly market capitalization of [$10] billion. This may also include other standards:

- [Volume-to-market capitalization ratio of [X%] each year over the last [X] years]
- [Minimum trading volume of [$X billion] each year over the last [X] years]

- This provision is intended to include a rule for digital assets that do not meet the liquidity and trading standards applicable to the qualified appraisal waiver. The intent is to prevent overvaluation by deferring the charitable deduction until the charitable organization sells or otherwise disposes of the contributed asset. In such cases, the allowable deduction is intended to be limited to the amount actually realized by the charitable organization upon disposition (net of customary selling expenses). The policy objective is to align the donor's tax benefit with the charity's realized economic benefit, while preserving incentives for legitimate charitable giving. This is consistent with substantiation principles and analogous to the approach in section 170(f)(12) governing certain contributions of motor vehicles where reliable valuation at the time of contribution is not assured.

- Treasury is expected to be granted authority to issue regulations or other guidance to implement these rules, including authority to refine liquidity

thresholds and further limit appraisal waivers to digital assets for which market quotations are readily available and resistant to manipulation.

[SEC. XX. CLARIFYING APPLICABILITY OF THE CORPORATE ALTERNATIVE MINIMUM TAX.]

(a) IN GENERAL.—Section 56A of the Internal Revenue Code of 1986 is amended by inserting, "except that this term shall not include unrealized gains and losses from investments that are marked to market for solely accounting purposes" after "in this section".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of enactment of this Act.]

[SEC. XX. GRANTORY TRUSTS AND PUBLICALLY TRADED PARTNERSHIPS.]

(a) IN GENERAL.—[Section 7701 of the Internal Revenue Code of 1986 is amended]

(b) EXPLANATORY NOTE.— This subsection reflects agreed policy direction but remains under technical drafting review. The following information provides a summary of agreed upon policy goals:

- The provision is intended to provide clarity for investment vehicles holding digital assets by establishing that passive, protocol-level staking does not constitute a trade or business for purposes of sections 512 and 864, while preserving ordinary business treatment for active, customer-facing validation activities.]