

June 13, 2024

Attn: Andres Garcia
pra.comments@irs.gov
Internal Revenue Service
Room 6526
1111 Constitution Avenue NW
Washington, DC 20224
United States

Re: Document Number 2024-08528, OMB Number 1545-NEW, Digital Asset Proceeds From Broker Transactions, Draft IRS Form 1099-DA

To Whom it May Concern:

We appreciate the opportunity to comment on Document Number 2024-08528. At Ledgible we support practical tax reporting regulations that maintain competitive market environments, allow industry participants to continue innovating the future of financial services, and provide taxpayers with useful and timely information to help them to comply with their tax obligations. Enclosed please find our comments regarding the new draft IRS Form 1099-DA.

Please do not hesitate to contact us if you have any questions regarding our comments or if we can be of further assistance. You may contact us at policy@ledgible.io. We would be happy to discuss our comments in further detail. Thank you in advance for your time and consideration.

Jessalyn Dean
VP of Tax Information Reporting

Kell Canty
CEO and Co-Founder

About Ledgible

The Ledgible Tax Information Reporting (TIR) Platform enables digital asset providers and traditional financial institutions to handle cryptocurrency and digital asset data and to quickly aggregate, normalize, and format tax data for tax form preparation. Digital asset brokers rely on Ledgible to calculate, track, and store the cost basis information needed in order to report on tax forms such as IRS Form 1099-B and 1099-DA for cryptocurrencies, NFTs, tokenized assets, and other digital assets. Through on-chain nodes, proprietary tax algorithms, and robust data mapping, all in a SOC 1 and 2 Type 2 audited solution, Ledgible is the choice of institutions, enterprises, and financial leaders looking for a solution in post-trade digital asset tax data normalization and cost basis tracking. Ledgible partners with the world's leading Form 1099 filing providers to allow digital asset brokers to seamlessly integrate their Ledgible cost basis calculations into tax form filings.

A. General Remarks About Objectives

As indicated in the Request for Comments, IRS has requested comments regarding the following:

- A. whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;
- B. the accuracy of the agency's estimate of the burden of the collection of information;
- C. ways to enhance the quality, utility, and clarity of the information to be collected;
- D. ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and
- E. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

With regards to the overall comment process requested by the IRS, it is not currently possible to provide accurate commentary on items B and E due to the fact that the IRS has not provided the draft instructions for the brokers that are required to issue IRS Form 1099-DA to taxpayers. The draft IRS Form 1099-DA that was published only contains the instructions for the taxpayer that will receive the Form. Once the IRS publishes the draft instructions for the broker, we strongly recommend that another comment period is opened in order to properly address the remaining points regarding estimates of burdens and costs.

Separately, we acknowledge that the IRS has released this draft Form without contemplating any changes that may be required due to the public comments to the August 2023 proposed regulations that were received by IRS and Treasury. We strongly recommend that once the IRS has published the final regulations for broker reporting of digital assets, that a new comment period is reopened on the draft IRS Form 1099-DA. As discussed in our comment letter to the IRS regarding the proposed broker reporting regulations, we have recommended to the IRS that reporting of tokenized financial products that are already reportable on IRS Form 1099-B should remain reportable on such form. In line with our recommendations, we note here that any boxes on the draft IRS Form 1099-DA that only reference these traditional financial products should be removed. For example, Box for CUSIP Number, Box 1h Accrued Market Discount, and Box 1i Wash Sales Loss Disallowed. Other critical feedback has been provided to the IRS and Treasury, such as concerns regarding the reporting of unhosted wallets by brokers, which should drastically change the draft IRS Form 1099-DA and therefore require a new comment period on the Form. You can find our comment letter to the proposed broker reporting regulations, dated November 9, 2023, at the following link: <https://www.regulations.gov/comment/IRS-2023-0041-40647>.

B. Specific Comments

1. *Clarity of Instructions for the Taxpayer*

We encourage the IRS to update the instructions for the taxpayer to indicate any boxes that the taxpayer is not required to take action upon. There are a number of boxes, such as 10b, 11a, 11b, 11c, 11d, 12a, 12b, 12c, and 12d which do not give any indication as to what the taxpayer is required to do with the information. Taxpayers typically expect that if a box is completed on a Form 1099 then they need to transfer or otherwise use that information somewhere in their tax return (e.g. Form 1040, Schedule D, etc). This will lead to confusion for the taxpayer and increase their financial burden in needing to seek tax advice. Alternatively, if

the taxpayer is meant to transfer or otherwise use the information in the boxes mentioned, then the IRS should update the instructions to provide better instructions for how, where, and why to report this information.

2. Box "Explanation if no recipient TIN"

We strongly discourage the IRS from using a free-text box such as this one. Free-text boxes create an incredible burden on digital asset brokers who need to create systems to collect, store, and validate all information that goes onto a Form 1099. Upon the receipt of free-text data in this box, the IRS will have no ability to mine the data for trends or any other meaningful information. Additionally, the instructions for the taxpayer do not reference this box at all. Thus it is not clear what recourse the taxpayer has for requesting correction of the information in this box when they do not agree with it. Lastly, we highlight that there is no legislative basis in the proposed regulations issued in August 2023 for the collection of the information requested in this box. As such, there is no clarity as to whether this box is meant to contain information that is collected from the taxpayer by the broker or if the broker is instead suggesting their own reason based on their subjective experiences in attempting to collect the information. Based on the above, we strongly suggest that the IRS remove this box entirely.

3. Box 5 "Check if loss is not allowed based on amount in 1f"

The draft taxpayer instructions to Form 1099-DA state that Box 5 is for a broker to indicate that a loss is non-deductible due to a "reportable change in control or capital structure" and references Form 8949 and Schedule D Instructions. However, neither of those instructions give any guidance yet on what kind of events in crypto and digital assets could apply in these circumstances. The taxpayer instructions to draft IRS Form 1099-DA further state that "The broker should advise you of any losses on a separate statement". We strongly recommend that before brokers can properly comment on this box and its associated burdens and costs, the IRS must publish draft instructions to the Form 8949 and Schedule D as well as guidance as to what kinds of reportable change in control or capital structure events apply to crypto and digital assets. Additionally, we strongly discourage any requirements for brokers to issue "separate statements" that would require manual free-text interventions outside of the Form 1099-DA itself. Separate statement filing with the large volumes of expected Forms 1099 will simply be unworkable for brokers.

4. Box 10b "Digital asset is a noncovered security because:"

We suggest the removal of Box 10b in order to create an equal operating field with the IRS Form 1099-B which is for broker reporting of sales of traditional financial products like equity securities. IRS Form 1099-B does not require the broker to indicate why a security is non-covered. A number of brokers will be both traditional equity brokers reporting on Forms 1099-B and digital asset brokers reporting on Form 1099-DA. Creating additional data fields and reporting requirements makes the implementation of this Form more challenging for these brokers. Consistency and replication of existing data fields will enable more accurate and timely reporting by these brokers.

We at Ledgible thank you again for the opportunity to comment on this important IRS Form.

Please do not hesitate to contact us if you have any questions regarding our comments or if we can be of further assistance. You may contact us at policy@ledgible.io. We would be happy to discuss our comments in further detail.

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