



June 20, 2024

VIA ELECTRONIC SUBMISSION

Andres Garcia
Internal Revenue Service
Room 6526, 1111 Constitution Avenue NW
Washington, DC 20224

Re: Digital Asset Proceeds From Broker Transactions

Dear Mr. Garcia:

The Securities Industry and Financial Markets Association (“SIFMA”)¹ appreciates the opportunity to provide comments to the Internal Revenue Service (the “IRS”) regarding the draft 2025 Form 1099-DA (the “Draft Form”) released in April 2024.² This letter should be read in conjunction with our November 13, 2023 comment letter (the “SIFMA 11/13/23 Letter”)³ on the proposed digital asset reporting regulations⁴ (the “Proposed Regulations”).

As emphasized in the SIFMA 11/13/23 Letter, information to be reported on Form 1099-DA should differ from the information provided on the existing Form 1099-B only when there is a compelling reason. A difference should only be present if it will assist taxpayers with their tax compliance obligations and be balanced with the burden of the broker in developing systems and

¹SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry’s nearly 1 million employees, we advocate for legislation, regulation and business policy, affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA).

² 89 Fed. Reg. 29433 (Apr. 22, 2024).

³ [Proposed Regulations for Gross Proceeds and Basis Reporting by Brokers and Determination of Amount Realized and Basis for Digital Asset Transactions \(sifma.org\)](https://www.sifma.org/proposed-regulations-for-gross-proceeds-and-basis-reporting-by-brokers-and-determination-of-amount-realized-and-basis-for-digital-asset-transactions).

⁴ REG 122793-19, 88 Fed. Reg. 59576 (Aug. 29, 2023).

processes to comply with the reporting requirements. As noted in the SIFMA 11/13/23 Letter, information that would seem only to serve an investigatory purpose should be outside the scope of standard information reporting, and the IRS could request this information if needed during an enforcement action. As currently drafted, however, some information required to be reported on the Draft Form presents privacy, administrative or cost concerns and does not appear to further tax compliance objectives. As noted below, certain information requested goes beyond what is currently required for purposes of other information reporting regimes, and brokerage systems would need to be redesigned to accommodate the relevant data requests. Imposing this burden on brokers is not appropriate when the information requested does not assist taxpayers or the IRS in determining the recipient's tax compliance obligations.

I. Effective Date

Additional time is needed for brokers to properly report transactions in digital assets. That the Draft Form is dated 2025 and makes reference to 2023 in Box 10b indicates to us that the IRS does not plan to defer the effective date of Form 1099-DA reporting, which would be a mistake for the reasons detailed in the 11/13/23 Letter. The IRS must:

- Delay the effective date for implementing the regulations to no earlier than at least 18 months after the issuance of the final regulations and begin on the following January 1 to coincide with the IRS information reporting cycle.
- Modify the applicable date for digital assets to qualify as a “covered security” to align with the effective date of the remainder of the regulations.

II. Instructions

While the IRS helpfully included Instructions for the Recipient with the Draft Form, instructions for brokers were not released. Without broker instructions, it is unclear how to report in several of the boxes, making it quite difficult to offer constructive comments. We urge the IRS to issue draft Instructions for Form 1099-DA for brokers as soon as possible to give them enough time to understand the reporting requirements, and to extend the comment period for the industry to provide feedback on the draft instructions and form. In addition, the instructions should include a safe harbor for brokers in determining whether to report on Form 1099-B or Form 1099-DA. In addition, as noted above, we recommend that the applicable date for digital assets to qualify as a “covered security” be modified to align with the effective date of the remainder of the regulations. If this date is not modified, brokers will need guidance with respect to assigning cost basis to lots of digital assets sold after the effective date of the regulations but acquired between January 1, 2023 and the effective date of the final regulations. Brokers are not currently aware of (and have had no reason to solicit) whether their clients have specifically identified lots of digital assets or used a lot selection method other than first in first out (FIFO). If a broker defaults to FIFO, but a client, since January 1, 2023 and before information reporting is required, has employed a different lot selection method, the broker could be reporting the incorrect basis for lots sold after the effective date of the final regulations. This could result in both under-and over-reporting of gain/loss.

We also recommend that the IRS provide more guidance to recipients of Form 1099-DA. In certain cases, a recipient may receive multiple Forms 1099-DA from different brokers for the same transaction due to the lack of a multiple broker rule.⁵ The Instructions for the Recipient should be updated to point out this possibility and explain how a taxpayer should reconcile (or otherwise deal with) multiple Forms 1099-DA.

III. Broker Type Involved in Transaction

The Draft Form requires the filer to select the characterization of the broker reporting the transaction. A broker may select (1) kiosk operator, (2) digital asset payment processor, (3) hosted wallet provider, (4) unhosted wallet provider or (5) other. It is not clear why this characterization is necessary for the IRS or the recipient. This box should be removed from the form given the cost to brokers in having to program for, and maintain the accuracy of information entered in, this box. This information would not assist a taxpayer in filing a tax return and should not be relevant to the calculation or collection of tax due on digital asset transactions. By analogy, Form 1099-B does not require a broker to select its characterization with respect to the reporting of gross proceeds from transactions in non-digital asset securities or commodities. In addition, if a broker acts through different business units in more than one capacity, it would be difficult to fill out this box on a transaction-by-transaction basis. The Proposed Regulations also do not appear to require broker characterization in Form 1099 reporting.

If this box is retained, further guidance is required. It is not clear what a broker would do if it met the criteria of more than one checkbox. In addition, the available choices appear limited, e.g., there is no checkbox for an exchange. It is also not clear whether a broker would be subject to a penalty for choosing the wrong box. If this information is necessary, a broker should be able to provide it once on its Form 945 as opposed to reporting this characterization on every Form 1099-DA.

IV. Explanation if no recipient TIN

The Draft Form includes a freeform text box titled “Explanation if no recipient TIN.” The inclusion of this box, especially as freeform text, presents a substantial burden to industry and does not assist taxpayers or the IRS in determining the recipient’s tax compliance obligations. The draft recipient instructions do not refer to this box, and there are no broker instructions, so it is unclear how the IRS intends for this box to be used. A broker’s lack of recipient TINs is not unique to digital assets, and there are longstanding backup withholding and TIN solicitation rules that govern scenarios in which a broker makes a reportable payment to a recipient with no TIN on file. Under current law, brokers may report gross proceeds, interest, dividend and other payments to clients with no TIN and the applicable Forms 1099 appropriately do not require an explanation for the lack of a TIN. Such a requirement would be administratively burdensome as

⁵ With regard to the lack of a multiple broker rule, please refer to the detailed comments in the SIFMA 11/13/23 Letter recommending the following: Extend the multiple broker rule to digital asset brokers, including allowing brokers to represent their status as brokers or to “eyeball” other brokers.

the reason for lack of a client TIN is not typically documented by a broker, and completing a freeform text box would be difficult given the automated nature of information reporting.

The existing backup withholding and other rules are sufficient to address payees that do not provide a TIN and that this box is unnecessary, but if this box remains on the form, we request that the IRS publish draft broker instructions with additional details about this field, including the following items, so that we may provide further comments:

- When a broker is required to fill out the “Explanation if no recipient TIN” field;
- Whether a Form 1099-DA would be considered valid without an explanation; and
- What types of explanations are expected and would be considered acceptable.

V. Box 1a “Code for digital asset” and Box 1b “If 1a coded 999999, name of digital asset”

Box 1a of the Draft Form requires the code for the digital asset for which the amounts are being reported. While Proposed Regulations require reporting of the “name” of the digital asset sold, the Draft Form requires the “code” for the digital asset, indicating that the IRS plans to issue a unique code for each digital asset. The benefit to the IRS or to a recipient of reporting a code, as opposed to the name of, a digital asset is unclear and could give rise to challenges. Codes may be confusing for taxpayers who may not understand the codes and who are used to seeing the names of the assets in which they transact. This approach would also require a monumental effort by the IRS to issue thousands of codes and make frequent code updates, and for broker systems to keep pace, which may be difficult especially given the rapidly evolving nature of the digital asset marketplace. The IRS would also need to establish a protocol for digital assets that have codes but that cease to exist. Guidance would be required for the proper code for a so-called “wrapped” token (in general, a tokenized representation of a particular digital asset that is operable on another blockchain). Codes would also pose a challenge with respect to unique, non-fungible digital assets such as NFTs. For decades brokers have filled out Box 1a of Form 1099-B, which requires a description of property and not a code. It would be administratively burdensome for brokers to update and link master security lists with codes. Therefore, we recommend replacing the reporting of codes with the reporting of a description of property as on the Form 1099-B. This would obviate the requirement for a separate Box 1b, thus simplifying the form.

VI. Box 1d “Date and time acquired” and Box 1e “Date and time sold or disposed”

Please refer to the detailed comments in Section II.F of the SIFMA 11/13/23 Letter recommending the following:

- Remove requirement to report in UTC and to report timestamps. In the alternative, if they can be shown to be useful, require timestamps to be reported on a 24-hour clock.
- Allow brokers to use the time zone corresponding with their location of transacting for determining transaction dates.

VII. CUSIP Number, Box 1h “Accrued market discount,” Box 1i “Wash sales loss disallowed” and Box 5 “Check if loss is not allowed based on amount in 1f”

The boxes on the Draft Form referenced in the heading above appear to be applicable to transactions in tokenized securities that could otherwise be reported on Form 1099-B. We recommend that transactions otherwise reportable on Form 1099-B should be reported on that form, instead of Form 1099-DA. Please refer to the detailed comments in Section II.A the SIFMA 11/13/23 Letter recommending the following:

- Limit the scope of “a digital representation of value” to exclude tokenized assets that represent non-digital securities or commodities from the definition of digital assets, and also exclude assets that do not pose a compliance risk.

VIII. Box 4 “Federal income tax withheld”

Please refer to the detailed comments in Section II.H of the SIFMA 11/13/23 Letter recommending the following on backup withholding:

- Exempt digital assets that are unable to be fractionalized from backup withholding where there is insufficient fiat currency in the account after the sale to cover the full amount of backup withholding that would otherwise be due.
- Clarify what a reasonable valuation method is, what a broker must do to “reasonably” determine that the value of a digital asset cannot be determined with reasonable accuracy, and how a broker should backup withhold where the value cannot be determined.

IX. Box 10b “Digital asset is a noncovered security because:”

If a transaction relates to a digital asset that is a noncovered security, the Draft Form requires a broker to provide an explanation for why it is noncovered. It is not clear why this information is necessary for the IRS or the recipient. Form 1099-B does not require such an explanation when reporting gross proceeds from the sale of a noncovered security. This requirement would be administratively burdensome as the reason for an asset’s noncovered status is not typically captured by a broker, and coding systems to reflect and report this information would be difficult and costly to implement, with no apparent benefit to the collection of tax.

X. Box 11a “Sale transaction ID (TxID),” Box 11b “Digital asset address,” Box 11c “Number of units,” Box 12a “Transfer-in TxID number,” Box 12b “Transfer-in digital asset address” and Box 12c “Number of units transferred”

Boxes 11a, 11b, 12a and 12b of the Draft Form would require brokers to report transaction IDs and digital asset addresses (wallet addresses). This information should not be required to be reported, as it creates privacy concerns for customers and does not communicate tax relevant information. Analogous information is not required to be reported on Form 1099-B. If this information is important for tax administration, the IRS should conduct an in-depth study on the usefulness of the information before imposing a significant compliance obligation and administrative burden on brokers. If the study supports this requirement, brokers should be permitted to truncate the information just as the Draft Form Instructions for Recipient notes that

the form may show only the last four digits of a TIN. Please refer to the detailed comments in Section II.F of the SIFMA 11/13/23 Letter recommending the following regarding the reporting of wallet addresses:

- Remove requirement to report transaction IDs or digital asset addresses.

If these boxes remain on the form, more detailed instructions is needed for the information required to be reported in Boxes 11c (“Number of units”) and 12c (Number of units transferred”), and the interaction between these boxes and box 1c (“Number of units”). Detailed examples illustrating how each box should be completed would be particularly useful.

XI. Conclusion

SIFMA appreciates your consideration of our comments to the Draft Form and welcomes the opportunity to discuss the issues in this submission with you and your colleagues. Please do not hesitate to contact P.J. Austin (paustin@sifma.org) or our outside advisors, Tara Ferris (tara.ferris@ey.com), Jonathan Jackel (jonathan.jackel@ey.com), Seth Poloner (seth.poloner@ey.com) and Ryan Blewitt (ryan.blewitt@ey.com).

Respectfully Submitted,

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