



Tax Information Reporting Suite

June 21, 2024

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

VIA EMAIL – pra.comments@irs.gov

Subject: Digital Asset Proceeds from Broker Transactions

Dear Mr. Garcia,

FIS Tax Information Reporting Suite ("FIS") welcomes this opportunity to submit comments to the Internal Revenue Service (the "Service" or "IRS") with respect to the early released draft of proposed Form 1099-DA ("1099-DA"), that was published on April 18, 2024.

Who we are: FIS is a leading provider of technology solutions for thousands of merchants, banks and capital markets firms globally. We help our clients use technology in innovative ways to solve business-critical challenges and deliver superior experiences for their customers. FIS Tax Information Reporting Suite is FIS' premiere product servicing the Tax Information Reporting needs of the financial services industry, primarily in the United States. Headquartered in Jacksonville, Fla., FIS ranks #283 on the 2023 Fortune 500 and is a member of Standard & Poor's 500® Index.

What we do: As a vendor supporting the information reporting and related needs of the financial services industry, FIS creates information reporting source materials (income reallocation, fixed income cost basis calculations, etc.) for use by financial institutions, vendors and governmental agencies. The principal tax reporting product FIS offers is our Tax Reporting Manager service which creates more than five hundred million (500,000,000) information returns and produces the corresponding payee statements. In our capacity as the leading vendor servicing the tax information reporting needs of financial institutions, we keep abreast of all regulatory and IRS publication related updates for Chapters 3, 4 and 61, as well as certain other information reporting obligations our customers have. It is in this capacity that we are offering comments on the proposed 1099-DA.

How the 1099-DA will impact our clients: Our clients are required to capture various data necessary to create information returns and recipient statements for their account holders. They must monitor IRS announced changes to the statements and returns and incorporate such updates into the next upcoming tax reporting cycle. In this vein, they also have the obligation to incorporate any new forms into their tax reporting processes if their account holders are engaged in reportable transactions subject to the new form. Many of our clients are offering, or preparing to offer, Digital Asset related products, either in their native form or through an exchange traded fund or other packaged product. With our understanding of the complexities of capturing and processing transactional data for presentation on recipient statements, and our clients' in-depth knowledge of the products they buy, sell and carry in

accounts for their account holders, including Digital Assets, our client base has influenced and is supportive of this Comment Letter.

It is with your understanding that FIS represents hundreds of financial institutions for whom we now have the responsibility to issue 1099-DA Recipient Statements and deliver corresponding FIRE filings (or e-filings under the Information Returns Intake System (IRIS)), we are presenting the following suggestions and comments on the April 18th draft Form 1099-DA. Please note, our commentary is made without the benefit of payor instructions, revisions to the proposed regulations, nor the intended use of the data elements as solicited by the Service.

General Observations:

- The amount of data required to be presented on a single 1099-DA will create a poor taxpayer experience. While some of the data may be helpful for the Service on a FIRE filing, it will not benefit a taxpayer in a similar manner. Perhaps the 1099-DA Recipient Statement should not contain all the data delivered on the 1099-DA FIRE filing. Does the recipient need to know the precise UTC time? Does the recipient need to know Sales Transaction ID or the Transfer-in TxID Number? We believe the Service should revisit the Recipient Statement considering its impact on a taxpayer's experience when reading it. We note the Service has indicated when the Digital Asset Transfer Statement is designed there may be a reduction in information presented on the 1099-DA. We do not believe transfer information should appear on a 1099-DA Recipient Statement anytime. While it may be important for the Service to have access to such data, we believe the account holders already have access to transactional information and can also solicit this from their financial institutions if necessary. The Service should consider reducing the amount of information presented on a 1099-DA Recipient Statement rather than mirror all information presented on a FIRE or IRIS file record as much of this information will have no bearing on the preparation of a taxpayer's tax return.
- The use of free form fill-in boxes when processing millions of forms will lead to printing and processing errors. It will lack consistency across filers, as different payors may use inconsistent verbiage for non-cash proceeds or reasons for a lack of a TIN. The Payor instructions should have codes for any fill-in box, and only those codes should be entered in the box. There should be no free form fill-in boxes on a 1099-DA.
- The Service should reconsider using a 1099-DA for tax year 2025 and 2026, rather than using a form that will undoubtedly require changes arising from experience with Digital Assets, and use of the new Digital Asset Transfer Statement. Continued use of Forms 1099-B and 1099-K would promote the Service's goals of enhancing compliance in the interim. We note that there was no requirement for options to be subject to proceeds reporting for more than 30 years after they became a popular investor vehicle, yet taxpayers, for the most part, were compliant in reporting their transactions. Unlike such a void in reporting, our suggestion recommends using the Forms 1099-B and 1099-K as alternatives, which does not present a gap in reporting. We also believe the use of these forms can be accomplished by the different types of brokers highlighted on the proposed 1099-DA. The associated 1099-B and 1099-K instructions can define the types of brokers subject to reporting in the What's New section and the Specific Instructions, Brokers

section. By delaying the introduction of the 1099-DA while the financial services industry and the IRS adapt to Digital Assets would place much less strain on all involved, provide a better taxpayer experience, and still achieve increased levels of compliance by Digital Asset investors. We note public comment letters on the proposed regulations overwhelmingly requested a delay, citing systems and other problems. The Form 1099-DA should not be used for tax years 2025 and 2026.

Specific 1099-DA Comments:

- Clarification is needed on the “Broker type involved in transaction” box. How should the classic role of a broker who buys on behalf of a client and maintains the asset in “street name” be categorized? We understand the Service looks at the brokers from a custodial/non-custodial point of view. Would the classic broker be a “Hosted Wallet Provider” or perhaps, an “Other.” The Payor instructions must clearly identify, with detailed examples, where various market participants fit within the broker types and potentially define additional types for clarity.
- The “Explanation if no recipient TIN” box is confusing. Treasury Regulation Section 31.3406(a)-1(a) and (b)(i) provide for withholding in the event of a missing TIN. The proposed regulations indicate that Digital Asset transactions lacking an associated TIN will be subject to backup withholding. We wonder what purpose this box is meant to fulfill. Is this information in any way actionable by the IRS? If so, what is contemplated? Is it a means of soliciting information about reasons for a lack of a TIN in Digital Asset transactions so the Service can act upon the information in the future? Will there be set choices or is this a freeform box. If this is the first time ever use of a free form box on a Form 1099 it will lead to issues noted previously and create potential confusion as to a payor’s withholding obligations. We can also envision potential challenges soliciting information from clients about the lack of a TIN. If an account holder’s explanation (if this is the explanation the IRS is seeking) is not transferred almost verbatim to the 1099-DA we would expect this to become a possible point of contention. Seeing an explanation that an account holder may believe is not an accurate depiction of what was said being delivered to the IRS could impact the broker-client relationship. We do not understand how this box promotes the objective of a recipient statement which should provide useful information to a taxpayer while promoting taxpayer compliance. This box should be removed from the Recipient Statement and if the IRS believes such information is necessary for its purposes, a line should be added to Form 1040 that requires a taxpayer to explain why backup withholding was applied to its account, including why a TIN was not available or furnished. Additionally, the B-Notice process is designed to prompt the capture of correct TINs and alert the taxpayer of her obligations.
- Box 1a – Code for digital asset – Our understanding of this box is that the Service will create codes for use here that correspond to all the digital assets available in the market. Is this correct? If so, will these be maintained like the GIIN codes? We believe this body of codes will be dynamic and difficult to maintain. The GIIN codes are updated monthly. These may require daily updating as current transactions will need to be coded similarly to the use of a CUSIP. New Digital Assets may be introduced daily. The Service should reconsider this approach. The use of a

field for the reporting firm to put in its unique identifier that the firm uses to identify the Digital Asset should suffice. While we can appreciate the need for a single identifier when tracking wash sales, we do not believe the IRS should involve itself in this detail. Especially since tracking wash sales is not currently applicable to Digital Assets in general. (See “Box 1i - Wash sales loss disallowed,” for further reasons the IRS should not maintain the codes). The IRS should rethink its proposed role as the entity controlling uniformity of Digital Asset codes.

- Box 1d – Date and time acquired – The recipient instructions support our belief that too much information is being gathered and will lead to a poor taxpayer experience with the 1099-DA. The instructions indicate the box can remain blank if the transactions being reported occurred on a variety of dates and times or was unknown. This indicates the Service would use an alternative method of deriving time and date if needed. We believe simply placing the date (using the taxpayer’s locale) as on the 1099-B is sufficient and a better taxpayer experience. If the execution times are varied but all transactions take place on the same day, would brokers be expected to place only the date in this box? Since this box may be left blank, or only filled in with a date, we believe that similar to the Form 1099-B, only the date should be placed in this box.
- Box 1e – Date and time sold or disposed – Our comments for box 1d are repeated here. While we believe the use of a UTC time stamp is not needed, if it is to be used, we are fearful that issues of year end timing and determining short-term versus long-term thresholds may be problematic for taxpayers. The IRS should include a time scale in the recipient instructions with UTC time codes matching US time zones, to assist the taxpayer in determining the actual execution time and date.
- Box 1i – Wash sales loss disallowed – Applying the proposed wash sale rules to Digital Assets that represent securities will create a need to look-thru the asset to its underlying represented security. This will create programming challenges for firms to track these. Will the IRS, as part of its Digital Asset Code service, establish and track digitalized codes for placement into box 1a? And has the Service considered the potential that such Digital Asset representations of underlying securities may grow exponentially? In theory, every security traded publicly or issued for private placement would be eligible for digitalization. Or is the broker expected to track wash sales by a look through to the underlying CUSIP. And will they be required to track wash sales for the same CUSIP represented digitally with underlying equity shares? Wash sale tracking should be limited to identical securities as set out in IRC 6045. For clarity’s sake, specific to wash sales, the IRS should explain in the broker’s and recipient’s instructions what Digital Assets would be currently covered by wash sale rules – Individual stocks? Funds? Bonds? And create a system that on a real-time basis captures all digitalized securities so IRS codes can be current.
- Box 4 – Federal income tax withheld – We note that the industry has been asking for guidance on how to withhold on a Non-Fungible Token. And on crypto-to-crypto transactions. We believe it may be possible that withholding on NFTs is accomplished similarly to Section 1446(f) withholding when the onshore purchaser withholds from the payment made to the offshore seller who is not part of the Qualified Intermediary network. As far as crypto-to-crypto perhaps brokers should be subject to penalty for selling on behalf of an account that has not been

qualified/verified under the IRS TIN Matching program? For taxpayers that are subject to backup withholding for other reasons, perhaps those accounts should be required to have on deposit cash to cover backup withholding. And sales should be limited by the amount available for withholding on deposit. However these withholding issues are solved, we believe it will probably create further system development demands that prohibit a January 1, 2025 implementation.

- Box 7b – Check if 1f includes non-cash proceeds - If checked, the recipient received non-cash proceeds. Box 8 shows the type of non-cash proceeds received. Will box 8 use codes? That is what box 9 implies. How many codes will exist given the broad array of property that could be received by the recipient. And what does 999999, mean? Does it mean OTH? Certainly, there will be more clarity coming, but until we have sufficient information, programming for processing of Forms 1099-DA will be restricted. This again calls for the extension of the implementation date. We conclude this comment by noting box 9 appears to be a free form field with endless possible statements identifying the property involved. The complexities of boxes 7 through 9 and the use of a free form fill-in for box 9 requires reconsideration by the Service and a delay in the implementation of the 1099-DA.
- Box 10a – Check if digital asset is a noncovered security - The draft Form 1099-DA requires a broker to identify a digital asset as noncovered and provide one (or possibly more) of three reasons why it is not covered in box 10b. We do not see the need for a reason on a recipient statement as the account holder will likely know when the asset was purchased, and whether it was transferred into the current broker. It is also unlikely the account holder will understand or utilize information about the broker not providing a hosted wallet service. The Form 1099-B has no such requirement for a noncovered security. This appears to be information the Service is seeking for purposes other than what the principal intent of an information return/recipient statement is for. We do not believe the reason why a security is noncovered belongs on a recipient statement.
- Boxes 11 and 12 – 11a-d and 12a-d – This series of boxes seek recorded distributed ledger (blockchain) information about dispositions or transfers of Digital Assets. We note that many industry commentators have expressed concerns over privacy issues with the disclosures in these boxes. We concur but defer to their comments as being sufficient. However, we do have some questions and comments on other aspects of these boxes.
 - If a disposition transaction was not recorded on the blockchain, box 11d is checked and boxes 11a-c are left blank. Is this correct? If there was a recording on the blockchain, would the amount in box 1c equal box 11c? We note that box 11c only displays those units transferred out of each origination digital asset address reported in box 11b. Can box 1c report units that were recorded on the blockchain and others that were not if they were part of a single transaction order executed by a broker? We believe further clarity is needed here. We also question whether this level of information is needed by a recipient on a 1099-DA statement.
 - We can only reiterate our belief that placing transfer information on a recipient statement until the time a transfer structure is established to handle Digital Assets will

be confusing and unnecessary for the taxpayer. The instructions will need clarification on the number of units presented in box 1c and those in box 12c. Can tax lots that were transferred and disposed of in a single transaction (or in several transactions subject to a single day order) be included on the same 1099-DA? Under § 1.6045-1(d)(5) of the basis reporting rules a “broker must report the gross proceeds of identical stock (within the meaning of § 1.1012-1(e)(4)) by averaging the proceeds of each share if the stock is sold at separate times on the same calendar day in executing a single trade order and the broker executing the trade provides a single confirmation to the customer that reports an aggregate total price or an average price per share.” Newly proposed § 1.6045-1(d)(5)(ii) is silent on how a broker should report a Digital Asset sell order that includes multiple tax lots acquired into an account by purchase and transfer. Should they be reported under one transaction? It is quite possible that an account holder will issue a sell all order. Such transaction may involve multiple tax lots and possibly multiple execution reports if the order is spread out over the day. It would be helpful to brokers if the IRS were to give various examples in the final regulations and 1099-DA instructions. Capturing and reporting tax lot basis information for sales that are comprised of purchases and transfers-in may present challenges when preparing a 1099-DA. Early guidance on how the Service believes these transactions are best reported is requested.

Miscellaneous Questions

- Prospectuses of the new Bitcoin ETFs generally state that the ETF will abandon all rights to hard forks and airdrops, to avoid potential issues for the ETF trustee. Notwithstanding the concept of constructive receipt, can brokers rely on determinations from ETF Trustees that the ETF did not receive any gross income? If so, will the Service include information in the payor instructions which can be relied upon by financial firms to determine whether the ETF has correctly disavowed the hard fork or airdrop?
- Can a 1099-DA be reported on a Composite Statement to customers? – Is this under consideration? – At some point this would be informative for clients as firms can make available large amounts of supplemental information on the Composite Statement and the greater the level of supplemental information and explanation that can be provided to taxpayers who invest in Digital Assets, the better their experience and level of compliance will be. Note the supplemental information is separate and apart from the actual 1099 presentation, thereby providing the taxpayer with a crisp view of the IRS required form while making supporting information available separately for taxpayer reference.

I would like to thank you on behalf of FIS and our clients for your consideration of the comments presented herein, and we welcome the opportunity to discuss any questions you may have. Please do not hesitate to contact me at (720) 933-0178 or martin.bentsen@fisglobal.com.

Sincerely,



Martin J. Bentsen, Esq,
Senior Director, Product Management
FIS Tax Information Reporting Suite