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Ways and Means Holds Cryptocurrency Hearing

The June 9 House Ways and Means Committee hearing on digital asset taxation examined Committee bills on several outstanding cryptocurrency issues, including reporting rules and a de minimis exception, mining and staking, charitable deductions, lending rules, application of the mark-to-market accounting rules, wash sales and constructive sales, and other rules. The goal is to arrive at a bipartisan package, but Democrats were skeptical to varying degrees, with some questioning how the average American feels about Congress taking up the issue and others suggesting specific changes like a limit to the mining and staking deferral under the Committee's proposed bill on the issue.

In an opening statement, Chairman Jason Smith (R-MO) highlighted an oft-cited argument about the use of cryptocurrency in everyday transactions, saying if someone "wants to accept digital assets as payment, they should not be treated any worse from a tax perspective than payment in cash or credit. Our tax system should not be picking the winners and losers. That is why these bills focus on removing the tax advantages and disadvantages for Americans who use digital assets."

Ranking Member Richard Neal (D-MA) said his initial observation is that there are aspects of the bills that are sensible and some that alleviate burdensome paperwork requirements, particularly when there is low risk of tax avoidance, but some of the proposals potentially provide cryptocurrency an unfair advantage. He said he is aligned with Chairman Smith's goal of bipartisan legislation, but repeated prior comments that there are members who are still unfamiliar with the issues.

The following table describes the bills under discussion, borrowing from the staff of the Joint Committee on Taxation description JCX-18-26 (<https://www.jct.gov/publications/2026/jcx-18-26/>).

Bill	Description	Revenue
The Less Tax Paperwork for Digital Asset Owners Act (H.R. 9178) by Rep. Rudy Yakym (R-IN)	<ul style="list-style-type: none"> - Provides that no gain or loss is recognized on the disposition of a digital asset in payment of a de minimis network fee (does not apply to a trader, broker, dealer or those engaged in more than 5,000 digital asset transactions during the year) - Provides an election for a taxpayer to change the method by which they recognize gain and loss on digital assets - Excludes gain or loss on regulated U.S. dollar stablecoins - Amends the rules regarding information reporting under section 6045 with respect to digital assets 	-\$1.66b
The Tax Clarity for Mining and Staking Act (H.R. 9175) by Rep. Mike Carey (R-OH)	<ul style="list-style-type: none"> - For a newly minted digital asset, a taxpayer's gross income includes the fair market value of such asset as ordinary income - Allows an election to defer inclusion of income and capitalize costs of qualified newly minted digital assets 	-\$3b



	- Allows grantor trusts that hold digital assets to receive staking rewards without jeopardizing their tax status	
The Charitable Deductions for Digital Asset Donations Act (H.R. 9173) by Rep. Mike Kelly (R-PA)	- Adds widely traded digital assets to the types of readily valued property that are excepted from the qualified appraisal requirements for contributions of property for which a deduction of more than \$5,000 or \$500,000 is claimed	-\$672m
The Providing Analogous Rules for Digital Assets Act (H.R. 9176) by Rep. David Kustoff (R-TN)	- Expands the section 1058 rules that apply to transfers of securities to transfers of traded digital assets, allowing the lending of digital assets without triggering a taxable event - Allows traders and dealers to elect mark-to-market rules - Adds traded digital assets to trading safe harbor such that if a foreign person trades in traded digital assets within the US, it is not treated as a US trade or business if they have no US office	\$1.362b
The Digital Assets Voluntary Disclosure Program Act (H.R. 9174) by Rep. Aaron Bean (R-FL)	- Directs Treasury to establish and conduct a voluntary disclosure program specifically to provide a means by which individuals who underreported or misreported tax consequences of digital assets violations may remedy their noncompliance with results less onerous than they would otherwise receive	<i>Negligible</i>
The Applying Existing Tax Anti-Abuse Rules to Digital Assets Act (H.R. 9172) by Rep. Jodey Arrington (R-TX)	- Extends the wash sales rule to certain digital assets and certain related derivatives - Amends the constructive sales provision by expanding the term "appreciated financial position" to also include digital assets other than qualified U.S. dollar stablecoins	\$2.074b
End Digital Assets Tax Shelters Act (discussion draft)	- With exceptions, a US citizen or resident alien is treated as a US resident with respect to the sale of a digital asset if (1) an income tax equal to at least 10% of the gain derived from such sale is not actually paid to a foreign country with respect to such gain; and (2) such US citizen or resident alien was a US resident with respect to any of the 10 preceding taxable years	\$141m

Rep. Steven Horsford (D-NV), who has a separate bill with Rep. Max Miller (R-OH), proposed to amend H.R. 9713 to limit deferral on mining and staking election to five years and H.R. 9175 to limit charitable deductions for donations of digital assets that are not widely traded to the amount that the charity receives when selling the digital asset. He said the changes are the minimum to get his support for the bills.

Witnesses:

- Sarah Reilly, Vice President and Senior Tax Counsel, Fidelity Investments, said the tax code must be modernized to provide taxpayers with clear and administrable rules, and said general tax principles cannot adequately address certain cryptocurrency issues.



- Lawrence Zlatkin, Vice President of Tax, Coinbase, said the bills before the Committee represent the most comprehensive effort to modernize the tax treatment of cryptocurrency and “will help lock in the future of finance here in America.”
- Jason Somensatto, Director of Policy, Coin Center, said he was encouraged by the exemption from tax consequences for fees and stablecoins and recommended it be expanded, modeled after the exemption for personal transactions of less than \$200 involving foreign currencies.
- Mike Kaercher, Deputy Director, Tax Law Center at NYU Law, warned against the risks of tax shelters with digital assets; encouraged members to consider parity, administrability, and guardrails to prevent abuse; and spoke in favor of the wash sale rules and stablecoin de minimis exception.

During Q&A, Chairman Smith called for greater tax clarity for mining and staking, and to encourage foreign participation, and asked how confusing the current rules are. Somensatto said there is confusion with issues like managing a staking reward and the bill as proposed aligns with the idea that taxing newly generated tokens seems nonsensical. Chairman Smith said even for amounts less than \$10, the current system creates burdensome filings and paperwork for little revenue return. Reilly said there are microtransactions and transaction fees that add a level of complexity, and the proposed exemption for transaction fees eliminates a lot of the “noise and friction” in this space. Smith asked how digital assets could be brought under current tax rules for other assets. Kaercher said the use of a spot price to assess a value for charitable donations under the proposed bill is favorable, and the Horsford amendment takes an additional step.

Ranking Member Neal asked about deferral for mining and staking, which Kaercher said would put digital assets on a better footing than some savings accounts and corporate bonds and stock and push people away from traditional financial investments. Neal cited the Committee’s work on retirement savings in calling for care to be applied to the situation. A lot of scrutiny needs to go into suggestions being made, he said, citing past financial crises.

Rep. Adrian Smith (R-NE) asked Reilly about changes aimed at onshoring staking activity back to the US. Reilly said sourcing has been an area of ambiguity and perhaps a cause of offshoring infrastructure for staking and validating. Having a rule as proposed, which sources to the residence of the recipient, means US staking providers can be on equal footing with those outside the US; it shouldn’t be based on the location of the validator, which can be easily moved offshore, she said.

Under questioning from Rep. Lloyd Doggett (D-TX), who suggested that the mining and staking bill would provide special tax advantages to the industry, Kaercher said if digital assets were to become part of retirement accounts and then fail, lawmakers could be compelled to provide a bailout. Doggett also suggested that none of the bills reduce illicit transactions, and Kaercher said that is something lawmakers should consider. Doggett suggested greater reporting requirements, which Kaercher said could reduce tax avoidance and that there is “more to be done here.”

Regarding the tax treatment of mining and staking, Rep. Mike Thompson (D-CA) said there may be an impasse between those who view rewards as income for a service and those who view it as self-created



property. Kaercher said miners and stakers are getting paid for updating a ledger, which is not akin to growing crops, arguing for the former approach.

Rep. Kevin Hern (R-OK) asked about the mark to market provision to dealers and traders and whether it makes sense. Zlatkin said parity with other financial services is extremely important and allowing mark to market and other aspects go a long way toward improving parity.

Some Democrats questioned the optics of Congress addressing the issue, while others said the slate of bills – introduced by various Republicans on the Committee – runs counter to the bipartisan approach of the Miller-Horsford bill. Rep. John Larson (D-CT) said he is not sure how many Americans are comfortable with the urgency of cryptocurrency lawmaking. Somensatto said the alternative – doing nothing – is a nightmare and there has been a lot of discussion on these issues over the years. Larson said it is an important issue, and a lot of questions have been raised. Zlatkin said it is incumbent upon Congress to do something. Rep. Tom Suozzi (D-NY) said despite his legal training, “I really don’t understand cryptocurrency that well.”

Rep. Linda Sánchez (D-CA) said there would need to be changes to the bills before a markup. She asked what problems can be foreseen with unlimited deferral for mining and staking. Kaercher said it could be pernicious because of how the rest of tax system acts, including with the potential total elimination of tax if held until death.

Rep. Gwen Moore (D-WI) asked whether a new system should be created, or if cryptocurrency can fit within current rules. Zlatkin said people would be astonished at how Democratic cryptocurrency is and asserted that it has the enormous potential to reach the underserved and the under-banked. “The enormous potential of this technology ... is that it basically reaches just about everyone,” he said.

Rep. Max Miller (R-OH) said we need to bring stability to the tax code and, if we don’t, cryptocurrency will go to other countries. Horsford also made the case for acting on the issue generally, saying modernizing the system “grounded in economic reality” is imperative, digital assets should have parity with existing financial instruments, and if Congress does nothing, courts and other entities will define the rules, potentially leading to “fragmented enforcement” and exploitation of the system by the wealthy.

It was Rep. Brad Schneider (D-IL) who juxtaposed the Miller-Horsford bill with the new batch of bills. He suggested the slate of partisan bills were dropped at the “eleventh hour” prior to the hearing when there is a bipartisan bill that Republicans are choosing to ignore. “That’s the proposal we should be considering today,” he said.

Materials related to the hearing are at <https://waysandmeans.house.gov/event/full-committee-legislative-hearing-on-digital-asset-taxation/>