

[DISCUSSION DRAFT]

118TH CONGRESS
1ST SESSION

H. R. _____

To amend the Internal Revenue Code of 1986 to clarify the definition of broker, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. MCHENRY introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to clarify the definition of broker, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Keep Innovation in
5 America Act”.

6 **SEC. 2. CLARIFICATION OF DEFINITION OF BROKER.**

7 (a) IN GENERAL.—Section 6045(c)(1)(D) of the In-
8 ternal Revenue Code of 1986 is amended to read as fol-
9 lows:

1 “(D) any person who (for consideration)
2 stands ready in the ordinary course of a trade
3 or business to effect sales of digital assets at
4 the direction of their customers.”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section shall apply to returns required to be filed and
7 statements required to be furnished after December 31,
8 2025.

9 **SEC. 3. REPORTING OF DIGITAL ASSETS.**

10 (a) BROKERS.—

11 (1) DEFINITION OF DIGITAL ASSET.—Section
12 6045(g)(3)(D) of the Internal Revenue Code of 1986
13 is amended to read as follows:

14 “(D) DIGITAL ASSET.—The term ‘digital
15 asset’ means any digital representation of value
16 which is recorded on a cryptographically se-
17 cured distributed ledger.”.

18 (2) APPLICABLE DATE.—Section
19 6045(g)(3)(C)(iii) of such Code is amended to read
20 as follows:

21 “(iii) January 1, 2025, in the case of
22 any specified security which is a digital
23 asset, and”.

24 (b) FURNISHING OF INFORMATION.—Section
25 6045A(d) of such Code is amended to read as follows:

1 “(d) RETURN REQUIREMENT FOR CERTAIN TRANS-
2 FERS OF DIGITAL ASSETS NOT OTHERWISE SUBJECT TO
3 REPORTING.—Any broker, with respect to any transfer
4 (which is not part of a sale or exchange executed by such
5 broker) during a calendar year of a covered security which
6 is a digital asset from an account wholly controlled and
7 maintained by such broker to an account which is not
8 maintained by, or an address not associated with, a person
9 that such broker knows or has reason to know is also a
10 broker, shall make a return for such calendar year, in such
11 form as determined by the Secretary, showing the infor-
12 mation otherwise required to be furnished with respect to
13 transfers subject to subsection (a). Information reported
14 by brokers under this section shall be limited to customer
15 information that is voluntarily provided by the customer
16 and held by the broker for a legitimate business purpose.”.

17 (c) DELAYED EFFECTIVE DATE FOR CERTAIN IN-
18 FORMATION REPORTING CHANGES; REVERSAL OF CER-
19 TAIN ADDITIONS TO 6050I.—Section 80603 of the Infra-
20 structure Investment and Jobs Act is amended—

21 (1) by striking subsection (b)(3), and

22 (2) in subsection (c), by striking “December 31,
23 2023” and inserting “December 31, 2025”.

24 (d) EFFECTIVE DATES.—

1 (1) The amendments made by subsections (a)
2 and (b) shall apply to returns required to be filed
3 and statements required to be furnished after De-
4 cember 31, 2025.

5 (2) The amendment made by subsection (c)
6 shall take effect as if included in the enactment of
7 section 80603 of the Infrastructure Investment and
8 Jobs Act.

9 **SEC. 4. STUDY AND REPORT ON TREATMENT OF DIGITAL**
10 **ASSETS AS CASH UNDER CERTAIN LAWS.**

11 (a) **STUDY.**—The Secretary, in consultation with the
12 Financial Crimes Enforcement Network, and representa-
13 tives of the digital asset industry, organizations focused
14 on individual privacy and civil liberties, organizations en-
15 gaged in advocacy, research or developing standards relat-
16 ing to digital asset use, shall conduct a study on the effect
17 of expanding the definition of cash to include any digital
18 asset (as defined in section 6045(g)(3)(D) of the Internal
19 Revenue Code of 1986) solely for purposes of—

20 (1) section 6050I of such Code, and

21 (2) section 5331 of title 31, United States
22 Code.

23 (b) **REPORT.**—Not later than 365 days after the date
24 of the enactment of this Act, the Secretary shall provide
25 to relevant committees a report that contains all findings

1 and determinations made in carrying out the study under
2 subsection (a), including an analysis of—

3 (1) the interpretation of, regulations under, and
4 enforcement of the sections specified in paragraphs
5 (1) and (2) of subsection (a),

6 (2) the privacy and liberty rights and interests
7 of taxpayers and other persons affected,

8 (3) the cost-benefit analysis of compliance,

9 (4) the effect on the use of and access to digital
10 assets and the financial system,

11 (5) the effect on innovation, and

12 (6) the effect on the economic competitiveness
13 of the United States.

14 (c) DEFINITIONS.—For purposes of this section—

15 (1) RELEVANT COMMITTEES.—The term “rel-
16 evant committees” means—

17 (A) the Committee on Financial Services
18 of the House of Representatives,

19 (B) the Committee on Banking, Housing,
20 and Urban Affairs of the Senate,

21 (C) the Committee on Ways and Means of
22 the House of Representatives, and

23 (D) the Committee on Finance of the Sen-
24 ate.

1 (2) SECRETARY.—The term “Secretary” means
2 the Secretary of the Treasury (or the Secretary’s
3 delegate).

4 **SEC. 5. FINDINGS.**

5 Congress finds the following:

6 (1) Advances in technology have led to the cre-
7 ation of digital assets and blockchain technology
8 that will improve the United States financial system
9 and create a more fair and equitable structure for
10 everyday Americans.

11 (2) The reporting requirements under current
12 law require digital asset market participants to ad-
13 here to standards that are incompatible with this
14 technology’s operation. This will hinder the develop-
15 ment of digital assets and its underlying technology
16 in the United States, shifting its development out-
17 side the United States.

18 (3) The Chinese Government’s recent ban of
19 cryptocurrency transactions provides the United
20 States an opening to further enhance its role as the
21 leading nation in the development of innovative
22 blockchain technologies. Providing clear rules for
23 both consumers and developers of digital assets is
24 essential to taking advantage of this opportunity.

1 (4) Miners and validators, hardware and soft-
2 ware developers, and protocol developers are not ac-
3 tual brokers and do not collect or have reason to col-
4 lect the information required under the Infrastruc-
5 ture Investment and Jobs Act.

6 (5) It is not in the interest of American tax-
7 payers for Congress to create uncertainty.

8 (6) Consistent and accurate reporting on digital
9 asset transactions is necessary. Congress must work
10 to bring legal and regulatory certainty to the digital
11 asset industry. Clear rules of the road fosters tech-
12 nology and innovation.

13 (7) Any amendments made by this Act will not
14 impact revenue estimated from the Infrastructure
15 Investment and Jobs Act.