

Cryptocurrency and the Infrastructure Investment & Jobs Act of 2021: New Regulations that May Impact You

November 30, 2021



The Infrastructure Investment and Jobs Act was signed by the President on November 15, 2021. One of the provisions within the Act discusses changes to information reporting as it relates to digital assets such as cryptocurrency. The Joint

Committee on Taxation estimates that this specific provision would raise approximately \$28 billion over the next decade to help fund the Infrastructure plan. There were no reporting requirements for transactions involving cryptocurrency prior to this provision.

The Act will require brokers, broadly defined to include “any person who (for consideration) is responsible for regularly providing any service effectuating transfers of digital assets on behalf of another person” to adhere to tax and reporting requirements, similar to those of traditional brokers, whereby they must provide their customers and the IRS with annual tax reporting statements. However, many in the cryptocurrency space believe this will negatively impact the evolution, innovation and development of cryptocurrency as it would cause reporting requirement hardships for software developers and miners/validators or anyone who would facilitate a digital asset transfer.

Currently, if a taxpayer is engaged in a trade or business and receives more than \$10,000 in cash in a calendar year, they are required to file an information return with the IRS and furnish a statement to the payor. The Act extends this current requirement to include digital assets as part of the \$10,000 threshold.

Taxpayers do need to be aware of how their exchange platforms intend to implement the sale of digital assets especially as it relates to cost basis. Will the exchange platforms provide investors with an option to make sure they are selling a specific lot of cryptocurrency that will have the most tax-efficient result? If not, possible unintended errors and/or inefficiencies such as over or under paying capital gains tax could occur.

The reporting requirement will not take effect until 2023, so there is still time to plan, comply and understand how these changes will impact you. To discuss tax planning for cryptocurrency holdings and activities, please contact your Anchin Relationship Partner or Edward Kim, Director in Anchin Private Client at edward.kim@anchin.com.