Biden Administration tax compliance plan targets cryptocurrency assets

Blockchain and Digital Assets News and Trends

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In The American Families Plan Tax Compliance Agenda, issued by the US Treasury Department on May 20, 2021, the Biden Administration announced its intention to cut the annual tax gap by doubling the size of the Internal Revenue Service (IRS) and providing the IRS with greater authority to collect information on Americans’ financial assets and transactions, including cryptocurrency transactions.

The Compliance Agenda projects the current gap between what taxpayers owe and what they pay at around $600 billion a year, or $7.5 trillion over the next 10 years. The Biden Administration believes its Compliance Agenda could reduce this tax gap by about 10 percent in the first 10 years, with further reductions coming in later years as taxpayers become more accustomed to the enhanced information regime.

The Agenda notes that the budget for the IRS would increase 10 percent per year through 2031, with the IRS expanding from about 80,000 workers now to as many as 166,000 in 2031. Additional resources would allow the IRS to hire and train thousands of enforcement and service personnel each year and to modernize long-outdated technology to handle a new information reporting regime.

A spotlight on cryptocurrency
Notably, the Compliance Agenda highlights cryptocurrency and cryptoassets as a particular area of concern. It states:

Still another significant concern is virtual currencies, which have grown to $2 trillion in market capitalization. Cryptocurrency already poses a significant detection problem by facilitating illegal activity broadly including tax evasion. [T]he President's proposal includes additional resources for the IRS to address the growth of crypto assets. Despite constituting a relatively small portion of business income today, cryptocurrency transactions are likely to rise in importance in the next decade, especially in the presence of a broad-based financial account reporting regime. Within the context of the new financial account reporting regime, cryptocurrencies and crypto asset exchange accounts and payment service accounts that accept cryptocurrencies would be covered... . Although cryptocurrency is a small share of current business transactions, such comprehensive reporting is necessary to minimize the incentives and opportunity to shift income out of the new information reporting regime.

On May 28, 2021, the Treasury Department published its General Explanations of the Administration's Fiscal Year 2022 Revenue Proposals, commonly referred to as the Green Book, which expounds the Biden Administration’s tax-related proposals, including those with respect to cryptocurrency and cryptoasset transactions.

The Green Book proposes a new information-reporting regime for tax years beginning after December 31, 2022, that would require domestic and foreign financial institutions, third-party payment settlement organizations, and cryptoasset exchanges and custodians, among others, to report gross income inflows and outflows, including loans and investments, on existing IRS information returns. Specifically, the Green Book provides that “reporting requirements would apply in cases in which taxpayers buy crypto assets from one broker and then transfer the crypto assets to another broker, and businesses that receive crypto assets in transactions with a fair market value of more than $10,000 would have to report such transactions.”

The Green Book also proposes a separate, international-focused reporting regime for cryptocurrency:

The proposal would expand the scope of information reporting by brokers who report on crypto assets to include reporting on certain beneficial owners of entities holding accounts with the broker. This would allow the United States to share such information on an automatic basis with appropriate partner jurisdictions, in order to reciprocally receive information on U.S. taxpayers that directly or through passive entities engage in crypto asset transactions outside the United States pursuant to a global automatic exchange of information framework. The proposal would require brokers, including entities such as U.S. crypto asset exchanges and hosted wallet providers, to report information relating to certain passive entities and their substantial foreign owners when reporting with respect to crypto assets held by those entities in an account with the broker. The proposal, if adopted, and combined with existing law, would require a broker to report gross proceeds and such other information as the Secretary may require with respect to sales of crypto assets with respect to customers, and in the case of certain passive entities, their substantial foreign owners.

It remains to be seen how the proposals set forth in the Green Book and American Families Plan Tax Compliance Agenda will be implemented and their possible impact on current and future cryptocurrency transactions.

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