

# What is Not in the First Final 6045 Regs



Blockchain Tax Conference ~ January 24, 2025

## Speakers

- Bea Castaneda, Director, Tax Information Reporting - Coinbase
- Erin Fennimore, VP of Enterprise Tax Solutions - Taxbit
- Colby Mangels, Tax Policy Advisor - OECD
- Taylor Reid, Retired Partner - Baker & McKenzie LLP

# Agenda

- Understanding the 6045 “Defi” Regs
- Wrapping, Staking & Lending
- Overlay of CARF Rules
- What’s to Come: 6045A & 6050I Regulations



## Digital Asset Broker Regulatory Timeline



# Who is in Scope?

- Digital Asset Middleman = person responsible for providing an effectuating service
- Effectuating Service includes
  - Trading Front-End Service, AND
  - Provider would know or be in a position to know whether the transaction gives rise to reportable gross proceeds

# Trading Front- End Service

- User interface that enables a user
  - to input order details, and
  - transmit those details to be carried out or settled on a distributed ledger

# Being in a Position to Know

- Does the person have control or sufficient influence?
  - Ability to amend, update or otherwise affect the terms under which services are provided
  - Ability to collect fees from the transaction flow
  - Ability to track or receive confirmation back from the distributed ledger that the order was executed or posted by the ledger

# Who is Out of Scope?

- Specific exceptions for:
  - Validation Services
  - Wallet hardware and software
  - Operators of Digital Asset Trading Protocols
- Still treated as a broker for those transactions for which an effectuating service is provided

# Liquidity & Staking Pool Providers

- Not explicitly covered
- No obligation to report: Notice 2024-57 granted relief due to lack of guidance on substantive tax treatment



# Notice 2025-3

Transitional Relief for Trading Front-End Service Providers!

- Tax Year 2027: No Withholding or W-9 Requirement
- Tax Year 2028: If an account has a valid Name/TIN combo - No Withholding or W-9 Requirement
- Prior to 1/1/29 - may treat a customer as exempt foreign person if not otherwise classified as a US person.

# CARF in the US

- Scope of “Relevant Crypto Asset”
  - NFTs
  - Stablecoins
- Treatment of covered entities
  - RCASPs under CARF
  - Non-US Brokers under 6045
  - Non-custodial entities?
- Differences in information reported
- Coordination between regimes

# Pending Regulations

## Section 6045A

- Basis reporting for digital asset transfers that are not sales
  - “Applicable person” ► Broker
  - Broker ► Non-broker
- What about a non-custodial broker?
- Trading front-end service providers only report gross proceeds

## Section 6050I

- Report receipt of >\$10,000 in “cash”
- Includes any “digital asset” as defined in section 6045(g)(3)(D)
- How would this apply to receipt from a non-person (e.g., mining and staking rewards)?