

[DISCUSSION DRAFT]119TH CONGRESS
2^D SESSION**H. R.** _____

To amend the Internal Revenue Code of 1986 to provide for the tax treatment of digital assets.

IN THE HOUSE OF REPRESENTATIVES

Mr. MILLER of Ohio and Mr. HORSFORD of Nevada introduced the following bill; which was referred to the Committee on

A BILL

To amend the Internal Revenue Code of 1986 to provide for the tax treatment of digital assets.

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 “Digital Asset Protec-
5 tion, Accountability, Regulation, Innovation, Taxation,
6 and Yields Act” or the “Digital Asset PARITY Act”.

1 **SEC. 2. TAX TREATMENT OF REGULATED PAYMENT**
2 **STABLECOIN TRANSACTIONS.**

3 (a) IN GENERAL.—Part III of subchapter O of chap-
4 ter 1 of the Internal Revenue Code of 1986 is amended
5 by inserting after section 1033 the following new section:

6 **“SEC. 1034. REGULATED PAYMENT STABLECOIN TRANS-**
7 **ACTIONS.**

8 “(a) SALE OF REGULATED PAYMENT
9 STABLECOIN.—

10 “(1) IN GENERAL.—In the case of any sale of
11 a regulated payment stablecoin, no gain or loss shall
12 be recognized on such sale unless the taxpayer’s
13 basis in such stablecoin is less than 99 percent of
14 the redemption value of such stablecoin.

15 “(2) REDEMPTION VALUE.—For purposes of
16 this subsection, the term ‘redemption value’ means
17 the dollar amount for which the issuer is obligated
18 to redeem such stablecoin.

19 “(b) EXCHANGE OF REGULATED PAYMENT
20 STABLECOIN.—In the case of any exchange of a regulated
21 payment stablecoin, the acquirer’s basis in such stablecoin
22 shall be deemed to be \$1.

23 “(c) TRANSACTION COSTS NOT INCLUDED IN
24 BASIS.—Amounts paid or incurred to facilitate the sale
25 or exchange of a regulated payment stablecoin shall not

1 be included in the calculation of the basis of such
2 stablecoin.

3 “(d) REGULATED PAYMENT STABLECOIN.—

4 “(1) IN GENERAL.—For purposes of this sec-
5 tion, the term ‘regulated payment stablecoin’ means
6 a digital asset—

7 “(A) that is a payment stablecoin issued
8 by a permitted payment stablecoin issuer,

9 “(B) with respect to which the issuer is ob-
10 ligated to convert, redeem, or repurchase the
11 payment stablecoin for a fixed amount of
12 United States dollars, and

13 “(C) which was acquired by the taxpayer
14 for a price within 1 percent of \$1.00.

15 “(2) DEFINITIONS.—The terms “payment
16 stablecoin” and “permitted payment stablecoin
17 issuer” have the meaning given those terms, respec-
18 tively, in section 2 of the GENIUS Act (12 U.S.C.
19 5901).

20 “(e) EXCEPTIONS FOR RELATED PARTIES; DEALERS
21 AND TRADERS IN SECURITIES.—

22 “(1) DEALERS AND TRADERS.—This section
23 shall not apply to the sale or exchange of any regu-
24 lated payment stablecoin by a taxpayer who is a
25 dealer or trader in securities or commodities.

1 “(2) RELATED PARTIES.—This section shall not
2 apply to transactions between related parties within
3 the meaning of section 267(b) (without regard to
4 section 267(c)(3)) or 707(b)(1).

5 “(f) REGULATIONS AND GUIDANCE.—The Secretary
6 shall prescribe such regulations or other guidance as may
7 be necessary or appropriate to carry out this section, in-
8 cluding to prevent the avoidance of tax under this sec-
9 tion.”.

10 (b) CLERICAL AMENDMENT.—The table of sections
11 for part III of subchapter O of chapter 1 of the Internal
12 Revenue Code of 1986 is amended by inserting after the
13 item relating to section 1033 the following new item:

 “Sec. 1034. Regulated payment stablecoin transactions.”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 2025.

17 **SEC. 3. DIGITAL ASSET TRADING SAFE HARBOR.**

18 (a) IN GENERAL.—Paragraph (2) of section 864(b)
19 of the Internal Revenue Code of 1986 is amended by re-
20 designating subparagraph (C) as subparagraph (D) and
21 by inserting after subparagraph (B) the following new
22 subparagraph:

23 “(C) DIGITAL ASSETS.—

24 “(i) IN GENERAL.—Trading in digital
25 assets through a resident broker, commis-

1 sion agent, custodian, or other independent
2 agent.

3 “(ii) TRADING FOR TAXPAYER’S OWN
4 ACCOUNT.—Trading in digital assets for
5 the taxpayer’s own account, whether by the
6 taxpayer or the taxpayer’s employees or
7 through a resident broker, commission
8 agent, custodian, digital asset exchange, or
9 other agent, and whether or not any such
10 employee or agent has discretionary au-
11 thority to make decisions in effecting the
12 transactions. This clause shall not apply in
13 the case of a dealer in digital assets.

14 “(iii) DEFINITIONS.—For purposes of
15 this subparagraph—

16 “(I) DIGITAL ASSET.—The term
17 ‘digital asset’ means a digital rep-
18 resentation of value that—

19 “(aa) is designed and func-
20 tions primarily as a medium of
21 exchange, store of value, or unit
22 of account,

23 “(bb) is recorded and trans-
24 ferred through distributed ledger
25 or blockchain technology,

1 “(cc) does not represent or
2 confer any ownership interest,
3 equity interest, debt obligation,
4 or other financial or property
5 right in any entity, asset, com-
6 modity, or enterprise, and

7 “(dd) does not derive its
8 value primarily from, or rep-
9 resent a claim on, any fiat cur-
10 rency, commodity, security, or
11 other financial instrument.

12 “(II) DIGITAL ASSET EX-
13 CHANGE.—The term ‘digital asset ex-
14 change’ means a platform which facili-
15 tates the transfer of digital assets by
16 taking custody of, or exercising con-
17 trol over, such assets on behalf of
18 users.

19 “(iv) LIMITATION.—This subpara-
20 graph shall apply only if the digital assets
21 are of a kind customarily dealt in on a dig-
22 ital asset exchange.”.

23 (b) CONFORMING AMENDMENT.—Subparagraph (D)
24 of section 864(b)(2) of the Internal Revenue Code of
25 1986, as redesignated by subsection (a), is amended by

1 striking “(A)(i) and (B)(i)” and inserting “(A)(i), (B)(i),
2 and (C)(i)”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 the date of enactment of this Act.

6 **SEC. 4. TAX TREATMENT OF DIGITAL ASSET LENDING**
7 **AGREEMENTS AND RELATED MATTERS.**

8 (a) IN GENERAL.—Subsection (a) of section 1058 of
9 the Internal Revenue Code of 1986 is amended by insert-
10 ing “, or eligible digital assets” after “(as defined in sec-
11 tion 1236(c))”.

12 (b) BASIS.—Subsection (c) of section 1058 of the In-
13 ternal Revenue Code of 1986 is amended by adding at the
14 end the following: “In the case of a basis adjustment to
15 securities or eligible digital assets with respect to which
16 an agreement is in place which meets the requirements
17 of subsection (b), such adjustment shall be made by fac-
18 toring in the return to the transferor of securities identical
19 to the securities transferred.”.

20 (c) DIGITAL ASSETS.—Section 1058 of the Internal
21 Revenue Code of 1986 is amended by adding at the end
22 the following new subsections:

23 “(d) DEFINITIONS RELATING TO DIGITAL ASSETS.—
24 For purposes of this section—

1 “(1) ELIGIBLE DIGITAL ASSET.—The term ‘eli-
2 gible digital asset’ means a digital asset that—

3 “(A) is fungible,

4 “(B) is of a type for which a market price
5 is readily ascertainable based on publicly avail-
6 able quotations on a digital asset exchange,

7 “(C) does not represent or confer any own-
8 ership interest, equity interest, debt obligation,
9 or other financial or property right in any enti-
10 ty, asset, commodity, or enterprise, and

11 “(D) is designed and functions primarily
12 as a medium of exchange, store of value, or unit
13 of account, and is recorded and transferred
14 through distributed ledger or blockchain tech-
15 nology.

16 “(2) DIGITAL ASSET EXCHANGE.—The term
17 ‘digital asset exchange’ has the meaning given such
18 term in section 864(b)(2)(C)(iii)(II).

19 “(e) SUBSTITUTE PAYMENTS.—Any payment made
20 to a lender pursuant to an agreement described in sub-
21 section (b) in lieu of staking rewards, transaction fees,
22 protocol distributions, or other amounts that would other-
23 wise be payable with respect to a lent digital asset shall
24 be included in the gross income of the lender in the same

1 manner as if such amounts had been received directly by
2 the lender.”.

3 (d) **RULE OF CONSTRUCTION.**—Nothing in this sec-
4 tion, or any amendments made by this section, shall be
5 construed to create any inference with respect to the clas-
6 sification of any digital asset as a security under the Secu-
7 rities Act of 1933 (15 U.S.C. 77a et seq.) or the Securities
8 Exchange Act of 1934 (15 U.S.C. 78a et seq.).

9 (e) **RULEMAKING AUTHORITY.**—The Secretary of the
10 Treasury (or the Secretary’s delegate) may adopt rules to
11 implement the amendments made by this section, includ-
12 ing the application of the amendments made by this sec-
13 tion to forks, airdrops, and similar subsidiary value.

14 (f) **EFFECTIVE DATE.**—The amendments made by
15 this section shall apply to exchanges in taxable years be-
16 ginning after the date of enactment of this Act.

17 **SEC. 5. APPLICATION OF WASH SALE RULES TO DIGITAL**
18 **ASSETS.**

19 (a) **IN GENERAL.**—Section 1091 of the Internal Rev-
20 enue Code of 1986 is amended—

21 (1) by striking “stock or securities” each place
22 it appears and inserting “specified assets”, and

23 (2) by striking “shares of” each place it ap-
24 pears.

1 (b) SPECIFIED ASSET.—Section 1091 of such Code
2 is amended by adding at the end the following new sub-
3 section:

4 “(g) SPECIFIED ASSET.—For purposes of this sec-
5 tion—

6 “(1) IN GENERAL.—The term ‘specified asset’
7 means—

8 “(A) any stock or security, and

9 “(B) any digital asset.

10 “(2) CONTRACTS AND OPTIONS.—Except as
11 otherwise provided in regulations, the term ‘specified
12 asset’ does not include any contract or option to ac-
13 quire or sell any specified asset described in para-
14 graph (1).”.

15 (c) CONFORMING AMENDMENTS.—

16 (1) Sections 312(f)(1), 1256(f)(5), and
17 6045(g)(2)(B)(ii) are each amended by striking
18 “stock or securities” and inserting “specified as-
19 sets”.

20 (2) Section 1091(a) is amended by striking the
21 last sentence.

22 (3) Section 1091(e) (as amended by subsection
23 (a)) is amended to read as follows:

24 “(e) CERTAIN SHORT SALES OF SPECIFIED ASSETS
25 AND SPECIFIED ASSET FUTURES CONTRACTS TO SELL.—

1 Rules similar to the rules of subsection (a) shall apply to
2 any loss realized on the closing of a short sale of (or the
3 sale, exchange, or termination of a specified asset futures
4 contract to sell) specified assets if, within a period begin-
5 ning 30 days before the date of such closing and ending
6 30 days after such date—

7 “(1) substantially identical specified assets were
8 sold, or

9 “(2) another short sale of (or specified asset fu-
10 tures contracts to sell) substantially identical speci-
11 fied assets was entered into.

12 For purposes of this subsection, the term “specified asset
13 futures contract” has the meaning provided by section
14 1234B(e).”.

15 (4) The heading of section 1091 is amended by
16 striking “**STOCK OR SECURITIES**” and inserting
17 “**SPECIFIED ASSETS**”.

18 (5) The headings of subsections (b), (c), and
19 (d) of section 1091 are each amended by striking
20 “**STOCK**” each place it appears and inserting “**SPEC-**
21 **IFIED ASSETS**”.

22 (6) The item relating to section 1091 in the
23 table of sections for part VII of subchapter O of
24 chapter 1 is amended by striking “stock or securi-
25 ties” and inserting “specified assets”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to sales, dispositions, and termi-
3 nations after the date of enactment of this Act.

4 **SEC. 6. MARK-TO-MARKET ELECTION.**

5 (a) IN GENERAL.—Section 475 of the Internal Rev-
6 enue Code of 1986 is amended by redesignating subsection
7 (g) as subsection (h) and by inserting after subsection (f)
8 the following new subsection:

9 “(g) ELECTION OF MARK TO MARKET FOR DEALERS
10 AND TRADERS IN ACTIVELY-TRADED DIGITAL ASSETS.—

11 “(1) DEALER IN DIGITAL ASSETS.—In the case
12 of a dealer in actively-traded digital assets who
13 elects the application of this subsection, this section
14 shall apply to digital assets held by such dealer in
15 the same manner as this section applies to securities
16 held by a dealer in securities.

17 “(2) TRADER IN DIGITAL ASSETS.—In the case
18 of a person who is engaged in a trade or business
19 as a trader in actively traded digital assets, and who
20 elects to have this paragraph apply to such trade or
21 business as a trader in actively traded digital assets,
22 subsection (f)(1) shall apply to digital assets held by
23 the trader in connection with such trade or business
24 in the same manner as such subsection applies to se-
25 curities held by a trader in securities.

1 “(3) LIMITATION.—An election under this sec-
2 tion shall only apply to digital assets treated as ac-
3 tively traded (as defined by the Secretary).

4 “(4) REGULATIONS AND GUIDANCE.—The Sec-
5 retary shall issue such regulations and guidance as
6 are necessary to carry out the provisions of this sub-
7 section.”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to taxable years beginning after
10 the date of enactment of this Act.

11 **SEC. 7. APPLICATION OF CONSTRUCTIVE SALE RULES TO**
12 **DIGITAL ASSETS.**

13 (a) IN GENERAL.—Section 1259 is amended by in-
14 serting “digital asset,” after “debt instrument,” each
15 place it appears.

16 (b) EFFECTIVE DATE.—The amendment made by
17 this section shall apply to constructive sales after the date
18 of enactment of this Act.

19 **SEC. 8. TREATMENT OF DIGITAL ASSETS ACQUIRED**
20 **THROUGH PASSIVE VALIDATION ACTIVITIES.**

21 (a) IN GENERAL.—Chapter 1 is amended by insert-
22 ing after subchapter V the following new subchapter:

23 **“Subchapter W—Digital Assets Acquired**
24 **Through Passive Validation Activities**

“Sec. 1400W-1. Inclusion in gross income; expenses not capitalized.

“Sec. 1400W-2. Election to defer inclusion of income and capitalize expenses.

“Sec. 1400W-3. Definitions.

1 **“SEC. 1400W-1. INCLUSION IN GROSS INCOME; EXPENSES**
2 **NOT CAPITALIZED.**

3 “In the case of the acquisition of any newly created
4 digital asset by a taxpayer which is a passive validator
5 during any taxable year—

6 “(1) the fair market value of such asset shall
7 be included in such taxpayer’s gross income as ordi-
8 nary income for such taxable year, and

9 “(2) the taxpayer’s basis in such asset shall be
10 increased by the amount included in gross income
11 under paragraph (1).

12 **“SEC. 1400W-2. ELECTION TO DEFER INCLUSION OF INCOME**
13 **AND CAPITALIZE EXPENSES.**

14 “(a) IN GENERAL.—In the case of a taxpayer which
15 is a passive validator for any taxable year to which an
16 election under subsection (e) applies—

17 “(1) any newly created digital asset acquired by
18 such taxpayer during such taxable year shall not be
19 included in the taxpayer’s gross income,

20 “(2) specified transaction costs paid or incurred
21 during such taxable year shall be chargeable to cap-
22 ital account and no deduction shall otherwise be al-
23 lowed under this subtitle with respect to such costs,
24 and

25 “(3) section 1400W-1 shall not apply.

1 “(b) GAIN AND LOSS ON DISPOSITION DURING
2 ELECTION PERIOD TREATED AS ORDINARY.—In the case
3 of the disposition of any newly created digital asset to
4 which subsection (a)(1) applies—

5 “(1) the excess (if any) of—

6 “(A) the amount realized (in the case of a
7 sale or exchange) or the fair market value of
8 such asset (in the case of any other dispo-
9 sition), over

10 “(B) the adjusted basis of such asset,
11 shall be treated as gain which is ordinary in-
12 come (and such gain shall be recognized not-
13 withstanding any other provision of this sub-
14 title), and

15 “(2) the excess (if any) of the amount described
16 in paragraph (1)(B) over the amount described in
17 paragraph (1)(A) shall be treated as loss which is
18 ordinary loss.

19 “(c) ELECTION.—

20 “(1) IN GENERAL.—An election under this sec-
21 tion shall apply for the taxable year for which made
22 and each of the four successive taxable years there-
23 after unless revoked by the taxpayer. Such election
24 shall be made at such time and in such manner as
25 the Secretary may provide.

1 “(2) APPLICATION TO PARTNERSHIPS AND S
2 CORPORATIONS.—In the case of any partnership or
3 S corporation, the election under this section shall
4 be made at the partnership or S corporation level.

5 “(d) GAINS AND LOSSES ON DISPOSITION AFTER
6 ELECTION PERIOD.—In the case of the sale, exchange, or
7 other disposition of a digital asset with respect to which
8 an election was in effect under subsection (b) for a prior
9 taxable year, gains and losses with respect to such asset
10 shall be treated as long-term capital gains or long-term
11 capital losses, as the case may be.

12 **“SEC. 1400W-2. DEFINITIONS.**

13 “For purposes of this subchapter—

14 “(1) NEWLY CREATED DIGITAL ASSET.—The
15 term ‘newly created digital asset’ means any digital
16 asset—

17 “(A) not previously owned by any person
18 other than the validator, and

19 “(B) that is issued in connection with the
20 validation of digital asset transactions.

21 “(2) PASSIVE VALIDATOR.—The term ‘passive
22 validator’ means, with respect to the acquisition of
23 any newly created digital asset—

1 “(A) the person who validated the digital
2 asset transactions in connection with which
3 such digital asset was issued, and

4 “(B) with respect to which there are no de-
5 ductible business expenses relating to such vali-
6 dation activity.

7 “(3) SPECIFIED TRANSACTION COSTS.—The
8 term ‘specified transaction costs’ means any amount
9 paid or incurred in validating any digital asset
10 transaction if, at the time such amount is paid or
11 incurred there is a reasonable possibility that the
12 taxpayer will acquire a newly created digital asset in
13 connection with such validation, including amounts
14 to—

15 “(A) claim or withdraw such asset from a
16 staking pool, validator, or protocol,

17 “(B) execute a smart contract function to
18 receive such asset, or

19 “(C) transfer such asset to a wallet or ac-
20 count controlled by the taxpayer.”.

21 (b) CLERICAL AMENDMENT.—The table of sub-
22 chapters for chapter 1 is amended by inserting after the
23 item relating to subchapter V the following new item:

 “SUBCHAPTER W—DIGITAL ASSETS ACQUIRED THROUGH PASSIVE VALIDATION
 ACTIVITIES”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to assets acquired in taxable years
3 beginning after December 31, 2025.

4 **SEC. 9. CHARITABLE CONTRIBUTIONS AND QUALIFIED AP-**
5 **PRAISALS.**

6 (a) IN GENERAL.—Section 170(f)(11)(A)(ii)(I) of the
7 Internal Revenue Code of 1986 is amended by inserting
8 “actively traded digital assets,” before “and any qualified
9 vehicle”.

10 (b) SUBSTANTIATION AND VALUATION REQUIRE-
11 MENTS.—Section 170(f) of such Code is amended by add-
12 ing at the end the following new paragraph:

13 “(20) INFREQUENTLY TRADED DIGITAL AS-
14 SETS.—

15 “(A) IN GENERAL.—In the case of a con-
16 tribution of a digital asset which is not an ac-
17 tively traded digital asset the claimed value of
18 which exceeds \$500—

19 “(i) paragraph (8) shall not apply and
20 no deduction shall be allowed under sub-
21 section (a) for such contribution unless the
22 taxpayer substantiates the contribution by
23 a contemporaneous written acknowledg-
24 ment of the contribution by the donee or-
25 ganization that meets the requirements of

1 subparagraph (B) and includes the ac-
2 knowledge with the taxpayer’s return
3 of tax which includes the deduction, and

4 “(ii) if the organization sells such
5 asset, the amount of the deduction allowed
6 under subsection (a) shall not exceed the
7 gross proceeds received from such sale.

8 “(B) CONTENT OF ACKNOWLEDGMENT.—
9 An acknowledgment meets the requirements of
10 this subparagraph if it includes the following
11 information:

12 “(i) The name and taxpayer identi-
13 fication number of the donor.

14 “(ii) Details of the transfer of the dig-
15 ital asset contribution, including—

16 “(I) specific addresses involved in
17 the contribution,

18 “(II) a description of the digital
19 asset contributed, and

20 “(III) the date of the contribu-
21 tion.

22 “(iii) A certification that the digital
23 asset was sold in an arm’s length trans-
24 action between unrelated parties.

1 “(iv) The amount of gross proceeds
2 from the sale described in clause (iii).

3 “(v) A statement that the deductible
4 amount may not exceed the amount the
5 gross proceeds described in clause (iv).

6 “(vi) Whether the donee organization
7 provided any goods or services in consider-
8 ation, in whole or in part, for the digital
9 asset.

10 “(vii) A description and good faith es-
11 timate of the value of any goods or services
12 referred to in clause (vi), or if such goods
13 or services consist solely of intangible reli-
14 gious benefits (as defined in 170(f)(8)(B)),
15 a statement to that effect.

16 “(C) CONTEMPORANEOUS ACKNOWLEDGE-
17 MENT; INFORMATION TO SECRETARY.—Rules
18 similar to the rules of subparagraphs (C)(i) and
19 (D) of paragraph (12) shall apply.”.

20 (e) PENALTY FOR FRAUDULENT ACKNOWLEDG-
21 MENT.—

22 (1) IN GENERAL.—Part I of subchapter B of
23 chapter 68 of the Internal Revenue Code of 1986 is
24 amended by adding at the end the following new sec-
25 tion:

1 **“SEC. 6720D. FRAUDULENT ACKNOWLEDGMENTS WITH RE-**
2 **SPECT TO DONATIONS OF DIGITAL ASSETS.**

3 “(a) IN GENERAL.—Any donee organization required
4 under section 170(f)(20)(A) to furnish a contemporaneous
5 written acknowledgment to a donor which knowingly fur-
6 nishes a false or fraudulent acknowledgment, or which
7 knowingly fails to furnish such acknowledgment in the
8 manner, at the time, and showing the information re-
9 quired under section 170(f)(20), or regulations prescribed
10 thereunder, shall for each such act, or for each such fail-
11 ure, be subject to a penalty equal to the greater of—

12 “(1) the product of the highest rate of tax spec-
13 ified in section 1 and the sales price stated on the
14 acknowledgment, or

15 “(2) the gross proceeds from the sale of such
16 digital asset.

17 “(b) REGULATORY AUTHORITY.—The Secretary shall
18 prescribe such regulations or other guidance as may be
19 necessary to carry out the purposes of this section.”.

20 (2) CLERICAL AMENDMENT.—The table of sec-
21 tions of part I of subchapter B of chapter 68 of such
22 Code is amended by adding at the end the following
23 new item:

“Sec. 6720D. Fraudulent acknowledgments with respect to donations of digital
assets.”

1 (d) EFFECTIVE DATES.—The amendments made by
2 this section shall apply to contributions and acknowledg-
3 ments made in taxable years beginning after the date of
4 enactment of this Act.

5 **SEC. 10. TAX TREATMENT OF CERTAIN DIGITAL ASSET AC-**
6 **TIVITIES.**

7 (a) IN GENERAL.—Section 7701 of the Internal Rev-
8 enue Code of 1986 is amended by redesignating subsection
9 (p) as subsection (q) and by inserting after subsection (o)
10 the following new subsection:

11 “(p) TAX TREATMENT OF CERTAIN DIGITAL ASSET
12 ACTIVITIES.—

13 “(1) PASSIVE STAKING NOT A TRADE OR BUSI-
14 NESS.—

15 “(A) IN GENERAL.—Passive staking shall
16 not constitute a trade or business, including for
17 purposes of sections 512 and 864.

18 “(B) PASSIVE STAKING.—For purposes of
19 this section, the term ‘passive staking’ means
20 staking by an individual or entity that is a pas-
21 sive validator (as defined in section 1400W-
22 3(2)).

23 “(2) DIGITAL ASSETS IN INVESTMENT
24 TRUSTS.—For purposes of this title, in the case of

1 a digital asset investment trust formed to hold dig-
2 ital assets—

3 “(A) any power held by the trustee to
4 stake or unstake digital assets, whether directly
5 or through delegation to another party, and to
6 perform any related acts to exercise such power
7 to stake, including the retention of staking re-
8 wards, shall not be treated as a power under
9 such trust agreement to vary the investment of
10 the certificate holders of such trust and shall
11 not otherwise disqualify an entity from charac-
12 terization as an investment trust that is not
13 classified as a business entity under this sec-
14 tion,

15 “(B) discretionary powers held by a trustee
16 to use other measures, including a borrowing
17 facility, to manage the trust’s potential need for
18 assets available to satisfy redemptions shall not
19 be treated as a power under the applicable trust
20 agreement to vary the investment of the certifi-
21 cate holders of such trust, and

22 “(C) discretionary powers held by a trustee
23 to act in response to changes to technology sup-
24 porting the digital assets held by the trust, in-
25 cluding with regard to staking, shall not be

1 treated as a power under the applicable trust
2 agreement to vary the investment of the certifi-
3 cate holders of such trust.”.

4 (b) **EFFECTIVE DATE.**—The amendments made by
5 this section shall apply to taxable years beginning after
6 December 31, 2025.

7 **SEC. 11. DEFINITIONS.**

8 Section 7701 of the Internal Revenue Code of 1986,
9 as amended by this Act, is amended—

10 (1) by redesignating subsection (q) as sub-
11 section (r), and

12 (2) by inserting after subsection (p) the fol-
13 lowing new subsection:

14 “(q) **DEFINITIONS RELATED TO DIGITAL ASSETS.**—
15 For purposes of this title—

16 “(1) **DIGITAL ASSET.**—The term ‘digital asset’
17 means a digital representation of value which is re-
18 corded on a cryptographically secured distributed
19 ledger or any similar technology as specified by the
20 Secretary.

21 “(2) **ACTIVELY TRADED DIGITAL ASSET.**—

22 “(A) **IN GENERAL.**—The term ‘actively
23 traded digital asset’ means, with respect to any
24 taxpayer for any taxable year, any digital
25 asset—

1 “(i) which is fungible,

2 “(ii) with a minimum trading volume
3 of \$50,000,000 for the two calendar years
4 immediately preceding the sale or exchange
5 of such asset,

6 “(iii) with a minimum yearly market
7 capitalization of \$10,000,000,000 for the
8 three calendar years immediately preceding
9 the sale or exchange of such asset, and

10 “(iv) with respect to which the tax-
11 payer and the related parties of the tax-
12 payer hold no more than 5 percent by
13 value or units of such asset.

14 “(B) INFLATION ADJUSTMENT.—In the
15 case of any calendar year after 2025, each of
16 the dollar amounts in subparagraph (A) shall
17 be increased by an amount equal to—

18 “(i) such amount, multiplied by

19 “(ii) the cost-of-living adjustment de-
20 termined under section 1(f)(3) for such
21 calendar year, determined by substituting
22 ‘calendar year 2024’ for ‘calendar year
23 2016’ in subparagraph (A)(ii) thereof.

24 Any increase determined under the preceding
25 sentence which is not a multiple of \$100,000

1 shall be rounded to the nearest multiple of
2 \$100,000.

3 “(3) STAKING.—The term ‘staking’, when used
4 in connection with a digital asset, means—

5 “(A) making such asset available in sup-
6 port of the validation of digital asset trans-
7 actions by pledging, deploying, immobilizing, or
8 locking to support validation of transactions on
9 a cryptographically secured distributed ledger,
10 or

11 “(B) except as otherwise provided by the
12 Secretary, any substantially similar activity.”.