

New Effort to Exempt Crypto Currency from Certain SEC, Tax and Other Regulatory Burdens

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A new [bill](#), the Token Taxonomy Act was introduced to congress to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to exclude digital tokens from the definition of a security, to direct the Securities and Exchange Commission to enact certain regulatory changes regarding digital units secured through public key cryptography, to adjust taxation of virtual currencies held in individual retirement accounts, to create a tax exemption for exchanges of one virtual currency for another, to create a de minimis exemption from taxation for gains realized from the sale or exchange of virtual currency for other than cash, and for other purposes.

If passed this will be a huge boost for cryptocurrency.

The bill is pretty technical. Some of the highlights are as follows.

For purposes of the act, the term ‘digital token’ means a digital unit:

(A) that is created—

- (i) in response to the verification or collection of proposed transactions;
- (ii) pursuant to rules for the digital unit’s creation and supply that cannot be altered by any single person or persons under common control; or
- (iii) as an initial allocation of digital units that will otherwise be created in accordance with clause (i) or (ii);

(B) that has a transaction history that—

- (i) is recorded in a distributed, digital ledger or digital data structure in which consensus is achieved through a mathematically verifiable process; and
- (ii) after consensus is reached, resists modification or tampering by any single person or group of persons under common control;

(C) that is capable of being transferred between persons without an intermediate custodian; and

(D) that is not a representation of a financial interest in a company or partnership, including an

ownership interest or revenue share.

Among other things, the bill seeks to preempt state law as follows.

No law, rule, regulation, or order, or other administrative action of any State or any political subdivision thereof—

(A) requiring, or with respect to, registration or qualification of securities, or registration or qualification of securities transactions, shall directly or indirectly apply to a digital token;

(B) shall directly or indirectly prohibit, limit, or impose any conditions upon the use of—

(i) with respect to a digital token, any disclosure document concerning an offer or sale of a digital token that is prepared by or on behalf of a person developing, offering, or selling a digital token; or

(ii) any proxy statement, report to digital token-holders, or other disclosure document relating to a digital token or a person developing, offering, or selling a digital token;

(C) shall directly or indirectly prohibit, limit, or impose conditions, based on the merits of a digital token offering or a person developing, offering, or selling a digital token, upon the offer or sale of any digital token; or

(D) shall directly or indirectly require the filing of any notices or other documents, or the assessment of any fees, with respect to digital tokens or digital token transactions.

Additionally, states and political subdivisions thereof shall retain jurisdiction under the laws of such State to investigate and bring enforcement actions with respect to fraud or deceit, or unlawful conduct by any person, in connection with digital tokens or digital token transactions.

Another important provision of the bill treats certain exchanges as non-taxable. The bill proposes to amend the Internal Revenue Code to state that exchange of virtual currency (as defined) shall be treated as if such exchange were an exchange of real property; that Gross income shall not include gain (up to \$600) from the sale or exchange of virtual currency for other than cash or cash equivalents.

It is too early to tell whether this bill has a chance of passing. If it does, it will be historic.

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