

§ 1.1001-7 Computation of gain or loss for digital assets.

(a) *In general.* This section provides rules to determine the amount realized for purposes of computing the gain or loss upon the sale, exchange, or other disposition of digital assets, as defined in § 1.6045-1(a)(19) other than a digital asset not required to be reported as a digital asset pursuant to § 1.6045-1(c)(8)(ii), (iii), or (iv).

(b) *Amount realized in a sale, exchange, or other disposition of digital assets for cash, other property, or services—(1) Computation of amount realized—(i) In general.* If digital assets are sold or otherwise disposed of for cash, other property differing materially in kind or in extent, or services, the amount realized is the excess of:

(A) The sum of:

(1) Any cash received;

(2) The fair market value of any property received or, in the case of a debt instrument described in paragraph (b)(1)(iv) of this section, the amount determined under paragraph (b)(1)(iv) of this section; and

(3) The fair market value of any services received; reduced by

(B) The amount of digital asset transaction costs, as defined in paragraph (b)(2)(i) of this section, allocable to the sale or disposition of the transferred digital asset, as determined under paragraph (b)(2)(ii) of this section.

(ii) *Digital assets used to pay digital asset transaction costs.* If digital assets are used or withheld to pay digital asset transaction costs, as defined in paragraph (b)(2)(i) of this section, such use or withholding is a disposition of the digital assets for services.

(iii) *Application of general rule to certain sales, exchanges, or other dispositions of digital assets.* The following paragraphs (b)(1)(iii)(A) through (C) of this section apply the rules of this section to certain sales, exchanges, or other dispositions of digital assets.

(A) *Sales or other dispositions of digital assets for cash.* The amount realized from the sale of digital assets for cash is the sum of the amount of cash received plus the fair market value of services received as described in paragraph (b)(1)(ii) of this section, reduced by the amount of digital asset trans-

action costs allocable to the disposition of the transferred digital assets, as determined under paragraph (b)(2)(ii) of this section.

(B) *Exchanges or other dispositions of digital assets for services, or certain property.* The amount realized on the exchange or other disposition of digital assets for services or property differing materially in kind or in extent, other than digital assets or debt instruments described in paragraph (b)(1)(iv) of this section, is the sum of the fair market value of such property and services received (including services received as described in paragraph (b)(1)(ii) of this section), reduced by the amount of digital asset transaction costs allocable to the disposition of the transferred digital assets, as determined under paragraph (b)(2)(ii) of this section.

(C) *Exchanges of digital assets.* The amount realized on the exchange of one digital asset for another digital asset differing materially in kind or in extent is the sum of the fair market value of the digital asset received plus the fair market value of services received as described in paragraph (b)(1)(ii) of this section, reduced by the amount of digital asset transaction costs allocable to the disposition of the transferred digital asset, as determined under paragraph (b)(2)(ii) of this section.

(iv) *Debt instrument issued in exchange for digital assets.* For purposes of this section, if a debt instrument is issued in exchange for digital assets and the debt instrument is subject to § 1.1001-1(g), the amount attributable to the debt instrument is determined under § 1.1001-1(g) (in general, the issue price of the debt instrument).

(2) *Digital asset transaction costs—(i) Definition.* The term *digital asset transaction costs* means the amounts paid in cash or property (including digital assets) to effect the sale, disposition or acquisition of a digital asset. Digital asset transaction costs include transaction fees, transfer taxes, and commissions.

(ii) *Allocation of digital asset transaction costs.* This paragraph (b)(2)(ii) provides the rules for allocating digital asset transaction costs to the sale or disposition of a digital asset. Accordingly, any other allocation or specific

assignment of digital asset transaction costs is disregarded.

(A) *In general.* Except as provided in paragraph (b)(2)(ii)(B) of this section, the total digital asset transaction costs paid by the taxpayer in connection with the sale or disposition of digital assets are allocable to the sale or disposition of the digital assets.

(B) *Special rule for allocation of certain cascading digital asset transaction costs.* This paragraph (b)(2)(ii)(B) provides a special rule in the case of a transaction described in paragraph (b)(1)(iii)(C) of this section (original transaction) and for which digital assets are withheld from digital assets acquired in the original transaction to pay the digital asset transaction costs to effect the original transaction. The total digital asset transaction costs paid by the taxpayer to effect both the original transaction and any disposition of the withheld digital assets are allocable exclusively to the disposition of digital assets in the original transaction.

(3) *Time for determining fair market value of digital assets.* Generally, the fair market value of a digital asset is determined as of the date and time of the sale or disposition of the digital asset.

(4) *Special rule when the fair market value of property or services cannot be determined.* If the fair market value of the property (including digital assets) or services received in exchange for digital assets cannot be determined with reasonable accuracy, the fair market value of such property or services must be determined by reference to the fair market value of the digital assets transferred as of the date and time of the exchange. This paragraph (b)(4), however, does not apply to a debt instrument described in paragraph (b)(1)(iv) of this section.

(5) *Examples.* The following examples illustrate the application of paragraphs (b)(1) through (3) of this section. Unless the facts specifically state otherwise, the transactions described in the following examples occur after the applicability date set forth in paragraph (c) of this section. For purposes of the examples under this paragraph (b)(5), assume that TP is a digital asset investor, and each unit of digital asset A, B, and C is materially different in kind or

in extent from the other units. See § 1.1012-1(h)(4) for examples illustrating the determination of basis of digital assets.

(i) *Example 1: Exchange of digital assets for services—(A) Facts.* TP owns a total of 20 units of digital asset A, and each unit has an adjusted basis of \$0.50. X, an unrelated person, agrees to perform cleaning services for TP in exchange for 10 units of digital asset A, which together have a fair market value of \$10. The fair market value of the services performed by X also equals \$10. X then performs the services, and TP transfers 10 units of digital asset A to X. Additionally, TP pays \$1 in cash of transaction fee to dispose of digital asset A.

(B) *Analysis.* Under paragraph (b)(1) of this section, TP has a disposition of 10 units of digital asset A for services received. Under paragraphs (b)(2)(i) and (b)(2)(ii)(A) of this section, TP has digital asset transaction costs of \$1, which must be allocated to the disposition of digital asset A. Under paragraph (b)(1)(i) of this section, TP's amount realized on the disposition of the units of digital asset A is \$9, which is the fair market value of the services received, \$10, reduced by the digital asset transaction costs allocated to the disposition of digital asset A, \$1. TP recognizes a gain of \$4 on the exchange (\$9 amount realized reduced by \$5 adjusted basis in 10 units).

(ii) *Example 2: Digital asset transaction costs paid in cash in an exchange of digital assets—(A) Facts.* TP owns a total of 10 units of digital asset A, and each unit has an adjusted basis of \$0.50. TP uses BEX, an unrelated third party, to effect the exchange of 10 units of digital asset A for 20 units of digital asset B. At the time of the exchange, each unit of digital asset A has a fair market value of \$2 and each unit of digital asset B has a fair market value of \$1. BEX charges \$2 per transaction, which BEX requires its customers to pay in cash. At the time of the transaction, TP pays BEX \$2 in cash.

(B) *Analysis.* Under paragraph (b)(2)(i) of this section, TP has digital asset transaction costs of \$2. Under paragraph (b)(2)(ii)(A) of this section, TP must allocate such costs (\$2) to the disposition of the 10 units of digital asset A. Under paragraphs (b)(1)(i) and (b)(3)

of this section, TP's amount realized from the exchange is \$18, which is the fair market value of the 20 units of digital asset B received (\$20) as of the date and time of the transaction, reduced by the digital asset transaction costs allocated to the disposition of digital asset A (\$2). TP recognizes a gain of \$13 on the exchange (\$18 amount realized reduced by \$5 adjusted basis in the 10 units of digital asset A).

(iii) *Example 3: Digital asset transaction costs paid with other digital assets—(A) Facts.* The facts are the same as in paragraph (b)(5)(ii)(A) of this section (the facts in *Example 2*), except that BEX requires its customers to pay transaction fees using units of digital asset C. TP has an adjusted basis in each unit of digital asset C of \$0.50. TP transfers 2 units of digital asset C to BEX to effect the exchange of digital asset A for digital asset B. TP also pays to BEX an additional unit of digital asset C for services rendered by BEX to effect the disposition of digital asset C for payment of the transaction costs. The fair market value of each unit of digital asset C is \$1.

(B) *Analysis.* TP disposes of 3 units of digital asset C for services described in paragraph (b)(1)(ii) of this section. Therefore, under paragraph (b)(2)(i) of this section, TP has digital asset transaction costs of \$3. Under paragraph (b)(2)(ii)(A) of this section, TP must allocate \$2 of such costs to the disposition of the 10 units of digital asset A. TP must also allocate \$1 of such costs to the disposition of the 3 units of digital asset C. None of the digital asset transaction costs are allocable to the acquired units of digital asset B. Under paragraphs (b)(1)(i) and (b)(3) of this section, TP's amount realized on the disposition of digital asset A is \$18, which is the excess of the fair market value of the 20 units of digital asset B received (\$20) as of the date and time of the transaction over the allocated digital asset transaction costs (\$2). Also, under paragraphs (b)(1)(i) and (b)(3) of this section, TP's amount realized on the disposition of the 3 units of digital asset C is \$2, which is the excess of the gross proceeds determined as of the date and time of the transaction over the allocated digital asset transaction costs of \$1. TP recognizes a gain of \$13

on the disposition of 10 units of digital asset A (\$18 amount realized over \$5 adjusted basis) and a gain of \$0.50 on the disposition of the 3 units of digital asset C (\$2 amount realized over \$1.50 adjusted basis).

(iv) *Example 4: Digital asset transaction costs withheld from the transferred digital assets in an exchange of digital assets—(A) Facts.* The facts are the same as in paragraph (b)(5)(ii)(A) of this section (the facts in *Example 2*), except that BEX requires its payment be withheld from the units of the digital asset transferred. At the time of the transaction, BEX withholds 1 unit of digital asset A. TP exchanges the remaining 9 units of digital asset A for 18 units of digital asset B.

(B) *Analysis.* The withholding of 1 unit of digital asset A is a disposition of a digital asset for services within the meaning of paragraph (b)(1)(ii) of this section. Under paragraph (b)(2)(i) of this section, TP has digital asset transaction costs of \$2. Under paragraph (b)(2)(ii)(A) of this section, TP must allocate such costs to the disposition of the 10 units of digital asset A. Under paragraphs (b)(1)(i) and (b)(3) of this section, TP's amount realized on the 10 units of digital asset A is \$18, which is the excess of the fair market value of the 18 units of digital asset B received (\$18) and the fair market value of services received (\$2) as of the date and time of the transaction over the allocated digital asset transaction costs (\$2). TP recognizes a gain on the 10 units of digital asset A transferred of \$13 (\$18 amount realized reduced by \$5 adjusted basis in the 10 units).

(v) *Example 5: Digital asset transaction fees withheld from the acquired digital assets in an exchange of digital assets—(A) Facts.* The facts are the same as in paragraph (b)(5)(iv)(A) of this section (the facts in *Example 4*), except that BEX requires its payment be withheld from the units of the digital asset acquired. At the time of the transaction, BEX withholds 3 units of digital asset B, 2 units of which effect the exchange of digital asset A for digital asset B and 1 unit of which effects the disposition of digital asset B for payment of the transaction fees. TP does not make an identification to BEX identifying other units of B as the units disposed.

(B) *Analysis.* The withholding of 3 units of digital asset B is a disposition of digital assets for services within the meaning of paragraph (b)(1)(ii) of this section. Under paragraph (b)(2)(i) of this section, TP has digital asset transaction costs of \$3. Under paragraph (b)(2)(ii)(B) of this section, TP must allocate such costs to the disposition of the 10 units of digital asset A in the original transaction. Under paragraphs (b)(1)(i) and (b)(3) of this section, TP's amount realized on the 10 units of digital asset A is \$17, which is the excess of the fair market value of the 20 units of digital asset B received (\$20) as of the date and time of the transaction over the allocated digital asset transaction costs (\$3). TP's amount realized on the disposition of the 3 units of digital asset B used to pay digital asset transaction costs is \$3, which is the fair market value of services received at the time of the transaction. TP recognizes a gain on the 10 units of digital asset A transferred of \$12 (\$17 amount realized reduced by \$5 adjusted basis in the 10 units). TP recognizes \$0 in gain or loss on the 3 units of digital asset B withheld (\$3 amount realized reduced by \$3 (adjusted basis in the 3 units)). See § 1.1012-1(j)(3)(iii) for the special rule for identifying the basis and holding period of the 3 units withheld.

(c) *Applicability date.* This section applies to all sales, exchanges, and dispositions of digital assets on or after January 1, 2025.

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§ 1.1002-1 Sales or exchanges.

(a) *General rule.* The general rule with respect to gain or loss realized upon the sale or exchange of property as determined under section 1001 is that the entire amount of such gain or loss is recognized except in cases where specific provisions of subtitle A of the code provide otherwise.

(b) *Strict construction of exceptions from general rule.* The exceptions from the general rule requiring the recognition of all gains and losses, like other exceptions from a rule of taxation of general and uniform application, are strictly construed and do not extend either beyond the words or the underlying assumptions and purposes of the exception. Nonrecognition is accorded

by the Code only if the exchange is one which satisfies both (1) the specific description in the Code of an excepted exchange, and (2) the underlying purpose for which such exchange is excepted from the general rule. The exchange must be germane to, and a necessary incident of, the investment or enterprise in hand. The relationship of the exchange to the venture or enterprise is always material, and the surrounding facts and circumstances must be shown. As elsewhere, the taxpayer claiming the benefit of the exception must show himself within the exception.

(c) *Certain exceptions to general rule.* Exceptions to the general rule are made, for example, by sections 351(a), 354, 361(a), 371(a)(1), 371(b)(1), 721, 1031, 1035 and 1036. These sections describe certain specific exchanges of property in which at the time of the exchange particular differences exist between the property parted with and the property acquired, but such differences are more formal than substantial. As to these, the Code provides that such differences shall not be deemed controlling, and that gain or loss shall not be recognized at the time of the exchange. The underlying assumption of these exceptions is that the new property is substantially a continuation of the old investment still unliquidated; and, in the case of reorganizations, that the new enterprise, the new corporate structure, and the new property are substantially continuations of the old still unliquidated.

(d) *Exchange.* Ordinarily, to constitute an exchange, the transaction must be a reciprocal transfer of property, as distinguished from a transfer of property for a money consideration only.

BASIS RULES OF GENERAL APPLICATION

§ 1.1011-1 Adjusted basis.

The adjusted basis for determining the gain or loss from the sale or other disposition of property is the cost or other basis prescribed in section 1012 or other applicable provisions of subtitle A of the code, adjusted to the extent provided in sections 1016, 1017, and 1018 or as otherwise specifically provided