



Protecting Financial Privacy, Innovation, and Fair Tax Policy: Why Congress Must Overturn the IRS's Overreach

The IRS's non-custodial broker rule (finalized in December)¹ is an unjust expansion of government surveillance that undermines privacy, innovation, and fair tax enforcement. Instead of targeting wealthy tax evaders or offshore havens, it imposes unnecessary reporting mandates on software developers and other infrastructure providers who are not financial intermediaries. The loser in all this is the consumer who simply wants to use the internet without handing her private data over to a corporate middleman. Congress should jointly resolve (S.J.Res.3² and H.J.Res.25³) to revoke this rule under the Congressional Review Act, and uphold civil liberties and America's leadership in innovation—without undermining legitimate tax enforcement.

Congress Already Required Real Crypto Brokers to Report

With the passage of the Infrastructure Investment and Jobs Act, lawmakers correctly ensured that crypto exchanges like Coinbase and Kraken must report customer transactions, just like traditional financial institutions. The IRS finalized this rule last July,⁴ aligning digital asset reporting with the same standards applied to banks and stockbrokers. But the IRS went further, finalizing a second rule in December that went far beyond congressional intent, reclassifying software developers and infrastructure providers as brokers—even though they do not have customers in the traditional sense or hold any customer assets or private information.

Forcing Consumers Back into Corporate Gatekeeping

Americans are tired of handing their private financial data to corporate intermediaries who exploit users with price discrimination, targeted advertising, and warrantless cooperation with law enforcement.

¹ Internal Revenue Service, 26 CFR Part 1 RIN 1545-BR39 Gross Proceeds Reporting by Brokers that Regularly Provide Services Effectuating Digital Asset Sales (Dec. 27, 2024)
<https://public-inspection.federalregister.gov/2024-30496.pdf>.

² S.J.Res.3 - A joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Internal Revenue Service relating to "Gross Proceeds Reporting by Brokers That Regularly Provide Services Effectuating Digital Asset Sales"
<https://www.congress.gov/bill/119th-congress/senate-joint-resolution/3/text>.

³ H.J.Res.25 - Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Internal Revenue Service relating to "Gross Proceeds Reporting by Brokers That Regularly Provide Services Effectuating Digital Asset Sales".
<https://www.congress.gov/bill/119th-congress/house-joint-resolution/25/text>

⁴ Internal Revenue Service 26 CFR Parts 1, 31, and 301 RIN 1545-BP71 "Gross Proceeds and Basis Reporting by Brokers and Determination of Amount Realized and Basis for Digital Asset Transactions" (July 7, 2024).
<https://www.federalregister.gov/documents/2024/07/09/2024-14004/gross-proceeds-and-basis-reporting-by-brokers-and-determination-of-amount-realized-and-basis-for>

Emerging distributed computing systems like Ethereum offer a way out, allowing users to transact without being forced to trust a centralized company with their personal information.

The IRS's January rule threatens this progress by forcing open-source developers into the role of financial middlemen. If enforced, it would reverse gains in consumer privacy and economic self-determination, forcing users back into the hands of corporate gatekeepers.

Congressional Intent Was Clear: This Rule Was Never Meant to Exist

Immediately after the Infrastructure Act's passage, a bipartisan group led by Senator Warner called for the IRS to avoid overreach in classifying software and infrastructure providers as brokers.⁵ Additionally, Senators Wyden and Lummis drafted a bill to ensure that the IRS would not overstep its authority.⁶ Senator Wyden wrote "Our bill makes clear that the new reporting requirements do not apply to individuals developing block chain technology and wallets. This will protect American innovation while at the same time ensuring those who buy and sell cryptocurrency pay the taxes they already owe."

The CRA Proposal Preserves Smart Tax Policy While Stopping Government Overreach

Critically, the current joint resolution under consideration (S.J.Res.3 and H.J.Res.25) would only revoke the December rule, preventing the IRS from forcing software developers and infrastructure providers to collect private data they should not be handling. The IRS's July rule—requiring real brokers like Coinbase and Kraken to report transactions—remains intact.

Congress Must Act Now to Protect Financial Privacy and Innovation

The Congressional Review Act (CRA) provides a critical tool to prevent executive overreach that threatens civil liberties while preserving fair tax policy. This is not about politics—it's about protecting privacy, stopping unnecessary financial surveillance, and ensuring that tax enforcement is fair and effective. Lawmakers who care about financial privacy, fair taxation, and innovation should act now to revoke this misguided IRS rule—before it harms consumers, stifles progress, and undermines economic opportunity. Coin Center hopes you will defend our civil liberties and vote yes on the joint resolution (S.J.Res.3 and H.J.Res.25).

***About Coin Center:** A non-partisan, independent, non-profit, our mission is to defend the rights of individuals to build and use free and open cryptocurrency networks: the right to write and publish code—to read and to run it. The right to assemble into peer-to-peer networks. And the right to do all this privately. We are not a trade association and do not represent the interests of any businesses in crypto. Instead, our goal is to represent and defend the underlying technology itself as a public good: a series of free and open tools and networks through which anyone can control their own assets and transactions, and upon which anyone is free to innovate and build.*

⁵ Letter to Treasury Secretary Janet Yellen, Sen. Mark Warner et al., December 14, 2021, <https://www.warner.senate.gov/public/index.cfm/2021/12/warner-portman-bipartisan-colleagues-urge-treasury-secretary-to-implement-cryptocurrency-provision-in-bipartisan-infrastructure-law-effectively>.

⁶ Wyden & Lummis Introduce Bill to Fix Broker Definition for Digital Assets, Sen. Cynthia Lummis et al. November 15, 2021, <https://www.lummis.senate.gov/press-releases/wyden-lummis-introduce-bill-to-fix-broker-definition-for-digital-assets/>.