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(Original Signature of Member)

118TH CONGRESS
1ST SESSION

H. R. _____

To amend the Internal Revenue Code of 1986 to treat gains realized from the sale of digital assets as ordinary income and to apply the wash sale rules to digital assets and to direct the Commissioner of the Securities and Exchange Commission to make recommendations relating to classes of assets to be considered digital assets to the Secretary of the Treasury.

IN THE HOUSE OF REPRESENTATIVES

Mr. SHERMAN introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to treat gains realized from the sale of digital assets as ordinary income and to apply the wash sale rules to digital assets and to direct the Commissioner of the Securities and Exchange Commission to make recommendations relating to classes of assets to be considered digital assets to the Secretary of the Treasury.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Cryptocurrency Tax-
3 ation Act of 2023”.

4 **SEC. 2. TREATMENT OF GAINS AND LOSSES FROM SALE OF**
5 **DIGITAL ASSETS.**

6 (a) IN GENERAL.—Part IV of subchapter P of chap-
7 ter 1 of subtitle A of the Internal Revenue Code of 1986
8 is amended by adding at the end the following new section:

9 **“SEC. 1261. TREATMENT OF GAINS AND LOSSES FROM SALE**
10 **OF DIGITAL ASSETS.**

11 “(a) TREATMENT OF GAIN.—Gain from the sale or
12 exchange of a digital asset shall be treated as ordinary
13 income.

14 “(b) TREATMENT OF LOSS.—Loss from the sale or
15 exchange of a digital asset shall be treated as a capital
16 loss.

17 “(c) DIGITAL ASSET DEFINED.—For purposes of
18 this section, the term ‘digital asset’ has the meaning given
19 such term in section 6045(g)(3).”.

20 (b) CLERICAL AMENDMENT.—Part IV of subchapter
21 P of chapter 1 of subtitle A of such Code is amended by
22 adding at the end the following new item:

“Sec. 1261. Treatment of gains and losses from sale of digital assets.”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to sales or exchanges after the date
25 of the enactment of this Act.

1 **SECTION 3. LOSS FROM SALE OF DIGITAL ASSETS SUBJECT**
2 **TO WASH SALE RULE.**

3 (a) IN GENERAL.—Section 1091 of the Internal Rev-
4 enue Code of 1986 is amended—

5 (1) by striking “For purposes of this section,
6 the term ‘stock or securities’ shall, except as pro-
7 vided in regulations, include contracts or options to
8 acquire or sell stock or securities.”,

9 (2) by striking “shares of” each place such
10 term appears,

11 (3) by striking “stock or securities” and insert-
12 ing “covered securities” each place such term ap-
13 pears,

14 (4) in subsection (e), by inserting “except that
15 such term shall include a futures contract relating to
16 a digital asset (as defined in section 6045(g)(3))”
17 before the period in the matter following paragraph
18 (2), and

19 (5) by adding at the end the following new sub-
20 section:

21 “(g) COVERED SECURITY.—For purposes of this sec-
22 tion, the term ‘covered security’ means—

23 “(1) a digital asset (as defined in section
24 6045(g)(3)),

25 “(2) a share of a stock or a security, or

1 “(3) except as provided in regulations, a con-
2 tract or option to acquire or sell a digital asset or
3 share of stock or a security.”.

4 (b) **EFFECTIVE DATE.**—The amendments made by
5 this section shall apply to dispositions after the date of
6 the enactment of this Act.

7 **SEC. 4. RECOMMENDATIONS FROM SECURITIES AND EX-**
8 **CHANGE COMMISSION RELATING TO ASSETS**
9 **TO BE CONSIDERED DIGITAL ASSETS FOR**
10 **TAX PURPOSES.**

11 The Commissioner of the Securities and Exchange
12 Commission shall recommend such classes of assets as
13 such Commissioner determines appropriate to the Sec-
14 retary of the Treasury to be considered digital assets
15 under section 6045(g)(3)(D) of the Internal Revenue Code
16 of 1986.