Prop. Reg. Section 1.1012-1(j)(4)
Basis of property

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(h) Determination of basis of digital assets-

(1) Overview and general rule. This paragraph (h) provides rules to determine the basis 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), received in a purchase for cash, a transfer in connection with the performance of services, an exchange for digital assets or other property differing materially in kind or in extent, an exchange for a debt instrument described in paragraph (h)(1)(v) of this section, or in a part sale and part gift transfer described in paragraph (h)(1)(vi) of this section. Except as provided in paragraph (h)(1)(ii), (v), and (vi) of this section, the basis of digital assets received in a purchase or exchange is generally equal to the cost thereof at the date and time of the purchase or exchange, plus any allocable digital asset transaction costs as determined under paragraph (h)(2)(ii) of this section.

(i) Basis of digital assets purchased for cash. The basis of digital assets purchased for cash is the amount of cash used to purchase the digital assets plus any allocable digital asset transaction costs as determined under paragraph (h)(2)(ii)(A) of this section.

(ii) Basis of digital assets received in connection with the performance of services. For rules regarding digital assets received in connection with the performance of services, see § § 1.61-2(d)(2) and 1.83-4(b).

(iii) Basis of digital assets received in exchange for property other than digital assets. The basis of digital assets received in exchange for property differing materially in kind or in extent, other than digital assets or debt instruments described in paragraph (h)(1)(v) of this section, is the cost as described in paragraph (h)(3) of this section of the digital assets received plus any allocable digital asset transaction costs as determined under paragraph (h)(2)(ii)(A) of this section.

(iv) Basis of digital assets received in exchange for other digital assets. The basis of digital assets received in an exchange for other digital assets differing materially in kind or in extent is the cost as described in paragraph (h)(3) of this section of the digital assets received.

(v) Basis of digital assets received in exchange for the issuance of a debt instrument. If a debt instrument is issued in exchange for digital assets, the cost of the digital assets attributable to the debt instrument is the amount determined under paragraph (g) of this section, plus any allocable digital asset transaction costs as determined under paragraph (h)(2)(ii)(A) of this section.

(vi) Basis of digital assets received in a part sale and part gift transfer. To the extent digital assets are received in a transfer, which is in part a sale and in part a gift, see § 1.1012-2.

(2) Digital asset transaction costs-
(i) Definition. The term digital asset transaction costs under this paragraph (h) has the same meaning as in § 1.1001-7(b)(2)(i).
(ii) Allocation of digital asset transaction costs. This paragraph (h)(2)(ii) provides the rules for allocating digital asset transaction costs, as defined in paragraph (h)(2)(i) of this section, for transactions described in paragraph (h)(1) of this section. Any other allocation or specific assignment of digital asset transaction costs is disregarded.
(A) Allocation of digital asset transaction costs on a purchase or exchange for digital assets. Except as provided in paragraphs (h)(2)(ii)(B) and (C) of this section, the total digital asset transaction costs paid by the taxpayer in connection with an acquisition of digital assets are allocable to the digital assets received.
(B) Special rule for the allocation of digital asset transaction costs paid to effect an exchange of digital assets for other digital assets. Except as provided in paragraph (h)(2)(ii)(C) of this section, the total digital asset transaction costs paid by the taxpayer, to effect an exchange described in paragraph (h)(1)(iv) of this section are allocable exclusively to the disposition of the transferred digital assets.
(C) Special rule for allocating certain cascading digital asset transaction costs. This paragraph (h)(2)(ii)(C) provides a special rule for an exchange described in paragraph (h)(1)(iv) 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) Determining the cost of the digital assets received. In the case of an exchange described in either paragraph (h)(1)(iii) or (iv) of this section, the cost of the digital assets received is the same as the fair market value used in determining the amount realized on the sale or disposition of the transferred property for purposes of section 1001 of the Code. Generally, the cost of a digital asset received is determined at the date and time of the exchange. The special rule in § 1.1001-7(b)(4) also applies in this section for purposes of determining the fair market value of a received digital asset when it cannot be determined with reasonable accuracy.
(4) Examples. The following examples illustrate the application of paragraphs (h)(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 (h)(5) of this section. For purposes of the examples under this paragraph (h)(4), assume that TP is a digital asset investor, and that digital assets A, B, and C are materially different in kind or in extent from each other. See § 1.1001-7(b)(5) for examples illustrating the determination of the amount realized and gain or loss in a sale

or disposition of a digital asset for cash, other property differing materially in kind or in extent, or services.

    (i) Example 1: Transaction fee paid in cash-

        (A) Facts. TP uses BEX, an unrelated third party, to exchange 10 units of digital asset A for 20 units of digital asset B. At the time of the exchange, a unit of digital asset A has a fair market value of $2, and a unit of digital asset B has a fair market value of $1. BEX charges TP a transaction fee of $2, which TP pays to BEX in cash at the time of the exchange.

        (B) Analysis. Under paragraph (h)(2)(i) of this section, TP has digital asset transaction costs of $2. Under paragraph (h)(2)(ii)(B) of this section, TP allocates the digital asset transaction costs ($2) to the disposition of the 10 units of digital asset A. Under paragraphs (h)(1)(iv) and (h)(3) of this section, TP's basis in the 20 units of digital asset B received is $20, which is the sum of the fair market value of the 20 units of digital asset B received ($20).

    (ii) Example 2: Transaction fee paid in other property-

        (A) Facts. The facts are the same as in paragraph (h)(4)(i)(A) of this section (the facts in Example 1), except that BEX requires its customers to pay transaction fees using units of digital asset C. TP pays the transaction fees using 2 units of digital asset C that TP holds. At the time TP pays the transaction fees, each unit of digital asset C has a fair market value of $1. TP acquires 20 units of digital asset B with a fair market value of $20 in the exchange.

        (B) Analysis. Under paragraph (h)(2)(i) of this section, TP has digital asset transaction costs of $2. Under paragraph (h)(2)(ii)(B) of this section, TP must allocate the digital asset transaction costs ($2) to the disposition of the 10 units of digital asset A. Under paragraphs (h)(1)(iv) and (h)(3) of this section, TP's basis in the 20 units of digital asset B is $20, which is the sum of the fair market value of the 20 units of digital asset B received ($20).

    (iii) Example 3: Digital asset transaction costs withheld from the transferred digital assets-

        (A) Facts. The facts are the same as in paragraph (h)(4)(i)(A) of this section (the facts in Example 1), except that BEX withholds 1 unit of digital asset A in payment of the transaction fees and TP receives 18 units of digital asset B.

        (B) Analysis. Under paragraph (h)(2)(i) of this section, TP has digital asset transaction costs of $2. Under paragraph (h)(2)(ii)(B) of this section, TP must allocate the digital asset transaction costs ($2) to the disposition of the 10 units of digital asset A. Under paragraphs (h)(1)(iv) and (h)(3) of this section, TP's total basis in the digital asset B units is $18, which is the sum of the fair market value of the 18 units of digital asset B received ($18).

(5) Applicability date. This paragraph (h) is applicable to all acquisitions and dispositions of digital assets on or after January 1, 2025.

(i) [Reserved]

(j) Sale, disposition, or transfer of digital assets. Paragraphs (j)(1) and (2) of this section apply to digital assets not held in the custody of a broker, such as digital assets that are held in an unhosted wallet. Paragraph (j)(3) of this section applies to digital assets held in the custody of a broker. For the definitions of the terms wallet, hosted wallet, unhosted wallet, and held in a wallet or account, as used in this paragraph (j), see § 1.6045-1(a)(25)(i) through (iv). For the definition of the term broker, see § 1.6045-1(a)(1). For the definition of the term digital asset, see § 1.6045-1(a)(19); however, a digital asset not required to be reported as a digital asset pursuant to § 1.6045-1(c)(8)(ii), (iii), or (iv) is not subject to the rules of this section.

(1) Digital assets not held in the custody of a broker. If a taxpayer sells, disposes of, or transfers less than all units of the same digital asset not held in the custody of the broker, such as in a single unhosted wallet or in a hosted wallet provided by a person other than a broker, the basis and holding period of the units sold, disposed of, or transferred are determined by making a specific identification of the units in the wallet that are sold, disposed of, or transferred, as provided in paragraph (j)(2) of this section. If a specific identification is not made, the basis and holding period of the units sold, disposed of, or transferred are determined by treating the units not held in the custody of a broker as sold, disposed of, or transferred in order of time from the earliest date on which units of the same digital asset not held in the custody of a broker were acquired by the taxpayer. For purposes of the preceding sentence, the date any units were transferred into the taxpayer's wallet is disregarded.

(2) Specific identification of digital assets not held in the custody of a broker. A specific identification of the units of a digital asset sold, disposed of, or transferred is made if, no later than the date and time of the sale, disposition, or transfer, the taxpayer identifies on its books and records the particular units to be sold, disposed of, or transferred by reference to any identifier, such as purchase date and time or the purchase price for the unit, that is sufficient to identify the units sold, disposed of, or transferred. A specific identification can be made only if adequate records are maintained for the unit of a specific digital asset not held in the custody of a broker to establish that a unit sold, disposed of, or transferred is removed from the wallet.

(3) Digital assets held in the custody of a broker. This paragraph (j)(3) applies to digital assets held in the custody of a broker.

(i) Unit of a digital asset sold, disposed of, or transferred. Except as provided in paragraph (j)(3)(iii) of this section, where multiple units of the same digital asset are held in the custody of a broker, as defined in § 1.6045-1(a)(1), and the taxpayer does not provide the broker with an adequate identification of which units are sold, disposed of, or transferred by the date and time of the sale, disposition, or transfer, as provided in paragraph (j)(3)(ii) of this section, the basis and holding period of the units sold, disposed of, or transferred are determined by treating the units held in the custody of the broker as sold, disposed of, or transferred in order of time from the earliest date on which units of the same digital asset held in the custody of a broker were acquired by the taxpayer. For purposes of the preceding sentence, the date any units were transferred into the custody of the broker is disregarded.

(ii) Adequate identification of units held in the custody of a broker. Except as provided in paragraph (j)(3)(iii) of this section, where multiple units of the same digital asset are held in the custody of a broker, as defined in § 1.6045-1(a)(1), an adequate identification occurs if, no later than the date and time of the sale, disposition, or transfer, the taxpayer specifies to the broker having custody of the digital assets the particular units of the digital asset to be sold, disposed of, or transferred by reference to any identifier, such as purchase date and time or purchase price, that the broker designates as sufficiently specific to identify the units sold, disposed of, or transferred. The taxpayer is responsible for maintaining records to substantiate the identification. A standing order or instruction for the specific identification of digital assets is treated as an adequate identification made at the time of sale, disposition, or transfer. In addition, a taxpayer's election to use average basis for a covered security for which average basis reporting is permitted and that is also a digital asset is also an adequate identification. In the case of a broker offering only one method of making a specific identification, such method is treated as a standing order or instruction.

(iii) Special rule for the identification of certain units withheld. Notwithstanding paragraph (j)(3)(i) or (ii) of this section, in the case of a transaction described in paragraph (h)(1)(iv) of this section (digital assets exchanged for different digital assets) and for which the broker withholds units of the same digital asset received for either the broker's backup withholding obligations under section 3406 of the Code, or for payment of services described in § 1.1001-7(b)(1)(ii) (digital asset transaction costs), the taxpayer is deemed to have made an adequate identification, within the meaning of paragraph (j)(3)(ii) of this section, for such withheld units regardless of any other adequate identification within the meaning of paragraph (j)(3)(ii) of this section designating other units of the same digital asset as the units sold, disposed of, or transferred.
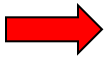
(4) Method for specifically identifying units of a digital asset. A method of specifically identifying the units of a digital asset sold, disposed of, or transferred under this paragraph (j), for example, by the earliest acquired, the latest acquired, or the highest basis, is not a method of accounting. Therefore, a change in the method of specifically identifying the digital asset sold, disposed of, or transferred, for example, from the earliest acquired to the latest acquired, is not a change in method of accounting to which sections 446 and 481 of the Code apply.

(5) Examples. The following examples illustrate the application of paragraphs (j)(1) through (j)(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 (j)(6) of this section. For purposes of the examples under this paragraph (j)(5), assume that TP is a digital asset investor and that the units of digital assets in the examples are the only digital assets owned by TP.

(i) Example 1: Identification of digital assets not held in the custody of a broker-
(A) Facts. On September 1, Year 2, TP transfers two lots of digital asset DE to a new digital asset address generated and controlled by an unhosted wallet, as defined in § 1.6045-1(a)(25)(iii). The first lot transferred into TP's wallet consists of 10 units of digital asset DE, with a purchase date of January 1, Year 1, and a basis of $2 per unit. The second lot transferred into TP's wallet consists of 20 units of digital asset DE, with a purchase

date of January 1, Year 2, and a basis of $5 per unit. On September 2, Year 2, when the DE units have a fair market value of $10 per unit, TP purchases $100 worth of consumer goods from Merchant M. To make payment, TP transfers 10 units of digital asset DE from TP's wallet to CPP, a processor of digital asset payments as defined in § 1.6045-1(a)(22), that then pays $100 to M, in a transaction treated as a sale by TP of the 10 units of digital asset DE. Prior to making the transfer to CPP, TP keeps a record that the 10 units of DE sold in this transaction were from the second lot of units transferred into TP's wallet.

(B) Analysis. Under the facts in paragraph (j)(5)(i)(A) of this section, TP's notation in its records on the date of sale, prior to the time of the sale, specifying that the 10 units sold were from the 20 units TP acquired on January 1, Year 2, is a specific identification within the meaning of paragraph (j)(2) of this section. TP's notation is sufficient to identify the 10 units of digital asset DE sold. Accordingly, TP has identified the units disposed of for purposes of determining the basis ($5 per unit) and holding period (one year or less) of the units sold in order to purchase the merchandise.

(ii) Example 2: Identification of digital assets not held in the custody of a broker-
(A) Facts. The facts are the same as in paragraph (j)(5)(i)(A) of this section (the facts in Example 1), except in making the transfer to CPP, TP did not keep a record at or prior to the time of the sale of the specific 10 units of digital asset DE that TP intended to sell.

(B) Analysis. TP did not make a specific identification within the meaning of paragraph (j)(2) of this section for the 10 units of digital asset DE that were sold. Pursuant to the ordering rule provided in paragraph (j)(1) of this section, the units disposed of are determined by treating the units held in the unhosted wallet as disposed of in order of time from the earliest date on which units of the same digital asset held in the unhosted wallet were acquired by the taxpayer. Accordingly, TP must treat the 10 units sold as the 10 units with a purchase date of January 1, Year 1, and a basis of $2 per unit, transferred into the wallet.

(iii) Example 3: Identification of digital assets held in the custody of a broker-
(A) Facts. On August 1, Year 1, TP opens a custodial account at CRX, a broker within the meaning of § 1.6045-1(a)(1), and purchases through CRX 10 units of digital asset DE for $9 per unit. On January 1, Year 2, TP opens a custodial account at BEX, an unrelated broker, and purchases through BEX 20 units of digital asset DE for $5 per unit. On August 1, Year 3, TP transfers the digital assets TP holds with CRX into TP's custodial account with BEX. BEX has a policy that purchase or transfer date and time, if necessary, is a sufficiently specific identifier for customers to determine the units sold, disposed of, or transferred. On September 1, Year 3, TP directs BEX to sell 10 units of digital asset DE for $10 per unit and specifies that BEX sell the units that were purchased on January 1, Year 2. BEX effects the sale.

(B) Analysis. No later than the date and time of the sale, TP specified to BEX the particular units of digital assets to be sold. Accordingly, under

paragraph (j)(3)(ii) of this section, TP provided an adequate identification of the 10 units of digital asset DE sold. Accordingly, the 10 units of digital asset DE that TP sold are the 10 units that TP purchased on January 1, Year 2.

(iv) Example 4: Identification of digital assets held in the custody of a broker-
   (A) Facts. The facts are the same as in paragraph (j)(5)(iii)(A) of this section (the facts in Example 3) except that TP directs BEX to sell 10 units of digital asset DE but does not make any identification of which units to sell. Additionally, TP does not provide purchase date information to BEX with respect to the units transferred into TP's account with BEX.
   (B) Analysis. Because TP did not specify to BEX no later than the date and time of the sale the particular units of digital assets to be sold, TP did not make an adequate identification within the meaning of paragraph (j)(3)(ii) of this section. Thus, the ordering rule provided in paragraph (j)(3)(i) of this section applies to determine the units of digital asset DE sold. Pursuant to this rule, the units sold must be determined by treating the units held in the custody of the broker as disposed of in order of time from the earliest date on which units of the same digital asset held in the custody of a broker were acquired by the taxpayer. The 10 units of digital asset DE sold must be attributed to the 10 units of digital asset DE acquired on August 1, Year 1, which are the earliest units of digital asset DE acquired by TP that are held in TP's account with BEX. In addition, because TP did not provide to BEX customer-provided acquisition information as defined in § 1.6045-1(d)(2)(ii)(B)(4) with respect to the units transferred into TP's account with BEX (or adopt a standing order to follow the ordering rule applicable to BEX under § 1.6045-1(d)(2)(ii)(B)(2)), the units determined as sold by BEX under § 1.6045-1(d)(2)(ii)(B)(1) and that BEX will report as sold under § 1.6045-1 are not the same units that TP must treat as sold under this section. See § 1.6045-1(d)(2)(vii)(C) (Example 3).

(v) Example 5: Identification of the digital asset used to pay certain digital asset transaction costs-
   (A) Facts. On January 1, Year 1, TP purchases 10 units of digital asset AB and 30 units of digital asset CD in a custodial account with DRX, a broker within the meaning of § 1.6045-1(a)(1). DRX has a policy that purchase or transfer date and time, if necessary, is a sufficiently specific identifier by which its customers may identify the units sold, disposed of, or transferred. On June 30, Year 2, TP directs DRX to purchase 10 additional units of digital asset AB with 10 units of digital asset CD. DRX withholds one unit of the digital asset AB received for transaction fees. TP does not make any identification of the 1 unit of digital asset AB withheld by DRX. TP engages in no other transactions.
   (B) Analysis. DRX's withholding of 1 unit of digital asset AB from the 10 units acquired by TP is a disposition by TP of the 1 unit as of June 30, Year 2. See § § 1.1001-7 and 1.1012-1(h) for determining the amount realized and basis of the disposed unit, respectively. Despite TP not making an adequate identification, within the meaning of paragraph

(j)(3)(ii) of this section to DRX of the 1 unit withheld, under the special rule of paragraph (j)(3)(iii) of this section, the withheld unit of AB must be attributed to the units of AB acquired on June 30, Year 2 and held in TP's account with DRX.

(vi) Example 6: Identification of the digital asset used to pay certain digital asset transaction costs-

(A) Facts. The facts are the same as in paragraph (j)(5)(v)(A) of this section (the facts in Example 5) except that TP has a standing order with BEX to treat the earliest unit purchased in TP's account as the unit sold, disposed of, or transferred.

(B) Analysis. The transaction is an exchange of digital assets for different digital assets and for which the broker withholds units of the same digital asset received in order to pay digital asset transaction costs. Accordingly, although TP's standing order to treat the earliest unit purchased in TP's account (that is, the units purchased by TP on January 1, Year 1) as the units sold is an adequate identification under paragraph (j)(3)(ii) of this section, TP is deemed to have made an adequate identification for such withheld units pursuant to paragraph (j)(3)(iii) of this section regardless of TP's adequate identification designating other units as the units sold. Thus, the results are the same as provided in paragraph (j)(5)(v)(B) of this section (the analysis in Example 5).

(6) Applicability date. This paragraph (j) is applicable to all acquisitions and dispositions of digital assets on or after January 1, 2025.