

No Paper, No Problem: IRS Loosens Form 1099-DA Consent Rules for Digital Asset Brokers

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The U.S. Treasury Department and the Internal Revenue Service (IRS) have recently released proposed regulations (REG-105064-25) aimed at easing the administrative burden on digital asset brokers by loosening the requirements for obtaining customer consent to electronically deliver information reporting forms (Form 1099-DA, *Digital Asset Proceeds From Broker Transactions*).

CURRENT REQUIREMENTS

The existing statutory framework under Section 6045 of the Internal Revenue Code imposes strict requirements on brokers regarding the delivery of payee statements, typically on or before February 15 following the conclusion of the calendar year. Penalties may apply under section 6722 for any failure to furnish payment statements, as well as in situations where all required information has not been provided, or where incorrect information has been provided on the payment statement.

Importantly, if a customer does not affirmatively consent to electronic receipt, the existing rules mandate that the broker *must* furnish Forms 1099-DA on paper. See Treas. Reg. §§ 1.6045-1(k), 31.6051-1(j). Furthermore, if a customer initially consents to electronic delivery but later decides to withdraw that consent, the broker is again legally required to provide the statement in a paper format.

EXISTING PAPER REQUIREMENT NO MORE

The new proposed regulations introduce an alternative process under proposed Treas. Reg. § 1.6045-1(k)(5) that significantly relaxes these requirements.

Under proposed Treas. Reg. § 1.6045-1(k)(5)(i), brokers would no longer be *required* to offer a paper delivery alternative when obtaining a customer's consent to receive Form 1099-DA statements electronically nor give customers the ability to withdraw their consent once it has been provided. Furthermore, and perhaps most notably, as described by the preamble to the proposed regulations, proposed Treas. Reg. § 1.6045-1(k)(5)(iii)(C)(5) explicitly permits brokers to limit their services or terminate their business relationship with customers withholding electronic consent to avoid compliance failures.

The preamble to the proposed regulations notes the unique nature of the digital asset market, where digital asset customers buy and sell almost exclusively through electronic means, as justifying the move toward electronic-only delivery. Because some customers engage in a large number of digital asset transactions each year, the IRS concluded that the cost of printing and mailing paper 1099-DA statements could be “unnecessarily burdensome” for brokers.

Proposed Treas. Reg. § 1.6045-1(k)(5)(ii) outlines two qualified electronic delivery methods that brokers are permitted to use when transmitting electronic Form 1099-DAs. Under the direct transmittal option of proposed Treas. Reg. § 1.6045-1(k)(5)(ii)(B)(1), brokers may transmit the statements directly to the customer by attaching them to, or including them with, an email. Furthermore, under proposed Treas. Reg. § 1.6045-1(k)(5)(ii)(A)(1), brokers may post the 1099-DA statements to a specified, electronically accessible location (such as a website or mobile device application) and send an email notifying the customer that the document is available.

Furthermore, the proposed regulations state that brokers must provide continuing access to these documents on their website through October 15 of the year that the documents are issued.

NEXT STEPS

Digital asset brokers should begin evaluating their electronic delivery infrastructure and otherwise prepare to implement these rules, which will likely apply to 1099-DA statements required to be furnished on or after January 1, 2027.^[1] The proposed regulations note that the IRS is accepting comments and requests for a public hearing on these proposed regulations until May 5, 2026.

If you have any questions or need additional information, feel free to contact the authors or your Winston & Strawn relationship partner.

[1] The proposed regulations state that the proposed rules would apply to 1099-DA statements required to be furnished on or after January 1 of the calendar year immediately following the date of publication of the final regulations.

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