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Green Trader Tax

Cryptocurrencies & Digital Assets – Tax Treatment in 2025

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Capital you invest is at risk

CRYPTOCURRENCIES & DIGITAL ASSETS TAX TREATMENT IN 2025

greenTraderTax

September 3, 2025

Noon EST (60 minutes)

(Interactive Brokers)

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Description

Join Robert A. Green, CPA, for an in-depth webinar on crypto and digital asset taxation in 2025. This 60-minute session will cover the latest IRS rules and legislation impacting investors and traders, including spot cryptocurrencies, Bitcoin and Ether futures, options on futures, crypto ETFs, stablecoins under the GENIUS Act, tokenized assets, and NFTs. You'll learn:

- Which digital assets are taxed as property and which qualify for Section 1256's favorable 60/40 tax rates.
- How wash sale rules may apply to tokenized securities.
- What to expect from the new Form 1099-DA reporting requirements.

- The webinar will also highlight Trader Tax Status strategies, tax accounting methods for digital assets, and leading accounting software solutions—equipping participants with the knowledge to stay compliant and optimize tax outcomes in 2025.

DIGITAL ASSETS TAX TREATMENT

Spot Cryptocurrencies

- Direct ownership of coins like Bitcoin (BTC) or Ethereum (ETH), purchased via exchanges or wallets, is taxed as property under IRS Notice 2014-21.
- Capital gains/losses are realized upon sale or exchange.
- Not subject to wash sale rules, enabling immediate repurchase for tax-loss harvesting.
- The Section 475 MTM election is not available, even for trader tax status (TTS), as Section 475 only applies to securities and/or commodities (futures).

Bitcoin & Crypto Futures (CME)

- CME Bitcoin (BTC) and Ether (ETH) futures are regulated, cash-settled futures contracts (RFCs) traded on a U.S. Qualified Board or Exchange (CME Group). They settle in cash, not the actual digital asset.
- Qualify for Section 1256 tax treatment — 60% long-term / 40% short-term capital gains, MTM annually on Form 6781 — and are exempt from wash sale rules.
- Example: $100,000 of gains on futures taxed at a 26.8% (top 60/40 blended tax rate) vs. 37% (top ordinary tax rate) results in a savings of $10,200 (10.2%).

Bitcoin & Crypto Options on Futures (CME)

- Options on CME-listed Bitcoin/Ether futures (including Micro BTC and Micro ETH) qualify for Section 1256 as non-equity options listed on a QBE:

- 60/40 capital gains, MTM annually, no wash sale rules.

- Only options traded on a QBE in the U.S., like the CME, qualify for Section 1256 treatment.

- Options traded on offshore platforms or non-regulated exchanges do not.

Bitcoin Futures ETFs (e.g., BITO) (1/2)

- Structured as Regulated Investment Companies (RICs), these ETFs invest primarily in CME Bitcoin futures.
- Investors hold ETF RIC shares (securities) rather than direct futures positions.
- The ETF itself marks to market under Section 1256, resulting in a 60/40 gain split at the fund level.
- The investor *indirectly* benefits from the lower 60/40 tax treatment in the 1099-DIV's allocation of short-term and long-term capital gains.
- The investor doesn't file Form 6781 on these RIC shares.

Bitcoin Futures ETFs (e.g., BITO) (2/2)

- Bitcoin futures ETFs, structured as RICs (e.g., BITO), are securities for tax purposes and, therefore, *are* subject to wash sale loss rules, which can disallow losses when repurchased within 30 days.

- While the underlying CME Bitcoin futures are regulated futures contracts on a QBE, the ETF RIC “wrapper” changes the classification to RIC, a security.

Spot Bitcoin ETFs (e.g., IBIT, FBTC)

- Structured as exchange-traded grantor trusts, it’s a look-through vehicle.
- The underlying asset is considered property, so capital gains/losses are realized upon sale, with no wash sale rule or application of Section 475.
- This means that when you own shares in these exchange-traded grantor trusts, you hold a direct, proportionate interest in the underlying asset—bitcoin held in custody by the trust.
- Tax-wise, it’s similar to buying and selling spot Bitcoin (property).

Tokenized Assets

- Digital representations of real-world assets (such as stocks, bonds, real estate, or commodities) issued and tracked on a blockchain.
- The legal and tax treatment of these assets depends on whether they qualify as regulated securities under U.S. law.
- SEC-registered tokenized securities are subject to wash sale rules (or Section 475 for TTS traders only).
- In contrast, unregulated tokens are treated as property and not subject to wash sale rules or Section 475.
- The 2025 Form 1099-DA includes guidance on tokenized securities and wash sale tracking.

Tokenized digital assets in real estate

St. Regis Aspen Resort – Colorado, USA

In 2018, the St. Regis Aspen Resort launched a **tokenized real estate offering** through Aspen Digital, selling security tokens backed by equity in the luxury hotel.

Investors could purchase digital shares via blockchain rather than traditional real estate shares.

Aspen Digital Token ("Aspen Coin")

Ticker: ASPD

Represents ownership in the St. Regis Aspen Resort via an asset-backed security token on platforms like tZERO and Tezos.

Stablecoins

- Stablecoins are a category of digital assets designed to maintain a stable value by pegging to an external reference, most commonly the **U.S. dollar** (USD).

- Unlike cryptocurrencies such as Bitcoin or Ether, which can be highly volatile, stablecoins aim to provide price stability—making them useful for payments, remittances, and as a bridge between digital assets and fiat currency.

- They are treated as property for tax purposes.

Examples of Stablecoins

- Tether – USDT
- USD Coin – USDC
- DAI – DAI
- Ethena USD – USDE
- PayPal USD – PYUSD

- These stablecoins are widely used for trading, payments, and liquidity across DeFi and traditional platforms.

- Many are backed by U.S. dollars or high-quality collateral, offering relative stability in volatile markets.

The GENIUS Act Affects Stablecoins

- The GENIUS Act, signed into law on July 18, 2025, creates the first federal **framework for U.S. payment stablecoins**.
- It limits issuance to approved banks and regulated entities, **requires a 1:1 reserve in dollars or Treasuries**, and mandates AML/KYC compliance.
- Holders gain bankruptcy protections, while compliant stablecoins are **expressly excluded from being treated as securities or commodities.**
- Full implementation awaits further Treasury and OCC rulemaking, but the Act delivers long-awaited clarity for stablecoin markets.

Staking, Mining, Airdrops, Hard Forks

- Staking earns rewards for validating proof-of-stake
- Mining earns coins for proof-of-work
- Airdrops distribute free tokens
- Hard forks create new coins
- Ordinary income at FMV when received and when the taxpayer has dominion and control.
- Later sales produce capital gains and losses.

Crypto Lending & Interest

- Lending via DeFi or centralized platforms generates ordinary income when received.

- Repayment in crypto may result in capital gains or losses if the value changes.

Summary Table

Type	Example(s)	Structure	Tax Treatment	Wash Sale Rules	Section 1256 Eligible
Spot Cryptocurrency	BTC, ETH	Direct ownership	Property – cap gains/losses	No	No
Bitcoin/Crypto Futures	CME BTC, CME ETH	Regulated futures on QBE	60/40, MTM, Form 6781	No	Yes
Bitcoin Futures ETFs	BITO	RIC investing in CME futures	Fund-level 60/40 / 1099-DIV	Yes (security)	Indirect only
Spot Bitcoin ETFs	IBIT, FBTC	Grantor trust	Property – gains/losses	No	No
Tokenized Assets	Tokenized stocks, bonds	Depends on regulation	Securities: wash sale; Property: capital gains/losses	Varies	Varies
CME Options	CME BTC/ETH options	Non-equity options on QBE	60/40, MTM, Form 6781	No	Yes
Stablecoins	USDC, USDT	Pegged to Fiat	Property – gains/losses	No	No

COMPLIANCE HIGHLIGHTS

Compliance Highlights

- **Section 6050I $10K Receipt Reporting:** Implementation delayed.
- **Tax Return Question:** Required on Forms 1040 and 1120-S. Whether they received (as a reward, award, or payment for property or services), or sold, exchanged, or otherwise disposed of a digital asset (or a financial interest in a digital asset).
- **Worthless/Abandonment Losses:** Must have a sale or abandonment for deduction. Section 165 is for securities only, not property.

2025 IRS FORM 1099-DA

Broker Reporting (Form 1099-DA)

- IRS/Treasury finalized digital-asset broker rules in mid- and late-2024.
- Brokers must report gross proceeds for 2025 transactions on the 2026 Forms and the cost basis for 2026 transactions on the 2027 Forms.
- These rules apply to custodial platforms, specific hosted wallets, kiosks, and PDAPs
- Non-custodial broker rules will be addressed separately.

IRS Form 1099-DA

- Box 1i addresses wash sale loss disallowed on securities, and WSL rules currently do not apply to property.

- If the asset is a tokenized security that meets the definition of a “security” under Section 1091, then wash sale losses may be applicable.

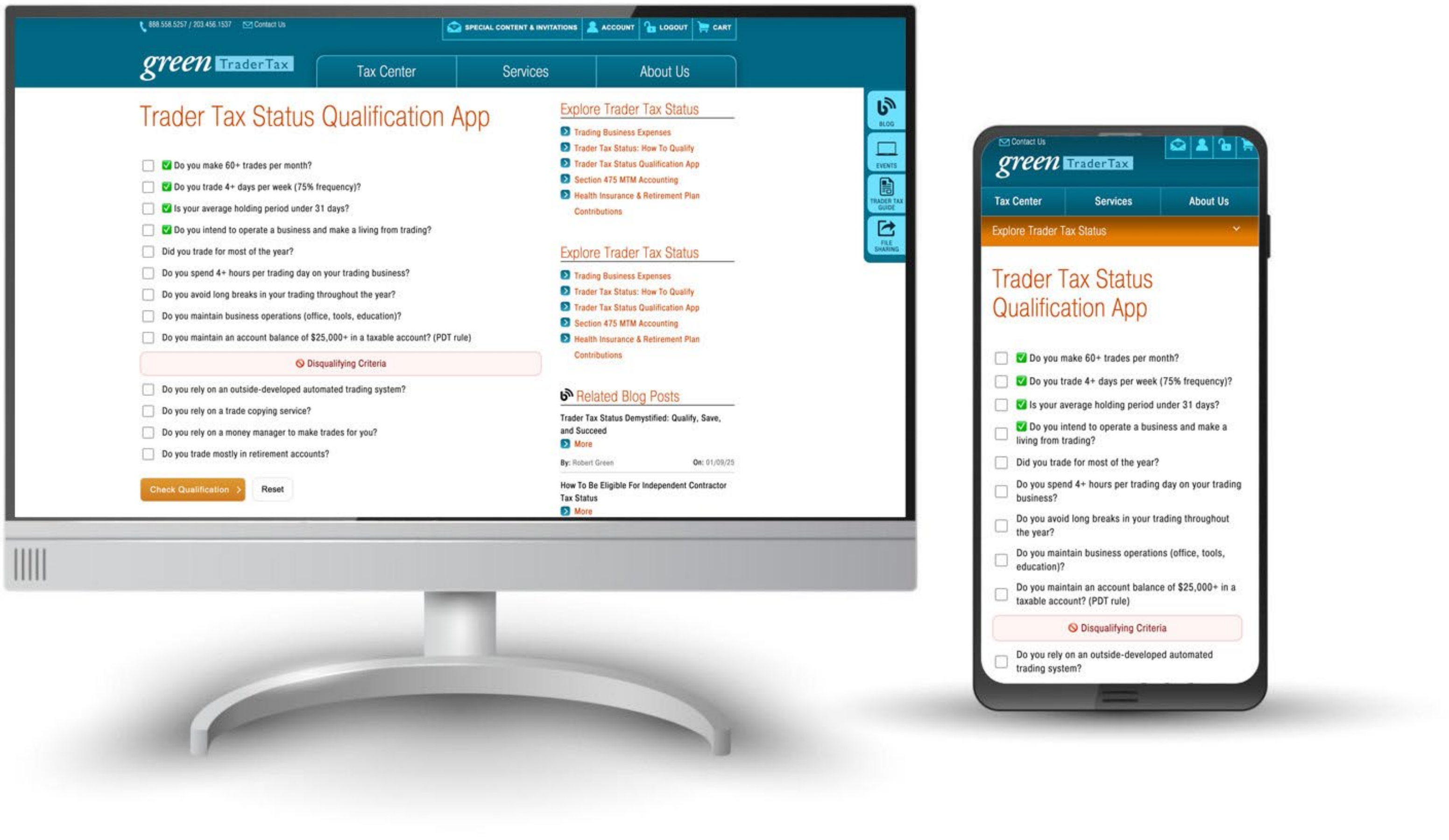
- WSL also applies to Bitcoin Futures ETFs taxed as RICs, a security.

TRADER TAX STATUS

Trader Tax Status & Section 475

- Digital asset traders are eligible for Trader Tax Status (TTS), which allows business expense treatment.
- A Section 475 ordinary gain or loss election is available to TTS traders in securities and commodities (Section 1256 contracts). Most futures traders prefer to retain lower 60/40 tax rates without Section 475.
- Section 475 is not available on property, which includes spot cryptocurrencies, spot cryptocurrency ETFs, and stablecoins.
- Section 475 is helpful for securities to avoid wash sale losses, the capital loss limitation, and QBI deductions.
- Some digital assets are securities, including Bitcoin futures ETFs structured as RICs. Certain tokenized assets may also be classified as securities if they meet SEC criteria.

Green’s Trader Tax Status Qualification App



Digital Asset Tax Accounting

DIGITAL ASSET TAX ACCOUNTING

Taxable Events for Digital Assets (1/2)

Taxable income, gains, or losses can result from:

- Selling for fiat currency (e.g., Bitcoin for U.S. dollars)
- Exchanging for property, goods, or services (e.g., buying a car with Bitcoin)
- Swapping one digital asset for another (e.g., Bitcoin for Ether)
- Receiving digital assets as payment (e.g., selling consulting services for Bitcoin)

Taxable Events for Digital Assets (2/2)

- Acquiring new assets through hard forks (e.g., Bitcoin Cash). Note: a hard fork alone, without an airdrop, does not trigger income recognition.
- Earning through mining or staking (e.g., staking rewards for proof-of-stake; mining coins for proof-of-work)
- Receiving assets via an airdrop (e.g., distribution of free tokens)
- Any other disposal of a digital asset interest.

Determining Basis & Amount Realized For Digital Assets

- **Determining Basis**
  The basis of purchased or exchanged digital assets is generally the amount paid or the FMV of property received, plus any allocable transaction costs.

- Assets received for services have a basis equal to the FMV of those services.

- **Amount Realized**
  The amount realized includes cash received, FMV of property or debt instruments received, and FMV of services received, less allocable transaction costs.

- Using digital assets to pay these costs is an additional taxable disposition.

- FMV is measured at the date and time of the exchange or disposition.

Digital Asset Transaction Costs

- Transaction costs—fees, transfer taxes, commissions, and similar amounts—add to the basis when acquiring an asset and reduce the amount realized upon disposition.

- For asset-for-asset trades, all costs are allocated to the disposed asset.

Accounting Method For Digital Assets

- Specific identification is allowed if you can substantiate the basis of units sold.

- Identification can be made using unique digital identifiers or detailed transaction records showing acquisition and disposition dates, basis, FMV, and proceeds.

- FIFO (first-in, first-out) and LIFO (last-in, first-out) are also acceptable if applied consistently.

- Changing an accounting method typically requires consent from the IRS, which can be obtained by filing Form 3115.

Wash Sale Losses On Securities

- Cryptocurrencies and other digital assets are generally exempt from wash sale (WS) loss rules on securities because they are treated as *property.*

- With WS on securities, there can be deferred losses if a substantially identical security is repurchased within 30 days before or after the sale date.

- However, tokenized securities regulated by the SEC, as well as Bitcoin Futures ETFs structured as Registered Investment Companies (RICs), are securities subject to wash sale rules.

- Digital asset futures and options on those futures listed on the CME are Section 1256 contracts with MTM built in, so there are no wash sales.

Like-Kind Exchanges (Pre-2018)

- IRS Legal Memorandum 202124008 concluded that bitcoin, ether, and litecoin are not like-kind property under IRC Sec. 1031.
- After 2017, like-kind exchange rules apply only to real property.
- Our firm warned against using like-kind exchanges for crypto—and we were correct.

Nonfungible Tokens (NFTs)

- NFTs, representing items like collectibles, art, or in-game assets, are generally taxed as property, with gains or losses recognized at sale or exchange.
- Some NFTs may be subject to the 28% collectibles rate.
- Active trading by professional traders is rare, but tracking basis, holding period, and applicable rates is essential.

No Loss Deduction for Cryptocurrency's Substantial Decline in Value

- Cryptocurrencies do not qualify as securities under IRC Sec. 165(g)(2), so the capital loss deduction for worthless securities does not apply.

- In CCA 202302011, the IRS addressed this issue for crypto with substantial value declines.

IRS Resources

The IRS provides a dedicated **Digital Assets** page with reporting guidance and FAQs.

Visit www.irs.gov and search for “digital assets.”

Using Software for Compliance

- Tax-compliant accounting software for U.S. taxes can help traders and investors download transactions from all wallets, exchanges, and other intermediaries, ensuring complete and accurate reporting.

- See our blog post Digital Asset Tax Accounting and scroll down to:.

  - Digital Asset Tax Accounting Software Solutions
  - Comparing Digital Asset Tax Accounting Software Solutions
  - Practical Tips for Importing Digital Asset Transactions
  - Best Practices for Digital Asset Data Reconciliation and Audit Preparation
  - Digital Asset Audit Readiness: Preparing Before the IRS Knocks

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