October 30, 2026

BY ELECTRONIC SUBMISSION

Office of the General Counsel
Illinois Department of Revenue
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Re: Comments on Draft Proposed Rules Implementing the Digital Asset Tax Act, 86 Ill. Adm. Code Part 497 (posted September 28, 2026) (the "Draft Rules")

Andreessen Horowitz, DeFi Education Fund, and Uniswap Labs (collectively, the "Commenters") appreciate the opportunity to provide comments on the Draft Rules, which the Illinois Department of Revenue (the "Department") released to implement the Digital Asset Tax Act (the "Act").[1] This submission addresses how the Draft Rules apply to a subset of decentralized finance ("DeFi")[2] protocols—decentralized exchanges ("DEXs")—and the applications through which people can access them ("interfaces"). It also addresses the provisions of the Draft Rules concerning protocol fees, private keys, withdrawals to a customer's own wallet, and transfers among blockchains.

I. About the commenters

Andreessen Horowitz ("a16z") is a venture capital firm that invests in seed, venture, and growth-stage technology companies, focused on AI, bio and healthcare, consumer, crypto, enterprise, fintech, games, infrastructure, and companies building toward American dynamism and other frontier technologies. a16z currently has more than $100 billion in assets under management across multiple funds, with more than $9.8 billion in committed capital for crypto and other frontier technologies. In crypto, a16z primarily invests in companies using blockchain technology to develop protocols that people will be able to build upon to launch internet businesses.

DeFi Education Fund ("DEF") is a U.S.-based nonpartisan, nonprofit that advocates for sound policy for decentralized finance ("DeFi"), educates lawmakers about the technical workings and benefits of DeFi, and protects the rights of DeFi developers and users.

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[1] 35 ILCS 195/3-5. Unless otherwise noted, references to "Section 3" are to sections of the Act, and references to "Section 497" are to sections of the Draft Rules. Federal "section" references are to the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder.

[2] DeFi is built on open software systems, called permissionless blockchains, meaning the network's code is publicly available, transparent, and can be freely used, audited, or iterated on by anyone. In this system, individuals engage in financial transactions with full self-ownership: they make all decisions and maintain custody and control over their digital assets without traditional intermediaries. DeFi protocols are sometimes referred to as decentralized applications, or "dApps."

Uniswap Labs[3] is a New York-based software development company that contributes to the development of the Uniswap Protocol, a decentralized, open-source automated market maker protocol launched in 2018 that enables peer-to-peer trading of digital assets directly from users' self-custodied wallets, without intermediaries. The protocol has processed more than $4 trillion in trading volume. Uniswap Labs also develops noncustodial software products, including a web interface, wallet, and developer tools, that give millions of users access to decentralized finance. Uniswap Labs does not take custody of user assets, and users' transactions execute through smart contracts that Uniswap Labs does not control.

II. Background and summary of recommendations

Before commenting on the Draft Rules, in this section we provide an overview of DeFi, DEXs, and interfaces, as well as our main recommendations to the Department. A DeFi protocol is a set of procedures for a system of smart contracts,[4] through which a user can communicate transactions to an underlying blockchain. A DEX is a type of DeFi protocol built on a public blockchain through which individuals can trade one digital asset for another in a direct, peer-to-peer manner from their own self-custodial wallets, without a company or other intermediary holding their assets, carrying out the trade, or otherwise exercising control over their assets or transactions in any way. Interfaces function as software tools and technology infrastructure allowing users to interact with and engage in self-directed peer-to-peer transactions via DEXs without an intermediary.[5]

Our comments rest on three principles. First, the Draft Rules should follow the definition of "broker" that the Act adopts from federal law, and should be consistent with the Illinois Digital Assets and Consumer Protection Act ("DACPA"), which excludes DEXs and interfaces from the digital asset

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[3] Uniswap Labs submits this letter solely for the purpose of commenting on the Draft Rules. Nothing in this letter, including any description of the Uniswap Protocol, the Uniswap web interface or any other interface, or the manner in which users interact with either, constitutes or should be construed as an admission, concession, or acknowledgment of any fact, characterization, or legal conclusion, including without limitation any admission that Uniswap Labs or any other person or entity is a "broker" under the Draft Rules, is engaged in any activity described in the Draft Rules, or is otherwise subject to the Draft Rules or to any other federal, state, or local tax, reporting, or regulatory requirement. To the extent this letter discusses how the Draft Rules might apply to the Uniswap Protocol, any interface, or any other person, that discussion is offered for the sake of argument only and does not reflect Uniswap Labs' position on the merits of any such characterization. Uniswap Labs expressly reserves all rights, arguments, and defenses with respect to any such matters.

[4] Smart contracts are a specialized type of software application whose code executes automatically and autonomously based on user instructions when pre-determined conditions are met.

[5] Specifically, interfaces function by passively providing onchain data and information to users; users provide directions and inputs to the interface using their self-custodial wallet; the self-custodial wallet then automatically generates messages using a data object from the interface; and the user then submits the message to a DEX, or multiple DEXs, via the user's self-hosted wallet and a remote procedure call node on the blockchain network. When the user sends the transaction message utilizing the user's wallet, the user then executes the transaction on the DEX(s) and the transaction is posted to the relevant blockchain, updating its state. While using the interface, the user always retains agency and control over whether to execute a transaction.
Recommendations Regarding a Safe Harbor for Certain Applications From the Exchange Registration Requirement of the Securities Exchange Act of 1934, DeFi Education Fund & Andreessen Horowitz (Sept. 14, 2026), https://www.sec.gov/files/ctf-written-input-andreessen-horowitz-a16z-defi-education-fund-def-091426.pdf

business activity that DACPA regulates.[6] Second, the Draft Rules should apply the Act only to businesses that are actually able to collect the tax. Consequently, the Draft Rules should not apply the Act to blockchain systems where there is no intermediary, such as DEXs and the interfaces described above. Third, the Draft Rules should protect, rather than penalize, the self-custody and security practices that keep Illinois residents' digital assets safe. Specifically, we request that the Department:

(1) confirm that neither a DEX itself nor the interface through which people access it is a "digital asset broker" (Part III);

(2) confirm that a person who trades for its own account through a DEX is within the Act's exclusion for trading "for a person's own account in a principal capacity" (Part III);

(3) define "protocol fees" and "interface fees" and state clearly that neither type of fee makes a person a digital asset broker (Part IV);

(4) remove the requirement in Section 497.155(a)(3) that a broker's records include private keys (Part V);

(5) exclude from the tax a user's withdrawal of its own digital assets to a wallet the same user controls, and the movement of a user's digital assets from one blockchain to another (known as "bridging") (Part VI); and

(6) provide that the Draft Rules will not take effect until an Illinois reviewing court has had a chance to rule on the legality of the tax, and in no event before July 1, 2027 (Part VII).

We begin with a brief description of how a DEX operates and how a DEX differs from a conventional, "centralized" exchange. On a centralized exchange, a company holds its customers' digital assets in accounts that the company maintains in the same way that a traditional broker holds its customers' securities. Centralized exchanges control the private keys[7] necessary to authorize transactions involving the customer's digital assets, meaning the customer must rely on the exchange to access or transfer those assets. When a customer places an order, the centralized exchange carries out the trade for the customer and updates its accounts accordingly. The centralized exchange knows who its customers are, where they are, and is in contractual privity with them. A customer's claim on assets held through a centralized exchange is, like an account with a traditional broker, dependent upon the customer's relationship and agreements with the centralized exchange.

A DEX is fundamentally different from a centralized exchange. A DEX is not a company or other entity, but a software system composed of "smart contracts" that run on a public blockchain. Smart contracts are a specialized type of software application whose code executes automatically and autonomously based on user instructions when pre-determined conditions are met. A public blockchain is the shared digital ledger on which digital assets are recorded. A blockchain is not itself a person, but rather a decentralized set of records maintained through automatic processes generally viewable by everyone. Accordingly, any authorized instruction to alter a blockchain, including instructions to move digital assets, is carried out automatically and irreversibly. Similarly, a smart contract's programmed instructions are carried out automatically whenever a valid transaction is submitted to it. Reserves of digital assets held in a DEX's smart contracts, known as "liquidity pools," are funded by people and

[6] Digital Assets and Consumer Protection Act, 205 ILCS 731/1-5(a) (excluding from "digital asset business activity" peer-to-peer exchanges and transfers, decentralized exchanges, and "the development, publication, constitution, administration, maintenance, and dissemination of software in and of itself").

[7] A private key is a unique cryptographic code that enables its holder to authorize transactions involving digital assets associated with a particular blockchain address. It functions similarly to a highly secure digital signature, allowing the holder to demonstrate control over those assets and approve their transfer without requiring authorization from a bank or other intermediary.

businesses ("liquidity providers") in return for a share of the fees that traders pay for the exchange of digital assets. Many DEXs are designed as "automated market makers," meaning that each trade is priced by a set formula applied to the assets in a liquidity pool, rather than buyers and sellers being matched by a business. A DEX's core suite of smart contracts is commonly known as a "protocol."

People interact with DeFi protocols through "wallets," which are software tools that enable users to hold and control their digital assets. A DEX user maintains control over their digital assets through a self-custodial wallet, which is software that enables the user to manage the private keys used to authorize transactions involving digital assets on the blockchain. A wallet works like an email account: users communicate with a blockchain through it. The wallet has a "public key" that is the publicly-shared address to which assets can be sent. It also has a "private key," like an email password, that only the owner knows and uses to approve transactions. The private key is needed to authorize a transaction with the user's digital assets. Because any operation authenticated by the correct private key is carried out automatically and irreversibly, possession of a private key is tantamount to ownership and control of the digital assets it unlocks. When the nominal owner of digital assets, rather than an exchange or hosting service, controls a private key, the wallet holding the private key is called "self-custodial." To trade on a DEX, the owner sends the protocol an instruction from the owner's wallet. The requested transaction is then carried out automatically under the protocol's code. For instance, if a user sends the protocol an authenticated instruction to swap 100 units of one digital asset for an equivalent value in another digital asset, the user's 100 units are added to the liquidity pool, and a number of units of the other digital asset (determined by a price set by a pre-established formula) are withdrawn from the pool and sent to the user. No third-party or intermediary takes possession of the user's assets or takes any action to effect the transfer; the transfer is entirely under the user's control. People can also self-custody their digital assets with a hardware wallet, a device similar to a secure USB flash drive, to store their private key offline.

Many protocols cannot be changed once deployed onto the blockchain. In this sense, such protocols are "immutable." While holders of such a protocol's "governance token," a digital asset that carries voting rights, can collectively change certain parameters of the protocol through established governance practices, individual token holders do not have the ability to unilaterally alter the operation of any of the core smart contracts. Unlike a broker that is a person responsible for effectuating transfers of digital assets on behalf of another person, a DeFi protocol is non-custodial software and contains no accounts or customer records (and no technological ability to hold, collect, or store them). Anyone can see every transaction recorded on a public blockchain, but the record shows only wallet addresses, amounts, and transaction data. It contains no home or business address, mailing address, internet protocol address, or "place of primary use"—the information from which Section 497.125(a) presumes that a customer is located in Illinois.

Most users do not send instructions to a protocol directly. Instead, they use an interface to provide instructions to the protocol. An interface in DeFi differs from the interface of a centralized software system. In a centralized system, such as a social media platform or a payment application, the back-end software is proprietary and owned by a company; in DeFi, the back-end software is a protocol on a public, permissionless blockchain that no single entity owns or controls. Through an interface, a user views information and interacts with protocols in a self-directed manner. Based on the user's directions and inputs, a message is composed for the user to approve in the user's self-custodial wallet and send to the protocol; the transaction is then executed under the protocol's code and recorded on the blockchain. The interface does not take possession or control of the user's assets, nor does it execute trades on the user's behalf. An interface is software, and autonomous software cannot act on behalf of users in any way, whether by exercising discretion, soliciting users, or making investment recommendations to them. Interfaces are passive software tools that users employ in their own self-directed activities to read information from, and send instructions to, protocols. Many different interfaces can be used with the same

protocol, and users can also send instructions to a protocol without using any interface at all, by merely communicating directly with the blockchain through the command line interface or terminal.

A DEX trade, often called a "swap," can involve several kinds of fees. Under most protocols' code, each swap carries a fee that is set aside for the liquidity providers, who may later withdraw it. Under some protocols' code, part of each swap fee is also directed elsewhere (a "protocol fee"), such as to a fund controlled by governance token holders or to those token holders directly. In addition, and as distinct from a protocol fee, a fee may be charged for use of an interface (an "interface fee"). Each of these fees is discussed below in Part IV.

The Commenters appreciate that the Draft Rules contemplate several of these features of DeFi. They correctly describe DeFi transactions, a category that includes DEX trades, as "peer-to-peer, with no intermediary bank or exchange." They also exclude two kinds of fees from "valuable consideration," the payment that the Draft Rules require for a transaction to be taxable: fees paid to a blockchain network to process transactions ("network fees") and swap fees "directed solely to liquidity providers."[8] But the Draft Rules also treat protocol fees as valuable consideration, and they list among digital asset brokers "decentralized finance exchanges that collect protocol fees or other fees imposed and collected for the exchange itself."[9]

With that background, we turn to our comments. Our principal concern is that the Draft Rules would treat DEXs, and possibly interfaces, as digital asset brokers. Treating DEXs as digital asset brokers would be contrary to the Act, because the Act defines a digital asset broker by reference to federal law, the federal definition does not include DEXs, and a DEX is automatic software, not a person (see Part III.A). Treating either DEXs or interfaces as digital asset brokers would also be unworkable, because it is technically infeasible for the DEXs or interfaces described above to collect the tax (see Part III.B and Part III.C), and would go further than any final federal rule, including the broadest rule that Treasury has ever issued on this matter (which was formally disapproved by Congress; see Part III.C).

III. The Draft Rules should not treat DEXs or interfaces as digital asset brokers.[10]

A. *The Act adopts the federal definition of a broker, and that definition does not include DEXs.*

The Act defines a "digital asset broker" as "a person, as defined in Section 6045(c)(1)(D) of the Internal Revenue Code and any regulations as the Secretary of the Treasury may prescribe, who is engaged in the business of providing digital asset business activity to customers in this State."[11] The Act therefore adopts the federal definition of a broker, together with the federal regulations under Section 6045(c)(1)(D). A person that is not a broker under that federal definition is not a digital asset broker under the Act.

The federal definition does not include DEXs. Section 6045(c)(1)(D) applies to a person "responsible for regularly providing any service effectuating transfers of digital assets on behalf of another person." Although centralized and controlled software can be used to provide brokerage services

[8] Section 497.101 (definition of "decentralized finance"); Section 497.105(f).

[9] Sections 497.105(f), 497.115(e)(1)(B).

[10] This letter addresses DEXs and interfaces because the Draft Rules reach DEXs and could be read to reach interfaces. The same reasoning applies to every other kind of decentralized finance protocol and to the software through which users access those protocols. The changes requested at the end of Part III accordingly covers all decentralized finance protocols.

[11] Section 3-15.

to customers, DeFi protocols and DEXs do not act as brokers on behalf of others. Rather, they enable users to transact directly, without any person or entity acting as an agent, principal, or intermediary in those transactions. Users' private keys never leave users' own self-custodial wallets, and no one other than the user can authorize a transfer of the user's digital assets. A DEX is only a means through which users carry out their own transactions. The user composes each transaction, through an interface or directly, and signs it in the user's own wallet; once the user signs a transaction, no one can alter it. Carrying out one's own transaction through peer-to-peer software is not "effectuating transfers of digital assets on behalf of another person," and no one is "responsible for regularly providing" a service when users carry out their own transactions through intermediary-less software.

The federal regulations that the Act incorporates also identify persons who are not brokers, including a person "that merely provides facilities in which others effect sales," a person solely engaged in validating transactions, and a provider of software whose sole function is to let users control their own private keys.[12] A DEX is merely the means by which users effect their own trades. The Act's own definitions also show that a DEX is not a digital asset broker: "exchange," "transfer," and "store" each require action "on behalf of a customer," and the tax is collected "on each sale," which the Act defines as "an agreement between a digital asset broker and a customer for the broker to provide the customer with a digital asset business activity."[13] As automated software, a DeFi protocol such as a DEX cannot enter into an agreement with anyone. DEXs have no independent legal capacity to form contractual relationships with customers or agreements with another party. Nor does a DEX have customers in the sense contemplated by the Act; users independently execute self-directed transactions through publicly available software, without any third party entering into an agreement to act on their behalf.

Because the federal definition does not include DEXs, the Act's definition of "digital asset broker" does not include DEXs, and the Department cannot add DEXs to that definition by regulation. The same is true of interfaces, as Part III.C explains. The Draft Rules nonetheless add DEXs in two provisions. First, after restating Section 6045(c)(1)(D), Section 497.101 adds that "[a] person who is engaged in the business of providing digital asset business activity to customers in this State will be considered a digital asset broker." That sentence treats as a digital asset broker any person engaged in the business of providing digital asset business activity to customers in Illinois, whether or not the person is a broker under Section 6045(c)(1)(D), and so drops the federal definition and regulations that the Act expressly incorporates. Second, Section 497.115(e)(1)(B) lists among digital asset brokers "decentralized finance exchanges that collect protocol fees," a category that no federal rule has included. Both provisions are contrary to the plain language of the Act. Under Illinois law, administrative regulations "can neither expand nor limit the statute they enforce,"[14] so a regulation that treats DEXs as digital asset brokers, when the Act's definition of "digital asset broker" does not include DEXs, is a substantive policy divergence from the statute, and is invalid.

The Draft Rules' treatment of DEXs fails for a more basic reason as well. The Act's definition applies only to "a person, as defined in Section 6045(c)(1)(D) of the Internal Revenue Code." For federal tax purposes, the term "person" "shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation."[15] As automated software, a DEX is none of these. Software that is not owned or controlled by any person cannot register, file a return, collect or remit tax,

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[12] Treas. Reg. Section 1.6045-1(b)(2)(ii), (ix), (x).

[13] Sections 3-15, 3-20(a).

[14] *See, e.g., Kean v. Wal-Mart Stores, Inc.*, 235 Ill. 2d 351, 372 (2009) ("Administrative regulations can neither expand nor limit the statute they enforce"); *Van's Material Co. v. Dep't of Revenue*, 131 Ill. 2d 196, 202 (1989) (taxing statutes "are to be strictly construed," and "[i]n cases of doubt they are construed most strongly against the government and in favor of the taxpayer").

[15] Section 7701(a)(1).

or be penalized, so a rule that treats software as a digital asset broker identifies no one who could do any of those things.

Treating DEXs as digital asset brokers would also be at odds with the plain language of DACPA, which excludes from its definition of "digital asset business activity" "decentralized exchanges facilitating peer-to-peer exchanges or transfers solely through use of a computer program or a transaction protocol that is intended to automatically execute, control, or document events and actions."[16] The Draft Rules define "digital asset business activity" in substantially the same way as DACPA, which suggests that DACPA's exclusions apply here as well.[17] As such, in addition to the fact that the Department cannot add DEXs to the definition of "digital asset broker" by regulation, the Department should conform the Draft Rules to DACPA by confirming that transactions conducted through a DEX do not constitute digital asset business activity, and are therefore not subject to the tax.

Finally, the Draft Rules do not make clear whether a user who pays a protocol fee on a DEX trade qualifies for the Act's exclusion from the definition of "exchange" for "buying, selling, or trading digital assets for a person's own account in a principal capacity," or for the Draft Rules' exclusion for trading "from a person's own account in a principal capacity, i.e., peer-to-peer transactions without the use of intermediaries and with no valuable consideration."[18] The Draft Rules should clearly state that a user who pays a protocol fee on a DEX trade qualifies for both exclusions.

B. *No one can make a DeFi protocol, including a DEX, identify Illinois users or collect and remit the tax. Requiring DEXs to conduct intermediary functions such as customer identification or information collection would act as a "re-intermediation" of a disintermediated system and a de facto ban on the technology.*

The Act relies on brokers to identify taxable transactions and to collect and remit the tax. A broker must determine whether each customer is in Illinois from contact information "on record with or available to" the broker, and bears "[t]he burden of proving that a customer is not located in this State."[19] The broker must value each asset in U.S. dollars at the moment of each transaction, using its "own exchange spot price" or "benchmark rates established by a regulated market data provider."[20] The broker must add the tax to the purchase price and state it separately.[21] And the broker must register, file monthly returns, remit the tax, and keep records that include customers' physical addresses, IP addresses, and Forms W-9.[22]

A DEX is automated, non-custodial software, and none of these duties can be imposed on software. Requiring DEXs to conduct intermediary functions such as customer identification or information collection would act as a "re-intermediation" of a disintermediated system and a de facto ban

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[16] 205 ILCS 731/1-5(a).

[17] DACPA defines "digital asset business activity" as "(1) Exchanging, transferring, or storing a digital asset as part of a business or on behalf of a customer who has entered into an agreement with a business for the provision of such services. (2) Engaging in digital asset administration. (3) Any other business activity involving digital assets designated by rule by the Department as may be necessary and appropriate for the protection of residents," while the Draft Rules define it as "any single occurrence of exchanging, transferring, or storing a digital asset as part of a business or on behalf of a customer who has entered into an agreement with a business for the provision of those services."

[18] Section 3-15.

[19] Section 3-25; *see* Section 497.125(a).

[20] Section 497.101 (definition of "value").

[21] Section 3-35(b).

[22] Sections 3-30, 3-40, 3-45; Sections 497.130(c), 497.155(a)(4).

on the technology. A DEX contains no customer records, and nothing in a protocol shows where a user is. Most smart contracts are immutable: once such a protocol is deployed, no one can change its code. Consequently, no one can alter an immutable DEX to add tax to a user's purchase price, file a return, or sign a registration application. More fundamentally, adding tax, filing returns, and registering are the functions of an intermediary, and a DEX is software, not an intermediary. A DEX is not a business and so cannot stop doing business in Illinois. Anyone may use a DEX; Illinois users cannot be screened out of a DEX, and no one can file for a DEX the final return that the Act requires when a broker stops doing business.[23] If a DEX were treated as a broker, the Act would therefore be violated as soon as an Illinois resident used the protocol. For similar reasons, and as discussed in Part III.C, the interfaces described above also cannot comply with the reporting requirements.

The penalties for noncompliance would be severe for builders of blockchain technology. Engaging in business as a digital asset broker without a certificate of registration is unlawful, and any broker "who fails to file a return, or who violates any other provision of this Act, or who fails to keep books and records as required by this Act" commits a Class 3 felony. But the Draft Rules do not say which person would be the "decentralized finance exchange" that must register, file returns, and bear these penalties. None of the software developers who deployed the protocol, individual holders of the protocol's governance token, liquidity providers, or operators of interfaces (as discussed in Part III.C) actually effects any swap; the user does, through the protocol. The Draft Rules should therefore make clear, through the changes requested at the end of Part III, that none of these persons is a "digital asset broker."

Nor would treating DEXs as brokers produce revenue from DEXs. Where no broker collects the tax, the Act requires the purchaser to pay the tax directly each month.[24] The practical result would be a self-assessment duty on every Illinois resident who uses a DEX, a duty that few DEX users would know about and that the Department could not verify. Excluding DEXs would not weaken the Act's system of collecting the tax through brokers. The Act already reaches the centralized exchanges through which individuals typically buy digital assets with dollars and sell them for dollars, and those exchanges can identify their customers and collect the tax. Because centralized exchanges also serve as the primary on-ramps and off-ramps through which users enter and exit the DeFi ecosystem, the Act's application to these centralized exchanges would capture a substantial portion of digital asset activity without requiring DEX protocols to act as brokers.

C. *As with DEXs, interfaces should not be treated as digital asset brokers.*

Congress added Section 6045(c)(1)(D), the federal definition that the Act incorporates, in 2021.[25] In 2023, Treasury proposed regulations that would have reached participants in DeFi that provide "access to an automatically executing contract or protocol" or "an automated market maker system." The proposed regulations drew "over 44,000 written comments."[26] When Treasury first finalized broker rules in July 2024, it limited the rules to custodial brokers, explaining that non-custodial participants, "such as operators of non-custodial digital asset trading platforms (sometimes referred to as decentralized exchanges or DeFi)," "normally do not act as custodial agents or principals in effecting their customers'

[23] *See* Section 3-40(d).

[24] Section 3-35(f).

[25] Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, Section 80603(a), 135 Stat. 429, 1339 (2021).

[26] Gross Proceeds and Basis Reporting by Brokers and Determination of Amount Realized and Basis for Digital Asset Transactions, 88 Fed. Reg. 59,576, 59,634 (proposed Aug. 29, 2023); T.D. 10000, 89 Fed. Reg. 56,480, 56,480 (July 9, 2024); *see, e.g.*, Letter from Miller Whitehouse-Levine, Chief Executive Officer, and Amanda Tuminelli, Chief Legal Officer, DeFi Education Fund, to Internal Revenue Service (Nov. 7, 2023) (comment on REG-122793-19) (arguing that decentralized finance participants are not brokers under Section 6045(c)(1)(D)).

transactions."[27] In December 2024, however, Treasury published final rules purporting to extend the reach of the broker reporting requirements to DeFi industry participants.[28]

Lawsuits were filed challenging the December 2024 rule.[29] Congress then disapproved it, with the effect that the rule is "treated as though such rule had never taken effect," and Treasury may not reissue the rule, or issue a substantially similar rule, without new legislation.[30]

But even the December 2024 rule, the broadest such rule that Treasury has issued, did not treat the protocols themselves as brokers.[31] It reached only "trading front-end service providers," that is, interfaces, and Congress disapproved even of that rule because of its incompatibility with DeFi technology.[32] No federal tax rule therefore treats any part of DeFi, whether a DEX or an interface, as a broker, and the Act incorporates the federal definition of a broker together with the federal regulations.

Nevertheless, due to the vague language used in the Draft Rules, there is a lack of clarity as to whether the inclusion of the phrase "or other fees" in Section 497.115(e)(1)(B) is intended to scope interfaces into the definition of "digital asset broker." Section 497.115(e)(1)(B) lists among digital asset brokers "decentralized finance exchanges that collect protocol fees or other fees imposed and collected for the exchange itself." As discussed in Part IV, the phrase "or other fees" could be read to reach interface fees (a fee charged in connection with the use of an interface) and, therefore, to scope interfaces into the definition of "digital asset broker." Interfaces are not digital asset brokers, for two reasons.

First, interfaces are not "digital asset brokers" because they neither effectuate transactions of digital assets on behalf of customers nor have the information to comply with the Draft Rules. Whereas traditional brokers hold customer assets and facilitate transactions on their behalf, users of interfaces maintain full control over their assets and transactions at all times. Interfaces do not generally hold an "account" relationship with a customer, whereby a customer must undergo onboarding and provide documentation as to their identity. As such, they do not possess customer records or otherwise hold sufficient information to comply with the tax. Each user composes a transaction through the interface, signs the transaction in the user's own wallet, and sends it from that wallet, and the user's assets never pass through the interface. An interface is software with one limited purpose: through it, members of the public can interact with DeFi protocols in a manner that is convenient and accessible. Users are not required to use any particular interface to interact with a DeFi protocol; they may interact directly with the protocol through a command-line interface or choose among multiple independently operated front-end interfaces that provide access to the same protocol.

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[27] T.D. 10000, 89 Fed. Reg.

[28] T.D. 10021, 89 Fed. Reg. (Dec. 30, 2024).

[29] *See, e.g.*, Complaint, *Blockchain Ass'n v. IRS*, No. 3:24-cv-03259-X (N.D. Tex. Dec. 27, 2024).

[30] 5 U.S.C. Section 801(b)(2), (f).

[31] T.D. 10021, 89 Fed. Reg. (Dec. 30, 2024).

[32] House Ways and Means Committee Chairman Jason Smith explained on the House floor in favor of the Congressional Review Act resolution to overturn the IRS DeFi Broker rule "There are real questions if the rule can even be administered. DeFi exchanges are not the same as centralized crypto exchanges or traditional banks or brokers. DeFi platforms do not and cannot even collect the information from users needed to implement this rule. Their software never controls the digital assets. DeFi platforms cannot exchange currencies, hold assets in escrow, or maintain third-party records of financial transactions like their counterparts."
House Committee on Ways and Means, *Chairman Smith: Biden IRS Crypto Rule Is Unfair and Unworkable* (Mar. 11, 2025),
https://waysandmeans.house.gov/2025/03/11/chairman-smith-biden-crypto-irs-rule-is-unfair-and-unworkable/
(remarks of Chairman Jason Smith as prepared for delivery during floor debate on H.J. Res. 25, which became Pub. L. No. 119-5 (Apr. 10, 2025)).

As a result of their architecture, interfaces cannot effectively be charged with locating customers under Section 497.125(a), adding the tax to the purchase price under Section 3-35(b), or registering, filing returns, remitting the tax, and keeping records under Sections 3-30, 3-40, and 3-45. Imposing these obligations on interfaces would misapply the Draft Rules' definition of "digital asset brokers," which is written to capture centralized financial intermediaries that effectuate transactions of digital assets on behalf of customers. Moreover, doing so would force software developers to assume regulatory obligations designed for centralized financial institutions, effectively collapsing the distinction between non-custodial, technical infrastructure that enables users to arrange transactions themselves and financial intermediation.

Second, scoping interfaces into the definition of "digital asset broker" would be at odds with the plain language of DACPA. For an activity to constitute "digital asset business activity," the DACPA definition requires that it be done "as part of a business or on behalf of a customer who has entered into an agreement with a business for the provision of such services." As discussed above, interfaces do not generally hold an "account" relationship with a user. Instead, a user leverages an interface to effectuate their own transactions, over which they maintain full control at all times. DACPA likewise excludes from its definition of "digital asset business activity" "the development, publication, constitution, administration, maintenance, and dissemination of software in and of itself," and, since an interface is software, excludes interfaces from its scope.[33] Because the Draft Rules define "digital asset business activity" in substantially the same way as DACPA, the same exclusion should apply under the Draft Rules (see Part III.A).

As such, we urge the Department to clarify that neither DEXs nor interfaces are "digital asset brokers" by making the below changes to the Draft Rules.

[Requested change. We request that the Department:

(a) restate the Act's definition of "digital asset broker" in Section 497.101 without the added second sentence;

(b) delete Section 497.115(e)(1)(B);

(c) replace Section 497.115(e)(2)(A) with the following:

> A) decentralized finance protocols, and any person solely by reason of developing, deploying, publishing, maintaining, or governing a decentralized finance protocol, supplying liquidity to it, or providing a website, application, wallet, or other interface through which users interact with it from wallets they control, regardless of whether a fee is charged in connection with the protocol or interface;

and (d) replace Section 497.105(f) with the following:

> f) Transactions that a person conducts through a decentralized finance protocol from a wallet the person controls are not digital asset business activity and are not subject to the tax, regardless of any fee charged in connection with the transaction.]

[33] 205 ILCS 731/1-5(a) (definition of "digital asset business activity").

IV. The Draft Rules should distinguish protocol fees from interface fees, and neither should create broker status.

The Draft Rules treat a DEX as a broker if protocol fees are collected through the DEX, but the Draft Rules do not define "protocol fee," and the Draft Rules never mention interfaces. The wording of Sections 497.115(e)(1)(B) and 497.105(f), "decentralized finance exchanges that collect protocol fees" and "[f]ees charged for the operation and maintenance of de-fi or DEX platforms, like protocol fees," indicates that the Department intends to treat protocols themselves as brokers, and, as discussed in Part III.B, the functions that the Act and the Draft Rules require of a broker cannot be imposed on a DEX.[34] The phrase "or other fees imposed and collected for the exchange itself" could also reach interface and wallet fees, and, as discussed in Part III.C, the functions of a broker cannot be imposed on an interface either. As drafted, the Draft Rules could treat a protocol, an interface, or both as a broker.

A protocol fee should never make anyone a broker. A protocol fee is automatically calculated and directed through the protocol's software, and cannot be unilaterally altered by any person. Under some protocols, the protocol fee is paid to no one at all: under a burn mechanism, the protocol fee accumulates in a smart contract to which no person is entitled, and a third party may withdraw the accumulated fees only by destroying a preset quantity of digital assets, without any relationship to the user whose swap generated the fee. A protocol fee paid into a burn mechanism therefore resembles the base fee on every transaction on the Ethereum blockchain, which is paid to no one because the base fee is destroyed ("burned") under the Ethereum protocol, and which the Draft Rules already treat as a network fee outside valuable consideration.[35] A protocol fee paid into a burn mechanism is not "charged by digital asset brokers," it is "not imposed and/or captured solely for digital asset brokers," and it does not pay for the "operation and maintenance" of any platform.[36]

Interface fees should not make anyone a broker either. The Draft Rules already suggest that interface fees do not make anyone a broker. As drafted, Section 497.115(e)(1)(B) only applies to "decentralized finance exchanges that collect protocol fees or other fees **imposed and collected for the exchange itself**" (emphasis added). The inclusion of the term "itself" indicates that the provision only applies to fees charged for effecting the exchange of a digital asset. An interface fee is charged for use of the interface, not for exchange, and no exchange is effected by an interface: through an interface, a user prepares an instruction that the user approves and sends from the user's own wallet, and the user's assets never pass into the custody or control of an interface. The Draft Rules' own exclusion for persons who offer services "strictly through the use of a third party" reflects the same principle, that a person who does not itself effect transactions for others is not a broker.[37] For the reasons given in Part III.C, an interface is not a broker in any event. Nevertheless, the overbreadth of the phrase "or other fees" means that it could be interpreted to include interface fees. As such, in the final rules the Department should make clear that interface fees do not make anyone a broker.

[Requested change. We request that the Department add the following definitions to Section 497.101 and the following sentence to Section 497.115(d) and (e)(2):

> "Protocol" means the smart contracts deployed to a blockchain through which transactions are executed. "Protocol fee" means any amount assessed on a transaction under a protocol's smart contracts and directed to a liquidity pool, a smart contract, a treasury, token holders, or an address from which the amount cannot be recovered,

[34] Sections 497.105(f), 497.115(e)(1)(B).

[35] Vitalik Buterin et al., *EIP-1559: Fee Market Change for ETH 1.0 Chain*, https://eips.ethereum.org/EIPS/eip-1559.

[36] Sections 497.105(f), 497.115(d).

[37] Section 497.115(e)(2)(B).

including any amount that may be withdrawn only by destroying digital assets. "Interface" means a website, application, wallet, or other software through which a user composes a transaction that the user authorizes from a wallet the user controls. "Interface fee" means a fee charged in connection with the use of an interface.

Neither a protocol fee nor an interface fee is valuable consideration, and the charging, payment, or collection of either cannot alone cause a person to be a digital asset broker.]

V. The Draft Rules should not require any person to keep another's private keys.

Section 497.155(a)(3) requires every broker's records to contain "[a]ccount information sufficient to show the movement of digital assets **including private keys**" (emphasis added). That requirement would endanger the very assets the records are meant to track. Under the Draft Rules' own definitions, a private key is "used to authorize transactions and prove ownership of digital assets."[38] As explained above, whoever holds a copy of a private key can take the digital assets that the private key controls, and blockchain transfers cannot be reversed. Recording private keys in tax records that must be open to inspection "at all times during the usual business hours" would create a second copy of the private keys to every customer's digital assets, make those records a target for theft, and, if the Department kept copies of those records, give the Department's own systems the ability to move customers' assets.[39] Requiring the collection and storage of private keys would create a cybersecurity honeypot, exposing Illinois digital asset users to heightened risks of hacking, theft, fraud, and potentially irreversible financial losses if those records were compromised.

The private key requirement in Section 497.155(a)(3) also conflicts with the federal key-management standard and with DACPA. The federal key-management standard provides that, "[i]n general, private signature keys shall not be archived," and that a private signature key generated by its owner "shall not be distributed to other entities."[40] Blockchain private keys are private signature keys. Users' private keys never pass through a DEX or an interface, and no record of users' private keys could be made in connection with a DEX or an interface without fundamentally changing how DEXs and interfaces work, in a manner that would expose users to an unprecedented level of security risk. Many custodians use multi-party computation, under which "[t]he complete key is never assembled in one place";[41] those custodians could not produce a complete private key even if asked. DACPA requires registered digital asset businesses to protect "the confidentiality, integrity, and availability of any nonpublic information or digital asset."[42] A requirement in the Draft Rules that the same businesses copy private keys into records open to inspection would directly conflict with that DACPA obligation. And because failing to keep records "as required by this Act" is a felony, the private key requirement would force a broker to choose between compromising customers' assets and criminal exposure.[43]

Private keys are also unnecessary for any purpose of the Act, which requires records that "adequately reflect digital asset business activity sold in this State, including the information used in calculating the amount of tax due," and records "needed to determine the location of a sale."[44] Public wallet addresses and transaction identifiers show the movement of assets. Possession of a private key, on

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[38] Section 497.101 (definition of "private key").

[39] Section 3-45; Section 497.155(b).

[40] Nat'l Inst. of Standards & Tech., Special Publication 800-57 Part 1, Rev. 5, *Recommendation for Key Management: Part 1: General* Sections 8.1.5.1, B.3.1.1 (May 2020).

[41] Fireblocks, *What is MPC (Multi-Party Computation)? MPC 101*, https://www.fireblocks.com/report/what-is-mpc.

[42] 205 ILCS 731/10-10(e), (f)(2).

[43] Section 3-55.

[44] Section 3-45.

the other hand, amounts to possession and control of the assets that the private key unlocks, and is not used for any record-keeping purpose.

[Requested change. We request that the Department revise Section 497.155(a)(3) to refer to "public keys" instead of "private keys."][45]

VI. Moving one's own assets to one's own wallet, or to another blockchain, should not be taxed.

The Draft Rules treat a customer's withdrawal of its own digital assets from a custodial platform to its own self-custodial wallet as a taxable transfer. The Draft Rules also list bridging, "the exchange of digital assets from one blockchain network to another," as a taxable exchange.[46] In both cases, the customer is moving its own assets. The customer owns the same assets before and after the withdrawal or bridge, no one else acquires anything, and no new service of value is provided. A withdrawal to one's own wallet is the equivalent of moving money from one of one's own bank accounts to another, which Illinois does not tax. Under IRS guidance, a transfer between wallets or accounts that belong to the same person "is a non-taxable event."[47] The IRS position follows longstanding federal and state income tax principles outside of the digital asset space, where moving stocks or securities between brokerage accounts or between exchanges does not create a taxable sale; when only the manner of ownership and not the actual ownership of an asset has changed, there is no realization event on which tax should be imposed. The Draft Rules themselves describe a non-custodial wallet as being in "the person's own management and control."[48] A withdrawal is the customer taking back control, not receiving a service.

Bridging likewise involves only the movement of a user's own digital assets at their direction. Through a bridge, a user moves the user's assets from one blockchain to another; the user ends with the same assets, or a representation of those assets, on a different ledger. Further, because a bridge produces entries on two blockchains, the provision of the Draft Rules that treats each blockchain entry as a separate occurrence could tax a single movement twice.[49]

Just as moving gold from a custodial vault into one's personal safe, or transferring between vaults, does not constitute a taxable event, moving digital assets between custodial and self-custodial wallets should not trigger tax liability merely because the assets are held or represented differently. The same principle applies to wrapping and unwrapping[50] digital assets, issuing or redeeming receipt tokens[51], and bridging assets across blockchain networks, where the transaction merely changes the form or technical representation of an asset without transferring ownership or creating a taxable event. Imposing tax liability on these transactions would penalize individuals for exercising control over their own assets,

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[45] We note that the Draft Rules define "public key" as a code "used as the public destination address for digital asset transactions," but never use the term. The Department may have meant to use the term public keys, and not private keys.

[46] Section 497.110(b)(1)(E); Section 497.110(c)(2), Example 1.

[47] IRS, *Frequently Asked Questions on Digital Asset Transactions*, Q&A 81 (added Dec. 15, 2025), https://www.irs.gov/individuals/international-taxpayers/frequently-asked-questions-on-digital-asset-transactions.

[48] Section 497.101 (definition of "wallet").

[49] *See* Section 497.110(a) (an occurrence "arises when the asset moves as denoted by an entry on a blockchain or internal ledger").

[50] Wrapping is the process of converting a digital asset into a corresponding tokenized representation, typically for use on another blockchain or within a protocol, while unwrapping reverses that process to redeem the underlying asset.

[51] Issuing receipt tokens involves providing users with tokens representing assets they have deposited into a DeFi protocol, while redeeming receipt tokens involves exchanging those tokens to withdraw the corresponding underlying assets.

discourage the use of blockchain technology, and create arbitrary distinctions between economically equivalent activities based solely on the technological infrastructure used to hold or transfer assets.

Neither withdrawal nor bridging is an "exchange," which the Act defines as exchanging, buying, selling, trading, or converting "a digital asset for fiat currency or one or more forms of digital assets."[52] In neither is anything bought, sold, or traded; the asset simply moves. And most bridges are themselves protocols, so the points in Part III apply to bridges as well.

At a minimum, the Department should confirm that a withdrawal fee that covers the network fee for the withdrawal is not valuable consideration. The Draft Rules exclude "fees directed towards blockchain mining, staking, and validation activities" from valuable consideration, and without valuable consideration there is no taxable event.[53] A fee collected to pay the blockchain network for processing a withdrawal is a fee directed towards blockchain validation activities.

[Requested change. We request that the Department delete Section 497.110(b)(1)(E) and add the following as Section 497.110(c)(3):

> 3) A transfer does not include (A) the movement by a digital asset broker of a customer's digital asset to a wallet controlled by that customer, or (B) the movement of a customer's digital asset from one blockchain network to another.]

VII. The Draft Rules should not take effect until an Illinois court has ruled on the tax.

The Department should provide that the Draft Rules will not be effective until an Illinois court has had a chance to rule on the legality of the tax. At the very least, the effective date of the Draft Rules should not be earlier than July 1, 2027, consistent with the agreement reached between the Crypto Council for Innovation, the Blockchain Association, and the Illinois Attorney General for stay relief.[54]

VIII. Conclusion

The Act defines a digital asset broker by reference to federal law, and federal law does not treat DEXs as brokers. The Act taxes digital asset business activity that brokers provide to customers, and the Act relies on those brokers to identify customers, compute the tax, and collect the tax. DEXs are software, and none of these functions can be imposed on software. Likewise, the interfaces through which users access them neither effectuate transactions of digital assets on behalf of customers nor have the information to comply with the Draft Rules. DACPA excludes decentralized exchanges and interfaces from the digital asset business activity that DACPA regulates. These questions affect a substantial number of Illinois residents: an estimated 2.64 million Illinoisans hold digital assets, the fifth-highest total of any state.[55] We therefore respectfully urge the Department to make the changes explained above, including confirming that neither a DEX itself nor the interface through which people access it is a "digital asset broker."

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[52] Section 3-15.

[53] Section 497.115(a)(3), (d).

[54] Plaintiffs' Compl. and Memo of Law in Support of Plaintiffs' Motion for Preliminary Injunction, *Blockchain Ass'n & Crypto Council for Innovation v. Harris,* No. 2026 MR 000312 (Ill. Cir. Ct. Sangamon Cnty. filed Aug. 21, 2026).

[55] National Cryptocurrency Association, *Where Crypto Holders Live* (May 2026), https://nca.org/resources (interactive map drawn from the 2026 State of Crypto Holders Report), estimating 2.64 million crypto holders in Illinois, behind only California, Texas, Florida, and New York.

We appreciate the opportunity to comment on the Draft Rules and would be happy to discuss these comments with the Department.

Respectfully submitted,

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