

Part III

Administrative, Procedural, and Miscellaneous

26 CFR 601.105: Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.

(Also Part I, §§ 671, 677; 301.7701-2, 301.7701-4)

Rev. Proc. 2025-31

SECTION 1. PURPOSE

This revenue procedure describes a safe harbor for trusts that otherwise qualify as investment trusts under § 301.7701-4(c) and as grantor trusts to stake their digital assets without jeopardizing their tax status as investment trusts and grantor trusts for Federal income tax purposes. This revenue procedure also provides a limited time period for an existing trust to amend its governing instrument (trust agreement) to adopt the requirements of the safe harbor.

SECTION 2. BACKGROUND – DIGITAL ASSETS AND STAKING

.01 Digital assets are digital representations of value recorded on a cryptographically secured distributed ledger or similar technology within the meaning of

section 6045(g)(3)(D) of the Internal Revenue Code (Code) (digital assets).¹ Digital assets generally are treated as property for Federal income tax purposes and Federal income tax principles apply to digital asset transactions.² This revenue procedure addresses only digital assets for which transactions are carried out on a permissionless network that uses a proof-of-stake consensus mechanism to validate those transactions.

.02 The operation of each digital asset blockchain network is governed by software that programmatically enforces certain network rules and technical requirements, as well as distributions of rewards (protocol). For a digital asset transaction to be recognized by the blockchain network, the transaction must be added to the network's decentralized digital ledger (blockchain).

.03 Digital assets rely on cryptography and economic mechanisms designed to reduce reliance on designated trusted intermediaries to verify transactions and provide settlement assurances to users. Each protocol has a consensus mechanism that enables a distributed set of unrelated computers (commonly referred to as "nodes") to agree on the authoritative record of digital asset address ownership balances, transactions, and other data relating to a digital asset's blockchain at any given time (state). The consensus mechanism is intended to maintain the integrity of the blockchain by validating transactions and ensuring transactions added to the blockchain are valid. This can be done, for example, by rejecting transactions that attempt to move the same units to two different wallet addresses at the same time (so-called "double

¹ Unless otherwise specified, all "section" or "§" references are to sections of the Code, the Income Tax Regulations (26 CFR Part 1), or the Procedure and Administration Regulations (26 CFR Part 301).

² See Notice 2014-21, 2014-16 I.R.B. 938.

spending”). Preventing such transactions from being recorded on a blockchain is essential to the security and integrity of a digital asset’s blockchain. Absent such assurance, users could lose confidence in the digital asset network and the corresponding digital assets could lose value.

.04 Proof-of-stake is a type of consensus mechanism. In a proof-of-stake consensus mechanism, a validator node is a type of node that actively participates in the consensus mechanism (in addition to the typical duties of a node, which include maintaining and verifying blockchain data). Non-validator nodes typically only store and relay blockchain data, and do not propose or create new blocks. Validator node operators commit or “stake” digital assets to become eligible to be selected by the relevant protocol to validate a new block of data to, and update the state of, the network’s blockchain. While staked, digital assets are “locked up” and cannot be transferred for a period of time under the terms of the applicable protocol. Some protocols employ specific criteria for selecting validators, such as the number of digital assets staked by the validator node operator.

.05 For the validation process to be effective in ensuring the security and integrity of a digital asset’s blockchain, there must be enough node operators that no one validator or group of validators can control a majority of the total staked digital assets, which would allow that party or group to manipulate the blockchain by influencing the validation of transactions and potentially altering the blockchain’s transaction history. Consequently, an increase in the number of digital assets staked by different validator nodes can increase the security of blockchains using proof-of-stake consensus mechanisms. To incentivize multiple validator node operators to participate, and in

exchange for providing validation and related activities, newly minted digital assets specified by the protocol and/or fees paid by parties seeking to add their transactions to the blockchain (collectively, “rewards”) are credited or transferred to validators.

Rewards generally are received in the form of a blockchain’s native digital asset.

Conversely, if a validator fails to act in accordance with a blockchain network’s consensus mechanism, some staked units may be forfeited as a penalty (slashing).

.06 Digital asset owners can participate in staking in various forms. One such form is custodial staking, in which a third party (custodian) takes custody of the owner’s digital assets and facilitates the staking of such digital assets on behalf of the owner. Generally, a custodian focuses on securely holding, storing, and safeguarding digital assets on behalf of digital asset owners. The custodian, acting on behalf of the owner, selects and enters into contractual arrangements with one or more validator node operators who engage in proof-of-stake activities for digital asset blockchains (staking provider). In some cases, the legal entity that is the custodian also may act as the staking provider. The arrangement between the custodian and the staking provider generally provides that an agreed-on portion of the staking rewards are allocated to the owner of the digital assets.

.07 Some legal entities formed as trusts under applicable State law that hold digital assets intend to be treated for Federal income tax purposes as investment trusts under § 301.7701-4(c) and as grantor trusts. Certain actions of the trust may be directed by the trust’s sponsor.

.08 The Department of the Treasury and the Internal Revenue Service have received requests for guidance on: (1) whether staking prevents a legal entity formed as

a trust under applicable State law from qualifying for Federal income tax purposes as a trust classified as an investment trust under § 301.7701-4(c) and as a grantor trust; and (2) if not, whether an existing trust agreement may be amended to authorize the staking of some or all of its digital assets without impairing qualification of the trust as an investment trust under § 301.7701-4(c) and as a grantor trust.

SECTION 3. BACKGROUND - TRUSTS

.01 Section 301.7701-2(a) defines a “business entity” as an entity recognized for Federal tax purposes (including an entity with a single owner that may be disregarded as an entity separate from its owner under § 301.7701-3) that is not properly classified as a trust under § 301.7701-4 or otherwise subject to special treatment under the Code.

.02 Section 301.7701-4(a) provides generally that an arrangement is treated as a trust if the purpose of the arrangement is to vest in trustees the responsibility to protect or conserve property for beneficiaries who cannot share in the discharge of this responsibility and, therefore, are not associates in a joint enterprise for the conduct of business for profit.

.03 Section 301.7701-4(b) provides that there are other arrangements known as trusts because the legal title to property is conveyed to trustees for the benefit of beneficiaries, but that are not classified as trusts for Federal tax purposes because they are not simply arrangements to protect or conserve the property for the beneficiaries. These trusts, which are often known as business or commercial trusts, generally are created by the beneficiaries simply as a device to carry on a profit-making business that normally would have been carried on through a business organization classified as a corporation or partnership.

.04 Section 301.7701-4(c) provides that an “investment” trust is not classified as a trust if there is a power under the trust agreement to vary the investment of the certificate holders. An investment trust with a single class of ownership interests, representing undivided beneficial interests in the assets of the trust, is classified as a trust if there is no power under the trust agreement to vary the investments of the certificate holders.

.05 A power to vary the investment of the certificate holders exists where there is a managerial power under the trust instrument that enables a trust to take advantage of variations in the market to improve the investments of the certificate holders. See *Comm’r v. North American Bond Trust*, 122 F.2d 545 (2d Cir. 1941), *cert. denied*, 314 U.S. 701 (1942).

.06 Rev. Rul. 75-192, 1975-1 C.B. 384, discusses the situation where a provision in the trust agreement requires the trustee to invest cash on hand between quarterly distribution dates. The trustee is required to invest the money in short-term obligations of (or guaranteed by) the United States, or any agency or instrumentality thereof, and in certificates of deposit of any bank or trust company having a minimum stated surplus and capital. The trustee is permitted to invest only in obligations maturing before the next distribution date and is required to hold such obligations until maturity. Rev. Rul. 75-192 concludes that, because the restrictions on the types of permitted investments limit the trustee to a fixed return like that earned on a bank account and eliminate any opportunity to profit from market fluctuations, the power to invest in the specified kinds of short-term investments is not a power to vary the trust’s investment.

.07 Rev. Rul. 78-371, 1978-2 C.B. 344, concludes that a trust established by the heirs of a number of contiguous parcels of real estate is an association taxable as a corporation for Federal income tax purposes where the trustees have the power to purchase and sell contiguous or adjacent real estate, accept or retain contributions of contiguous or adjacent real estate, raze or erect any building or structure, make any improvements to the land originally contributed, borrow money, and mortgage or lease the property.

.08 Rev. Rul. 79-77, 1979-1 C.B. 448, concludes that a trust formed by three parties to hold a single parcel of real estate is classified as a trust for Federal income tax purposes when the trustee was authorized to sign a long-term net lease for the property, with options to renew the lease with recomputed rent; to hold title to the land and building and to proceeds and income of the property; to distribute all trust income and otherwise to protect or conserve the property. *See Wyman Building Trust v. Commissioner*, 45 B.T.A. 155 (1941), *acq.*, 1941-2 C.B. 14 (trust not treated as association taxable as a corporation where trust held a single property, the trustee executed and extended net leases to the same tenant at the same rental, and collected and distributed the rents).

.09 Rev. Rul. 81-238, 1981-2 C.B. 248, establishes that an automatic reinvestment plan in which trust interest holders elect to use distributions to purchase interests in new fixed investment trusts does not constitute a power to vary. The plan does not involve reinvestment in the original trust and there is no change in, or addition to, the assets of the original trust.

.10 Rev. Rul. 90-63, 1990-2 C.B. 270, holds that the power to consent to changes in the credit support for debt obligations held in an investment trust is not a “power to vary the investment” within the meaning of § 301.7701-4(c) if that power is exercisable only to the extent that the trustee reasonably believes the change is advisable to maintain the value of trust property by preserving the credit rating of the bonds.

.11 Rev. Rul. 2004-86, 2004-2 C.B. 191, concludes that a Delaware statutory trust is classified as an investment trust where the trust holds a single property subject to a mortgage and net lease, the trustee is permitted to renegotiate the lease or enter into leases with other tenants in the event of the tenant’s bankruptcy or insolvency, and otherwise has very limited powers.

.12 Section 671 provides that, where the grantor or another person is treated as the owner of any portion of a trust (commonly referred to as a “grantor trust”), there shall be included in computing the taxable income and credits of the grantor or the other person those items of income, deductions, and credits against tax of the trust which are attributable to that portion of the trust to the extent that the items would be taken into account under chapter 1 of the Code in computing taxable income or credits against the tax of an individual.

.13 Section 677(a) provides that the grantor is treated as the owner of any portion of a trust whose income without the approval or consent of any adverse party is, or, in the discretion of the grantor or a nonadverse party, or both, may be distributed, or held or accumulated for future distribution, to the grantor or the grantor’s spouse.

.14 A person that is treated as the owner of an undivided fractional interest in a trust under subpart E of part I, subchapter J of chapter 1 of the Code (sections 671 and

following), is considered to own the trust assets attributable to that undivided fractional interest of the trust for Federal income tax purposes. See Rev. Rul. 88-103, 1988-2 C.B. 304; and Rev. Rul. 85-13, 1985-1 C.B. 184; see *a/so* § 1.1001-2(c), Example 5.

SECTION 4. BACKGROUND – APPLICABLE REGULATORY RULES

.01 SEC Rules. The offer and sale of interests in a trust holding digital assets to investors in a public offering is subject to regulation by the U.S. Securities and Exchange Commission (SEC). The regulations and rules of the SEC address, among other matters, the public disclosure by the trust of its activities, including with respect to staking. Accordingly, the SEC reviews and must approve such disclosure before the trust is permitted to make a public offering of trust interests. SEC rules also may require an issuer to provide additional disclosure to investors when material facts relating to its offering change, which disclosure the SEC also reviews and approves.

.02 SEC Statement and Orders Relating to Staking. On May 29, 2025, the SEC Division of Corporation Finance issued a Statement on Certain Protocol Staking Activities.³ The Statement addresses certain activities known as “staking” on digital asset networks that use proof-of-stake as a consensus mechanism. On July 29, 2025, the SEC approved In-Kind Creations and Redemptions for Crypto ETPs.⁴ On September 17, 2025, the SEC approved rule changes proposed by three national securities exchanges to adopt generic listing standards for exchange-traded products that hold commodities, which as defined in the SEC order include certain digital assets.⁵

³ SEC, *Statement on Certain Protocol Staking Activities* (May 29, 2025), <https://www.sec.gov/newsroom/speeches-statements/statement-certain-protocol-staking-activities-052925>.

⁴ SEC Release No. 34-103571, 90 FR 36248 (Aug. 1, 2025); SEC, *SEC Permits In-Kind Creations and Redemptions for Crypto ETPs* (July 29, 2025), <https://www.sec.gov/newsroom/press-releases/2025-101-sec-permits-kind-creations-redemptions-crypto-etps>. An ETP is an exchange-traded product.

⁵ SEC Release No. 34-103995, 90 FR 45414 (Sept. 22, 2025).

.03 Exchange Rules. Interests in trusts holding digital assets may be listed and traded on a national securities exchange that is a self-regulatory organization. The rules of the national securities exchange, approved by the SEC, prescribe conditions that must be satisfied in order for shares (including trust interests) to be listed. Under those rules, certain trust interest holders are issued interests in the trust in a specified aggregate minimum number in return for a deposit of a quantity of the underlying digital asset and/or cash; and when aggregated in the same specified minimum number, the trust interests may be redeemed at such holder's request by the trust, which will deliver to the redeeming holder the quantity of the underlying digital asset and/or cash.

.04 Liquidity Policies and Procedures. The generic listing standards of the national securities exchange where a trust's interests are listed and traded that have been approved by the SEC require that the trust have in place liquidity risk policies and procedures to ensure that the trust can redeem trust interests at a trust interest holder's request.⁶ Pursuant to these generic listing standards, if a trust has on a daily basis less than 85 percent of its assets readily available to meet redemption requests, the trust must have and disclose written liquidity risk policies and procedures reasonably designed to address the risk that it could not meet requests to redeem interests issued by the trust without significant dilution of the remaining holders' interests in the trust. For this purpose, an asset is deemed not readily available to meet redemption requests if it is segregated, pledged, hypothecated, encumbered, or otherwise restricted or prevented from being liquidated, sold, transferred, or assigned within one business day. These policies and procedures must be periodically reviewed, no less frequently than

⁶ See SEC Release No. 34-103972, 90 FR 45075 (Sept. 18, 2025); SEC Release No. 34-103974, 90 FR 45082 (Sept. 18, 2025); SEC Release No. 34-103973, 90 FR 45089 (Sept. 18, 2025).

annually. The exchange's disclosure requirements regarding liquidity risk are intended to cover situations such as staking by the trust of its digital assets, particularly if the staked amount exceeds 15 percent of the trust's assets on any given day and such staked assets are not readily available for redemption requests within one business day. The generic listing standards require that the trust's liquidity risk policies and procedures be prominently displayed on the trust's website.

SECTION 5. SCOPE

This revenue procedure applies to an arrangement formed as a trust under applicable State law that: (i) would be treated for Federal income tax purposes as a trust that qualifies as an investment trust under § 301.7701-4(c), and as a grantor trust, if the trust agreement did not authorize staking and the trust's digital assets were not staked; and (ii) with respect to a trust in existence prior to the date on which its trust agreement first authorizes staking and related activities in a manner that satisfies each of the requirements of section 6.02 hereof, qualified as an investment trust under § 301.7701-4(c), and as a grantor trust, immediately before that date.

SECTION 6. SAFE HARBOR

.01 Safe Harbor. Provided all the requirements in section 6.02 of this revenue procedure are satisfied, a trust's authorization, pursuant to its trust agreement, to stake its digital assets and the resulting staking of the trust's digital assets do not prevent the trust from qualifying for Federal income tax purposes as a trust classified as an investment trust under § 301.7701-4(c) and as a grantor trust. References in section 6 of this revenue procedure to actions taken by the trust also include actions directed by the sponsor of the trust pursuant to the trust agreement.

.02 Requirements.

(1) Interests in the trust are traded on a national securities exchange. The trust's activities comply with the SEC's regulations and rules. The trust's disclosure regarding the staking of its digital assets has been reviewed and approved by the SEC. The trust's assets and activities are described in the May 29, 2025, Statement on Certain Protocol Staking Activities of the SEC's Division of Corporation Finance. The trust has written liquidity risk policies and procedures that comply with the rules of the national securities exchange on which the trust interests are listed and traded.

(2) The trust owns only cash and units of a single type of digital asset (as defined by section 6045(g)(3)(D)), transactions for which are carried out on a permissionless network that uses a proof-of-stake consensus mechanism to validate those transactions.

(3) The trust's digital assets are held by a custodian, acting on behalf of the trust, at digital asset addresses controlled by the custodian. Only the custodian has access to the private keys associated with those digital asset addresses; accordingly, only the custodian can effect a sale, transfer, or exercise the rights of ownership over the trust's digital assets, including while those assets are staked. For Federal income tax purposes, the trust retains ownership of the digital assets at all times, including while they are staked.

(4) The trust's staking of its digital assets protects and conserves trust property by mitigating the risk that another party or group could control a majority of the total staked digital assets of that type and engage in transactions that could reduce the value of the trust's digital assets.

(5) The trust's activities relating to digital assets are limited to: (i) accepting deposits of the digital asset or cash in exchange for newly issued interests in the trust; (ii) holding the digital assets and cash; (iii) paying trust expenses and selling digital assets for cash to pay trust expenses or to make cash redemptions of trust interests; (iv) purchasing additional digital assets with cash contributed to the trust; (v) distributing digital assets or cash to trust interest holders in redemption of their interests in the trust; (vi) selling digital assets for cash in connection with the trust's liquidation; and (vii) directing the staking of its digital assets in a manner consistent with the applicable requirements of the national securities exchange on which the trust interests are traded and this safe harbor, including providing for a liquidity reserve to the extent provided in section 6.02(9) of this revenue procedure and entering into a contingent liquidity arrangement to the extent provided in section 6.02(12) of this revenue procedure. Pursuant to the trust agreement, the trust is prohibited from seeking to take advantage of variations in the market to improve the investments of trust interest holders, including variations based on the value of the digital assets or the amount of staking rewards.

(6) The trust directs the staking of its digital assets through one or more custodians who facilitate the staking of the digital assets on the trust's behalf with one or more staking providers. The trust and the sponsor are unrelated to the staking provider. The trustee, sponsor, or custodian performs all appropriate due diligence with regard to the selection of each staking provider and negotiates, on behalf of the trust, the provisions of the contract with the staking provider. The staking provider regularly enters into arrangements with unrelated persons involving similar activities, and such other persons are also unrelated to the trust, the custodian, and the sponsor. The

staking provider bears its own expenses. The allocation of staking rewards between the staking provider and the custodian on behalf of the trust is an arm's length allocation that is independent of the expenses of the staking provider or custodian, and may be stated as a percentage of the staking rewards derived from staking the trust's digital assets. The other terms and conditions of the custodian's arrangements with the staking provider reflect arm's length terms.

(7) The trust, the custodian in its capacity as such, and the sponsor have no legal right or arrangement to participate in or direct or control the activities of the staking provider in any way, and do not do so, except to direct the staking and unstaking of the trust's digital assets as provided in this section 6.02.

(8) All of the digital assets of the trust must be made available to the staking provider to be staked at all times, except as provided in sections 6.02(9), (10), (11), and (12) of this revenue procedure.

(9) When appropriate in the trustee's or sponsor's reasonable judgment to comply with the trust's liquidity risk policies and procedures required by the national securities exchange on which the interests in the trust are listed and traded, a trust may stake less than all its digital assets to create and maintain a liquidity reserve. The trust's liquidity risk policies and procedures must be based solely on factors relating to the requirement of the national securities exchange that assets be readily available to meet redemption requests within the required period. The trust may increase or decrease the liquidity reserve in compliance with its liquidity risk policies and procedures, provided that, to the extent the liquidity reserve is reduced, the trust shall resume making the digital assets not subject to the liquidity reserve available for staking as soon as and to the extent

reasonably possible. On the occurrence of one or more of the events described in section 6.02(10) and (11) of this revenue procedure, the trust shall direct the staking or unstaking of a necessary number of its digital assets to satisfy its liquidity reserve as soon as and to the extent reasonably possible.

(10) In addition to holding in a liquidity reserve (as described in section 6.02(9) of this revenue procedure), if any, digital assets that are not staked, the trust also may, on a short-term temporary basis and in connection with one or more of the following events, hold additional digital assets that are not staked, provided that the trust shall make such digital assets available for staking (subject to section 6.02(9) of this revenue procedure, if applicable) as soon as and to the extent reasonably possible:

- (i) the sale of digital assets for cash to pay trust expenses;

- (ii) the contribution of digital assets in connection with the creation of interests in the trust or distributions of digital assets to trust interest holders in redemption of their interests in the trust;

- (iii) the purchase of digital assets in connection with the creation of trust interests for cash or the sale of digital assets to make cash redemptions of trust interests; or

- (iv) the ownership of additional digital assets received as, or available for receipt, as staking rewards.

(11) In addition to holding in a liquidity reserve (as described in section 6.02(9) of this revenue procedure), if any, digital assets that are not staked, the trust also may, in connection with one or more of the following events, hold additional digital assets that are not staked, provided that the trust shall make such digital assets available for

staking (subject to section 6.02(9) of this revenue procedure, if applicable) as soon as and to the extent reasonably possible:

- (i) obtaining or disposing of digital assets through the contingent liquidity arrangement described in section 6.02(12) of this revenue procedure pursuant to applicable law or regulatory rules;
- (ii) the sale of digital assets for cash in connection with the trust's liquidation;
- (iii) the need to take protective measures against potential systemic vulnerabilities in the network's protocol, the staking smart contracts, or the validator client software;
- (iv) the cessation of the arrangement between the trust and a custodian, but only with respect to the digital assets affected by the cessation;
- (v) the cessation of the arrangement between a custodian and a staking provider, but only with respect to the staked digital assets affected by the cessation; or
- (vi) a change in applicable law or regulation.

(12) When appropriate in the trustee's or sponsor's reasonable judgment to comply with the trust's liquidity risk policies and procedures required by the national securities exchange on which the interests in the trust are listed and traded, the trust may enter into a contingent liquidity arrangement intended to mitigate an adverse liquidity event that otherwise would prevent the fund from distributing digital assets or cash to trust interest holders in redemption of their interests in the trust, provided that the digital assets or cash obtained through the contingent liquidity arrangement are expected to be distributed, or included in a pool of assets expected to be distributed, in the near future. For purposes of the foregoing sentence, a contingent liquidity

arrangement is (a) a lending facility or other arrangement permitting the trust to borrow cash or (b) an arrangement to sell or purchase digital assets for cash or digital assets on a current or deferred basis.

(13) To protect or conserve the trust's property, the trust's digital assets are indemnified from slashing due to the activities of staking providers.

(14) The only new assets received by the trust as a result of staking its digital assets are additional units, in the same form, of the single type of digital asset held by the trust. The trust's staking rewards, net of trust expenses, are, in proportion to the trust interest holders' relative interests in the trust, either distributed in-kind to trust interest holders or sold for cash and the proceeds distributed to trust interest holders, in each case on a periodic basis that is no less frequently than quarterly. The trust treats all staking rewards consistently.

.03 Amendment. A trust may amend its trust agreement to authorize staking at any time during the nine-month period beginning on November 10, 2025 and such an amendment will not prevent a trust from being treated as a trust that qualifies as an investment trust under § 301.7701-4(c) or as a grantor trust if the requirements set forth in section 6.02 of this revenue procedure are satisfied.

SECTION 7. NO INFERENCES ON LAW

.01 No inferences should be drawn about whether similar consequences would result if actions taken by or on behalf of a trust fall outside the limited scope of this revenue procedure.

.02 No inferences should be drawn as to any Federal income tax consequences not expressly addressed in this revenue procedure, including with respect to whether

income attributable to staking would be treated as income effectively connected with the conduct of a trade or business within the United States or as unrelated business taxable income. No inferences should be drawn regarding the Federal income tax treatment of other transactions involving digital assets not expressly addressed in this revenue procedure, including with respect to forks and airdrops.

SECTION 8. EFFECTIVE DATE

This revenue procedure is effective for tax years ending on or after November 10, 2025.

SECTION 9. DRAFTING INFORMATION

The principal author of this revenue procedure is Andrew B. Christopherson of the Office of Associate Chief Counsel (Passthroughs, Trusts, and Estates). For further information, contact Andrew B. Christopherson at (202) 317-3889 (not a toll-free number).