GORDON LAW GROUP
4709 Golf Road, Suite 1100
Skokie, IL 60076

PHONE: (847) 580-1279
FAX: (847) 305-1202
EMAIL: glg@gordonlaw.com

May 4, 2026

VIA FEDERAL eRULEMAKING PORTAL (regulations.gov)
CC:PA:01:PR (REG-105064-25)
Internal Revenue Service
P.O. Box 7604, Ben Franklin Station
Washington, DC 20044

Re: Comments on REG-105064-25, Electronic Furnishing of Payee Statements Regarding Digital Asset Sales by Brokers; RIN 1545-BR47

Dear Sir or Madam:

Gordon Law Group, Ltd. submits these comments on the proposed regulations published at 91 Fed. Reg. 10983 (March 6, 2026). Our firm has represented digital asset taxpayers since 2014. We have handled hundreds of IRS examinations, voluntary disclosures, and tax controversies involving cryptocurrency, and we file over five hundred digital asset tax returns each year on behalf of retail and small business taxpayers across the United States. These comments reflect what we are observing in the 2025 filing season in the real-world experience of digital asset taxpayers.

We support the goal of these proposed regulations. Electronic furnishing of 1099-DA statements is the right direction. The 2025 filing season has demonstrated that paper 1099-DA statements are unworkable for taxpayers and practitioners alike. Clients receive paper statements that must be manually re-keyed or scanned to be reconciled against tax-preparation software, against client records, and against third-party crypto tax tools. A retail taxpayer with thousands of transactions cannot use a paper statement, and neither can the preparer attempting to file an accurate return on the taxpayer's behalf. Electronic delivery, properly implemented, solves this problem.

But the IRS should not finalize a rule that simply moves 1099-DA statements from paper to PDF without addressing what the 2025 filing season has revealed about the larger 1099-DA reporting regime. Under the current framework, retail crypto taxpayers are receiving statements they cannot use, calculated on data brokers do not have, with enforcement consequences they have no workable way to remediate. We urge the Treasury Department and IRS to use this rulemaking, together with the related Notice 2026-4 process, to address these issues directly.

These comments first describe the conditions confronting retail crypto taxpayers under the current 1099-DA regime, then propose specific reforms, and finally address the proposed electronic furnishing rule itself.

I. The 1099-DA Reporting Regime Is Harming Retail Crypto Taxpayers in the 2025 Filing Season

A. Gross-proceeds-only reporting is generating apparent gains where none exist

For 2025 transactions, brokers furnished 1099-DA statements reporting gross proceeds without cost basis. The IRS receives the same data on the broker filing. When automated underreporter matching or a CP2000 reviewer compares 1099-DA total proceeds against amounts reported on the customer's return, the absence of basis means every dollar of proceeds appears as gain unless the taxpayer can substantiate basis on examination.

This is not an abstract concern. We are now actively defending CP2000 notices and exam adjustments asserting six- and seven-figure deficiencies against taxpayers whose actual gain was small or zero. The taxpayer's burden is to substantiate basis on transactions the broker recorded but did not report. For taxpayers with cross-platform activity, hardware wallets, DeFi interactions, or pre-2025 holdings, that substantiation is often impossible to assemble after the fact, particularly for activity from prior years on platforms that have since shut down or suffered data loss.

B. The 2026 cost-basis reporting requirement will not solve this problem and may make it worse

Beginning with 2026 transactions, brokers will be required to include cost basis on 1099-DA statements for covered digital asset transactions. In principle this is a step forward. In practice, brokers can only report basis for assets purchased on the broker's own platform. For assets transferred onto a platform from another exchange, a self-custodied wallet, a DeFi protocol, or any other source, the broker has no basis information unless the customer provides it. Existing broker-to-broker basis transfer rules under section 6045A of the Code, designed for traditional securities, do not adequately accommodate the multiple sources from which a digital asset may arrive at a broker, and likewise the digital asset regulations under TD 10000 did not meaningfully reform those rules.

The current rules anticipate that the customer will furnish basis information to the broker upon transfer. Retail customers are not equipped to do this. Most do not have organized basis records for assets purchased years earlier on platforms that have since shut down. Many do not understand that basis tracking is their responsibility. Brokers have no practical way to validate customer-furnished basis even when it is provided. The likely result is 1099-DA statements that purport to report basis but in fact report zero basis, default basis, or unverified customer-supplied basis for any transferred asset, generating the same false-gain problem in a more authoritative-looking form.

This is not a marginal pattern. The 2026 Crypto Tax Readiness Report, based on a survey of 3,000 U.S. crypto users conducted in September and October 2025, found that respondents average 2.5 platforms or wallets, that 83% have used self-custodial wallets at some point, and that only 35% have ever adjusted their cost basis to account for transfers between platforms. Coinbase & CoinTracker, 2026 Crypto Tax Readiness Report (Apr. 2026), available at https://www.cointracker.io/2026-crypto-tax-report ("2026 Tax Readiness Report"). Cross-platform and self-custody activity is the rule for retail crypto users, not the exception. Brokers will not have validated basis for the great majority of these transferred assets, and the rate at which customers can supply reliable basis information back to brokers is correspondingly low.

If the IRS treats 2026 1099-DA basis information as authoritative for matching purposes, taxpayers will face notices built on data that brokers themselves cannot stand behind. The result will be more enforcement, not better enforcement.

C. The taxpayer education gap is severe

The 2026 Tax Readiness Report found that only 49% of U.S. crypto users correctly understand that crypto is taxable each time it is sold. 2026 Tax Readiness Report. Misunderstandings about which events trigger tax are widespread and consistent across the survey: for example, 41% of respondents incorrectly believed that transferring crypto from an exchange to a bank account triggers a taxable event; 36% believed that profits had to exceed a minimum threshold (such as $600 or $2,000) to be taxable at all; 31% believed that converting one form of crypto to another was the triggering action; and 22% believed that transferring crypto between their own wallets or accounts created a tax event. Id.

These taxpayers are not bad-faith actors. The same survey found that 74% of crypto users know their activity is taxable in some form, and 65% have previously reported crypto on their tax returns. Id. They are people of demonstrated good intent who have nonetheless reasonably misunderstood specific rules, in part because the platforms on which crypto-to-crypto trades occur did not historically present those trades as taxable transactions. The survey also found that 61% of respondents were unaware of the new 2025 tax-year rules, including Form 1099-DA itself. Id. The form that is being used to drive enforcement is, for most retail crypto taxpayers, the form they did not know existed.

Compounding this, IRS guidance on basic taxable events in crypto remains scattered across notices, FAQ pages, and form instructions. There is no single accessible publication explaining digital asset taxability to retail taxpayers in the way Publication 525 explains taxability of compensation, or Publication 550 explains taxability of investment income. The 1099-DA reporting regime was designed to close the digital asset tax gap, but reporting alone cannot close a gap rooted in widespread taxpayer misunderstanding of which events are taxable in the first place.

D. Taxpayers who want to come forward have no workable path

Taxpayers who recognize their prior years' returns were incomplete have, in theory, three options. They can file amended returns, enter the Voluntary Disclosure Program, or they can do nothing and hope the issue is not raised on examination.

Each option is inadequate for the typical retail crypto taxpayer. Amended returns expose the taxpayer to accuracy-related and late-payment penalties on the corrected liability and routinely flag the return for examination. The Voluntary Disclosure Program, as currently structured is designed for taxpayers with willful conduct, requires extensive narrative certification of willfulness, imposes a significant civil fraud penalty on the highest year, and is not a fit for a retail taxpayer who simply did not understand that crypto-to-crypto trades were taxable. Doing nothing exposes the taxpayer to the increased enforcement risk created by the 1099-DA filings themselves.

The result is that retail crypto taxpayers who want to comply have no clean path. We see this in our practice every week. The absence of a workable remediation channel is, in our view, the single greatest source of avoidable noncompliance in retail digital asset taxation today.

E. Increased enforcement is following the 1099-DA filings

The combination of new broker reporting and the IRS's commitment to use it has produced a measurable uptick in digital asset enforcement. We are seeing more CP2000 notices, more digital asset examinations, and more collection cases built on 1099 or John Doe summonsed data, in many cases against taxpayers whose actual liability is substantially smaller than the form suggests. Enforcement built on incomplete or inaccurate 1099-DA data does not improve compliance. It generates litigation, professional fees, and taxpayer hardship that competent reporting and remediation channels would have avoided. The IRS Automated Underreporter system and emerging AI-assisted case selection tools, which the agency has publicly indicated will be used to expand examination coverage, are designed to ingest broker-reported information and identify discrepancies. The 2025 1099-DA filings are now flowing into these systems. Without the cost-basis reporting reforms described in Section II below, the data being matched is incomplete, and enforcement built on it will continue to fall on taxpayers whose returns are in fact substantially correct.

II. Specific Reform Recommendations

A. Delay the cost-basis reporting requirement on Form 1099-DA

We recommend that the Treasury Department and the IRS delay the cost-basis reporting requirement on Form 1099-DA until three preconditions are in place:

1. Standardized broker-to-broker basis-transfer rules, with clear and reasonable defaults for transferred assets where customer-furnished basis is unavailable;
2. A common, IRS-specified data format for both broker-to-customer 1099-DA delivery and broker-to-broker basis transfer; and
3. Accessible, IRS-issued, taxpayer-facing guidance on basic digital asset taxability and on how to provide basis information to brokers.

This recommendation does not perpetuate the gross-proceeds-only problem described in Section I.A. The proposed 2026 cost-basis reporting requirement applies to covered digital assets acquired by the customer on or after January 1, 2026. For acquisitions made directly on the broker's platform during that period, the broker has direct, validated transaction records and should continue to report cost basis as the proposed rule contemplates. The delay we recommend applies specifically to cost basis populated from sources the broker cannot validate, principally transferred-in assets where existing broker-to-broker basis transfer rules under section 6045A and Treas. Reg. § 1.6045A-1 do not produce reliable data for digital assets. The fix for the gross-proceeds-only false-gain problem is not the reporting of unvalidated basis. It is structured reporting that distinguishes validated basis from unvalidated basis, paired with an enforcement posture that treats them differently.

In the interim, the 2026 1099-DA cost-basis fields should be optional. Brokers should be permitted to report basis only where they have validated information and should be expressly prohibited from reporting assumed-zero or default basis for transferred assets. The form should distinguish between basis reported and validated by the broker, basis reported by the customer to the broker, and basis not available, so that downstream IRS systems and taxpayers can interpret the data correctly. Without this distinction, all reported basis will look the same to the AUR system, and taxpayers will receive matching notices on broker-supplied figures the broker cannot defend. Implementing these distinctions will require coordinated amendments to Treas. Reg. § 1.6045A-1 to specify how brokers transfer (and receive) basis information for digital assets, what records support a transferred basis figure, and how a broker should report basis when the transferring source is a non-broker (a self-custodial wallet, a foreign exchange, or a DeFi protocol). The current section 6045A regulations were written for traditional securities and do not produce reliable basis transfer for digital assets. Without those amendments, the 2026 cost-basis fields on Form 1099-DA will be populated with data the broker cannot stand behind and that the receiving IRS system cannot fairly act on.

B. Establish a streamlined compliance program for retail digital asset taxpayers

Modeled on the Streamlined Filing Compliance Procedures used in the offshore context, the IRS should establish a digital asset streamlined program for taxpayers whose prior noncompliance was non-willful. Eligibility should require certification of non-willfulness, full reporting of digital asset activity for an open lookback period, and payment of the resulting tax with interest. Penalties should be reduced or waived for qualifying participants.

This is the single highest-impact action the IRS can take to bring retail crypto taxpayers into compliance. Without it, the increased enforcement made possible by 1099-DA reporting will fall hardest on taxpayers who are trying to do the right thing and have no path to do so. With it, the IRS can collect substantial tax owed by retail digital asset taxpayers without the litigation overhead of pursuing each case through examination.

C. Require a standardized, machine-readable format alongside the human-readable 1099-DA

The IRS should require, by regulation, that every electronically furnished 1099-DA be accompanied by a machine-readable file containing the same data fields as the human-readable form. The schema should be specified by the IRS. JSON or CSV are both workable. The requirement is uniformity.

This is the single most important taxpayer-facing improvement to digital asset reporting, and it is the requirement that gives the proposed electronic furnishing rule its actual taxpayer benefit. The 2025 filing season demonstrated the cost of its absence. Practitioners are spending hours per client manually reconciling 1099-DA data against tax-preparation software, third-party crypto tax tools, and client records, because every broker exports differently and many export only PDF. A retail taxpayer with hundreds or thousands of transactions cannot reasonably do this without paying for professional help or specialty software, and many cannot afford either.

A standardized schema solves the reconciliation problem at modest cost to brokers, who already maintain the underlying transaction data in structured form. Electronic delivery of an unstructured PDF is not meaningfully better than paper. Electronic delivery of standardized structured data transforms the reporting regime.

The need for ingestible data is not theoretical. The 2026 Tax Readiness Report found that 78% of U.S. crypto users file their taxes with general tax-preparation software, 52% rely on accountants, and only 8% use crypto-specific reconciliation tools. The general tax software population is the population that most needs ingestible 1099-DA data. Without a required machine-readable format, that population is left with PDF statements that their software cannot read and that they cannot reasonably reconcile by hand. A required schema brings 1099-DA reporting into parity with the way W-2 and 1099-B information already flows into general tax software, and it is the change that gives the proposed electronic furnishing rule its actual taxpayer benefit.

D. Establish IRS Individual Online Account access to 1099-DA filings

Wage earners can retrieve W-2 information from the IRS through the Individual Online Account. Digital asset taxpayers should have the same right. A taxpayer who has lost access to a broker account, whose broker has gone out of business, or whose broker has refused service for non-consent to electronic furnishing, currently has no reliable path to obtain their own 1099-DA filings. The IRS should commit to making 1099-DA data available through the Individual Online Account on the same timeline as other wage and income data. This change also serves enforcement: when the IRS uses 1099-DA data to identify potential underreporting, the taxpayer should have direct access to the same underlying data the IRS is matching against. That symmetry produces faster, lower-cost resolution of discrepancies and reduces the litigation overhead created by AUR notices issued on data the taxpayer cannot independently verify.

E. Require brokers to honor authorized representative access

The proposed rule does not address how a tax preparer or attorney with valid Form 2848 or Form 8821 authorization obtains a client's 1099-DA in machine-readable form. In our practice, this is one of the largest practical barriers to representing digital asset clients in examinations and voluntary disclosures. The final rule should require brokers to honor properly executed authorizations and to provide the authorized representative with the same access, electronic or paper, that the customer would receive.

F. Issue plain-language taxpayer-facing guidance on digital asset taxability

The IRS should publish, through Publication or comparable accessible format, plain-language guidance addressing the taxable events that arise in retail digital asset activity. The guidance should cover at minimum crypto-to-crypto trades, staking rewards, hard forks and airdrops, DeFi liquidity provision, NFTs, and self-transfers between wallets owned by the same taxpayer. This is not new substantive guidance, but a consolidation of existing rules into a form taxpayers can more easily access and use. The misunderstanding rate documented in industry surveys cannot be solely addressed by new rules. It can be addressed most meaningfully by usable education.

III. The Electronic Furnishing Rule Itself

A. We support electronic furnishing in concept

For the reasons set out above, we support the move to electronic furnishing of 1099-DA statements. Paper delivery has been demonstrably unworkable in the 2025 filing season. The most important condition for electronic furnishing to deliver real benefit is the standardized machine-readable format described in Section II.C. Without that requirement, the proposed rule will simply convert paper PDFs into emailed PDFs and leave the underlying reconciliation problem unsolved.

B. Specific concerns with the proposed rule as drafted

1. The "consent or terminate" framework should be tempered for low-volume customers. Proposed § 1.6045-1(k)(5)(iii)(C)(5) permits a broker to refuse service to any customer who declines electronic consent. The IRSAC Report's burden concerns are real for active high-volume traders but do not apply at low transaction counts. The final rule should require brokers to offer paper delivery to any customer with fewer than 200 reportable transactions in the calendar year and should include a hardship exception that requires paper delivery upon written request from any customer who certifies inability to access electronic communications. The cost-benefit balance favors retention of a paper option at low transaction counts. Printing and mailing a single-page or short multi-page substitute statement for a customer with fewer than 200 transactions is a marginal incremental cost compared to the broker's existing paper-statement infrastructure for 1099-B and similar forms. The cost to the customer of forced exit from a broker relationship can be substantially larger: forced sales generating taxable events, loss of the basis records the broker holds, and the foreseeable cascade of CP2000 notices and amended-return work that follows when those records become inaccessible. The IRSAC Report's burden concerns were directed at the high-volume case, not at this population.

2. Withdrawal of consent should be required, not optional. Proposed § 1.6045-1(k)(5)(iii)(C)(6) permits but does not require brokers to allow customers to withdraw consent. This is a departure from § 31.6051-1(j)(7), which has required withdrawal rights for two decades. Circumstances change. A taxpayer who consents to electronic delivery as an active trader may years later hold dormant assets and need paper delivery. A taxpayer with a visual impairment may need to switch from PDF to paper. A taxpayer who is the victim of an account takeover may need to withdraw consent until access controls are restored. The final rule should require brokers to honor withdrawal requests within 30 days, without conditioning withdrawal on account closure or punitive fees. A required withdrawal right does not contradict the broker's ability to terminate the customer relationship going forward. The two operate at different stages: the broker may decline to effect future sales for a customer whose preferences the broker is unwilling to accommodate, but a withdrawal of consent must result in paper furnishing of any 1099-DA statement the broker is still obligated to issue (including statements for transactions already effected before withdrawal).

3. Email-only default notice should be paired with a second channel. The proposed rule treats email as the only required default notice channel and treats text, push, and in-application messaging as additional methods available only by customer request under proposed § 1.6045-1(k)(5)(ii)(C). This is exactly inverted. A retail crypto customer spends far more time in the broker's mobile application than in their email inbox. The final rule should require dual-channel primary notice: email plus at least one in-application or push channel where the broker offers such a channel.

4. Direct transmittal by email attachment should be removed as a qualified method. The Explanation of Provisions specifically asks whether the direct transmittal method should be removed. 91 Fed. Reg. 10994. Our view is yes. PDF attachments from financial institutions are precisely the format used in phishing campaigns, and security awareness training correctly conditions taxpayers to be suspicious of unexpected attachments. Posting-with-notice achieves the same compliance objective without that risk.

5. The October 15 access requirement and 7-year retention requirement should be retained. These provisions are well-calibrated to taxpayer needs and should be retained in the final rule. We have not heard credible objections to seven-year structured-data retention from any broker we work with.

6. The deadline for a customer to request additional notice methods should be extended. The proposed end-of-calendar-year deadline is too late. By December 31, the customer has missed the chance to receive additional notice for the year just ending. The deadline should be the end of the calendar quarter following the year of the transactions (March 31), so that customers can react to receiving an unexpected first January email by requesting a different channel for that year's statement.

IV. Conclusion

The proposed electronic furnishing rule is moving in the right direction. The 2025 filing season has demonstrated that paper 1099-DA delivery is untenable. But finalizing this rule without addressing the broader 1099-DA crisis will leave retail crypto taxpayers in a worse position, not a better one: receiving electronically what they could not use on paper, calculated on data brokers do not reliably have, with enforcement consequences they cannot remediate through any workable channel.

We urge the Treasury Department and the IRS to take the following actions in connection with this rulemaking and related guidance:

1. Delay cost-basis reporting on Form 1099-DA until reliable broker-to-broker basis-transfer rules under section 6045A, IRS-specified data formats, and taxpayer-facing education are in place;
2. Establish a streamlined compliance program for non-willful retail digital asset taxpayers;
3. Require a standardized machine-readable format alongside the human-readable 1099-DA;
4. Provide IRS Individual Online Account access to 1099-DA filings;
5. Require brokers to honor properly executed Forms 2848 and 8821 by providing authorized representative access; and
6. Issue plain-language taxpayer-facing guidance on digital asset taxability.

The remaining specifics of the proposed rule, including consent procedures, paper option, withdrawal rights, and notice channels, should be modified as set out in Section III.

We are available to discuss any of these recommendations and can provide additional examples from our practice.

V. Request for Public Hearing

Pursuant to the procedures set forth in the Notice of Proposed Rulemaking, 91 Fed. Reg. 10983, 11003 (Mar. 6, 2026), Gordon Law Group, Ltd. hereby requests a public hearing on the proposed regulations. The undersigned is available to provide testimony in person or by remote means as the Treasury Department and the Internal Revenue Service may direct, and to address any of the issues raised in the foregoing comments.

Respectfully submitted,

Andrew B. Gordon, JD, CPA
Managing Attorney
Gordon Law Group, Ltd.
(847) 580-1279