

**AICPA's Oral Testimony of Annette Nellen
United States Senate, Committee on Finance
Hearing on Examining the Taxation of Digital Assets
October 1, 2025**

Good morning, Chairman Crapo, Ranking Member Wyden, and Members of the Committee. My name is Annette Nellen. I'm chair of the AICPA Digital Assets Tax Task Force and a professor in and director of San Jose State University's graduate tax program.

On behalf of the AICPA, I'm pleased to have the opportunity to testify on the taxation of digital assets. Despite the growing importance of digital assets and the increasing number of taxpayers using them, there is still a lot of uncertainty and a lack of clarity when it comes to many digital asset tax issues.

Since the initial guidance from the IRS in 2014, the number and types of digital assets and their uses has grown and continues to do so. Digital assets include not only bitcoin that was an initial focus of guidance, but also numerous cryptocurrencies, stablecoins, tokenized assets, wrapped tokens, and non-fungible tokens or NFTs. This has further complicated the taxation of digital assets because some closely resemble securities, some resemble commodities, and others don't resemble either. Therefore, carefully defined terms will be critical in any extension of existing tax provisions to digital assets.

For example, we recommend that mark-to-market accounting be extended to dealers and traders of digital assets under the existing section 475 framework. The intent of mark-to-market accounting was to simplify tax compliance for assets with a value that can be readily determined, such as securities. There are many digital assets with values that are readily determined and actively traded on multiple digital asset exchanges.

To extend mark-to-market accounting to dealers and traders of digital assets, Congress needs to clarify which digital assets would be eligible for such treatment, and then specify the types of activities that would make a taxpayer a "dealer in digital assets." For example, narrowly defining "actively traded fungible digital assets" as those traded on one or more domestic digital asset exchanges would treat digital assets similar to certain securities and commodities.

This narrowly defined subset of "actively traded digital assets" could also be used for other Code sections applicable to securities and commodities. Importantly, this standalone definition would circumvent the need to determine whether a specific digital asset is a commodity, security, or other type of asset.

For example, Congress could leverage this definition when considering a safe harbor under section 864 for digital assets. The legislative history of section 864 indicates that Congress believed it would encourage foreign investment in the U.S. and would keep trading activity in the U.S. This intent would seem to apply to other investment assets, such as digital assets.

Another tax issue that needs to be resolved via legislation is application of the qualified appraisal exception for charitable contributions of certain types of digital assets. This exception assumes that certain types of assets have reliable and publicly available values. Therefore, they should not require the expense of hiring a qualified appraiser to determine the value of donated property. Publicly traded securities are among the few types of property available for this exception.

Because not all digital assets are actively traded on digital asset exchanges, the appraisal exception should not be extended to all digital assets. An overly broad extension may lead to overvaluation of digital assets with speculative values. The qualified appraisal exception should be limited to “actively traded fungible digital assets.” This aligns with the intention of and the benefits offered under the current exception for publicly traded securities, which is to make the charitable contribution process simpler and less costly and where any possible abuse is unlikely.

These three issues do not reflect all digital asset tax issues that can create uncertainty for taxpayers and tax professionals. Some issues are more complex than others, and some have valid arguments on each side. And for some issues, a legislative rule is needed for consistency or to address areas where more than one possible tax interpretation exists. We have addressed additional tax issues in our written testimony.

Ultimately, we seek guidance that provides clarity and certainty. Certainty of the tax consequences and reporting obligations arising from digital asset transactions will improve the tax system, not cause people to avoid transactions that otherwise make financial sense, and lead to consistent application of tax rules among all taxpayers.

The tax system benefits from clear laws. Everyone plays by the same rules and can meet their compliance obligations with confidence. In addition, tax administration is more efficient. This is what we are requesting when it comes to taxation of digital assets.

Thank you for the opportunity to testify. I am happy to answer any questions you may have.