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Services

Illinois' Digital Asset Tax Act - Legal challenges prompt joint delayed implementation

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In brief

What happened?

The Sangamon County Circuit Court approved an order delaying the effective date of the Digital Asset Tax until July 1, 2027. The Agreed (Stipulated) Motion for Preliminary Injunction to preliminarily enjoin, stay, and continue the effective date of the Digital Asset Tax was filed jointly by the state of Illinois, along with the Chamber of Digital Commerce and Illinois Blockchain Association on October 1, 2026.

The action was prompted by the two challenges initiated against Illinois' Digital Asset Tax (DAT) Act. The Chamber of Digital Commerce, along with the Blockchain Association and Crypto Council for Innovation (CCI), initially filed complaints in Sangamon County Circuit Court (July 21, 2026, and August 21, 2026, respectively). The plaintiffs seek declaratory and injunctive relief preventing enforcement of Illinois' newly enacted DAT Act. The plaintiffs also seek preliminary and permanent injunctions preventing enforcement of the Act. No court has yet ruled on the merits of the allegations. [Chamber of Digital Commerce d/b/a The Digital Chamber v. Harris, et al.](#), Verified Complaint for Declaratory and Injunctive Relief, Circuit Court of the Seventh Judicial Circuit, Sangamon County, Illinois (July 21, 2026); [Blockchain Association & Crypto Council for Innovation v. Harris, et al.](#), Complaint for Declaratory and Injunctive Relief, Circuit Court of the Seventh Judicial Circuit, Sangamon County, Illinois (Aug. 21, 2026)

The Agreed (Stipulated) Motion does not resolve the two cases. The industry groups are planning to continue to pursue the legal challenges to determine whether the tax is constitutional and enforceable.

Why is it relevant?

Illinois' DAT Act is an unprecedented imposition on digital assets. There are multiple actions in play to challenge the tax; however, digital asset brokers and Illinois customers should consider continuing to proceed with plans for implementation and compliance as the outcome remains uncertain. We continue to monitor for additional administrative guidance from the department, updates on the progress of HB 5798, which would repeal the DAT, and the outcome of The Chamber of Digital Commerce and joint Blockchain Association & CCI lawsuits, seeking to block the Act before it takes effect.

Actions to consider

The DAT was scheduled to be effective on January 1, 2027. Despite the delay until July 1, 2027, the following actions should be evaluated:

- Digital asset platforms and providers should assess whether they qualify as a broker under the DAT Act since it relies on the federal tax definition of "broker."
- Digital asset brokers will be required to register and collect the tax.
- Brokers should evaluate which types of transactions fall within the scope of the tax (e.g., if no fees or certain fees are charged by the broker, digital assets used for investment purposes, staking, lending).
- Brokers should monitor for clarification on certain categories of digital assets, such as stablecoins, and whether they are excluded from the scope of the DAT Act.
- Out-of-state brokers will need to monitor digital asset business activity in Illinois against the \$100,000 receipts threshold for registration.
- Brokers will need to develop mechanisms to identify and track the transaction activity that gives rise to the gross receipts and to issue a receipt evidencing the tax collected for each taxable transaction upon customer request.
- Brokers will need to evaluate the specific information that is available for their customers and then determine whether the transactions are properly sourced to Illinois.
- Illinois customers will need to verify whether address information is current with any digital asset brokers.
- Illinois customers will need to self-assess and report the tax in instances where the broker does not collect.

In detail

The DAT Act (Public Act 104-0468, Article 3) imposes a 0.2% tax on the value of digital assets when an Illinois customer receives certain digital-asset services—principally exchanging, transferring, or storing digital assets through a digital asset broker. The tax is measured against the value of the digital asset rather than the broker's fee or the customer's gain, and potentially applies even when there is no sale, gain, or change in ownership. Brokers generally must collect and remit the tax, while customers may have a self-assessment obligation where the broker does not collect it. For more details, see [PwC Insight: Illinois enacts transaction tax on cryptocurrency via “digital asset business activity”, July 31, 2026.](#)

Plaintiffs raise several arguments, principally that the tax unlawfully discriminates against internet commerce, violates the dormant Commerce Clause, and is unconstitutionally vague. They advance multiple separate legal theories in their request for invalidation of the Act. They argue that the DAT:

- discriminates against electronic commerce, asserting that digital assets are similar to traditional transactions involving currency, stocks, bonds, or precious metals that are not taxed, therefore violating ITFA.
- imposes multiple burdens on interstate commerce that outweigh Illinois’ asserted local benefits. Due to the structure of DAT, which does not provide a credit for taxes paid to other states, there is a significant possibility of multiple state taxation. The tax is also disproportionate to the Illinois economic activity being taxed. Additionally, there is a potential pyramiding of the tax where the activity subject to tax is treated as a separate taxable event.
- lacks clear compliance standards because there are numerous ambiguities in the statute, which left unresolved, may result in civil and Class 3 felony penalties being imposed on brokers.
- creates an unreasonable tax classification under the constitutional restrictions found in Illinois Constitution’s Uniformity Clause, as there is no substantial difference or reason to treat digital assets different from traditional financial assets.
- incorporates federal law into the definition of “digital asset broker,” putting the tax at risk for potential scope changes should Congress and future Treasury regulations be amended.
- was enacted through constitutionally defective procedures. Plaintiffs raise numerous violations regarding the activities that led to the enactment of the DAT and challenge the Public Act in its entirety.

Let's talk

To discuss the potential impact of The Digital Asset Tax Act on your business, please contact:

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