Tax Insights
from State and Local Tax
Services

Illinois enacts transaction tax on cryptocurrency via "digital asset business activity"

July 31, 2026

In brief

What happened?

Effective January 1, 2027, the Digital Asset Tax Act imposes tax on Illinois customers that receive digital asset business activity from a digital asset broker. This activity includes exchanges, transfers, and storing of digital assets. The tax is imposed at 0.2% on the value of underlying digital assets involved in the transaction.

The fiscal year 2027 budget bill (SB 3019), signed by Illinois Governor Pritzker on June 16, 2026, includes the Digital Asset Tax Act, imposing tax on digital asset transactions. This tax resembles a transaction tax on gross receipts from digital asset transfers and requires digital asset brokers with nexus in Illinois to collect the tax on each sale. On June 22, 2026, HB 5798 was introduced in the Illinois General Assembly, which if passed, would repeal this tax completely.

Why is it relevant?

The Digital Asset Tax Act is a first-of-its-kind imposition on digital asset transactions, including cryptocurrency. The Act is designed to reach both in-state brokers and remote out-of-state brokers that exceed a $100,000 receipts threshold. The tax has already drawn legal challenges, and its full repeal has been proposed by HB 5798.

On July 21, 2026, The Digital Chamber filed suit in the Circuit Court of Sangamon County, Illinois, asking the court to declare the Act “void and unenforceable” on the grounds that it:

- violates the US Constitution’s Commerce Clause and Due Process Clause
- violates the Illinois Constitution’s Uniformity Clause, Due Process Clause, and Proportionate Penalties Clause
- is preempted by the Internet Tax Freedom Act because it discriminates against Internet-based electronic commerce.

Actions to consider

- Digital asset brokers will be required to register and collect the tax.
- 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.
- Monitor for additional administrative guidance from the department, updates on the progress of HB 5798, and the outcome of The Digital Chamber’s lawsuit, seeking to block the Act before it takes effect.

In detail

The Digital Asset Tax Act is a transaction-like tax on gross receipts from digital assets, including cryptocurrency, that is imposed on the privilege of receiving any digital asset business activity by a customer in Illinois. The rate is 0.2% of the value of the digital asset to which the digital asset business activity relates. The tax applies to each taxable digital asset business activity, which may result in the tax applying multiple times in a transaction chain, known as tax pyramiding.

The Digital Asset Tax Act adopts the meaning set forth in the Digital Assets and Consumer Protection Act (DACPA). “Digital asset” means a “digital representation of value that is used as a medium of exchange, unit of account, or store of value, and that is not fiat currency….” Fiat currency, such as the US dollar and the Euro, are excluded.

“Digital asset” also excludes a digital representation of value that:

- a merchant grants as part of an affinity or rewards program
- is issued by or on behalf of a game publisher and that is used primarily within online games or gaming platforms
- has substantial value, utility, or significance beyond the asset's mere existence as a digital asset, including digital equivalents of tangible and intangible goods such as:
  - works of art, musical compositions, literary works, and similar intellectual property
  - collectibles and merchandise
  - licenses, tickets, and similar rights to attend events or participate in activities
- is not marketed, used, promoted, offered, or sold for investment or speculation
  - this exclusion does not apply to a digital representation of value that is
    - meme-based with no intrinsic value or utility, or
    - marketed, used, promoted, offered, or sold in a manner that intends to establish a reasonable expectation or belief among the general public that the instrument will retain a nominal value that is so stable as to render the nominal value effectively fixed
- is used as part of prepaid cards.

Digital asset business activity is “any single occurrence of exchanging, transferring, or storing a digital asset as part of a business or on behalf of a customer pursuant to an agreement for those services.” The tax applies broadly to digital asset services performed for customers, including:

- **Exchange activity**, such as exchanging, buying, selling, trading, or converting digital assets for fiat currency or other digital assets on behalf of a customer
- **Transfer activity**, including moving a digital asset between accounts, crediting it to another person’s account or storage, or relinquishing custody or control to another person
- **Storage activity**, meaning holding, storing, maintaining custody of, or controlling a digital asset on behalf of a customer.

Digital asset broker nexus

Brokers with a place of business in Illinois must register and collect. This includes having a physical or representative presence in the state, directly or through a subsidiary, including offices, facilities, warehouses, agents, or other representatives in Illinois. Brokers outside Illinois will be treated as maintaining a place of business in Illinois where digital asset business activity gross receipts are $100,000 or more. The economic nexus threshold is measured on a rolling basis each quarter, based on the preceding 12 months of activity. Once the threshold is reached, the broker must register and begin to collect and report for one year, then can reassess whether it has a continued obligation to collect.

Digital asset broker registration

Brokers are required to register with the department by submitting an electronic application and providing the information requested. Registration will be valid for one year and automatically renews unless revoked or otherwise notified.

Customer in the state/sourcing

The Act incorporates broad sourcing rules. Brokers will need to determine whether the transaction is an Illinois transaction and subject to the tax by applying the following:

- For in-person transactions, the sale is sourced to Illinois if the sale occurs at a physical location in Illinois.

- For sales occurring electronically or by phone, the account or device information is used to determine whether the transaction is an Illinois sale. The sale will be presumed to be an Illinois sale where the account or device is associated with an Illinois home address, mailing address, IP address, or other data indicating Illinois as the customer's place of primary use. For purposes of this tax, "place of primary use" aligns with the Illinois Mobile Telecommunications Sourcing Conformity Act, focusing on the customers' location of use rather than the origin or transit points of the service. This sourcing is a rebuttable presumption; the burden of proof falls to the broker.

Collection, filing, and remittance

Brokers must remit the tax to the department regardless of whether it has been collected from the customer. The broker collects the tax from the customer by adding it to the purchase price. The tax should be stated as a separate item, unless the purchaser is given written notification that the tax is included in the purchase price, such as including a notation on the invoice that it is inclusive of the tax. Brokers must provide the customer with a receipt, where requested, to support the tax collected.

Brokers are required to file a return on or before the 20th day of each month for the preceding calendar month. The return and payment are to be made by electronic means.

Customers must review their digital asset business activity and evaluate whether the tax should have been applied to their transactions. Where the seller has not charged the tax, Illinois customers are required to self-assess and remit tax to the IL DOR no later than the 20th day of the month following the month of payment for the digital asset business activity.

Penalties

The Act imposes criminal penalties for noncompliance. A Class 3 felony applies to:

- any digital asset broker who fails to file a return, violates any other provision of this Act, fails to keep books and records as required by this Act, files a fraudulent return, or willfully violates any rule or regulation of the Department for the administration and enforcement of the provisions of this Act

- any officer or agent of a corporation or manager, member, or agent of a limited liability company subject to this Act who signs a fraudulent return filed on behalf of such corporation or limited liability company

- any accountant or other agent who knowingly enters false information on the return of any taxpayer under this Act.

Prosecution may commence within five years of the violation. Separately, the Act incorporates specified administrative and enforcement provisions of the Retailers' Occupation Tax Act and all provisions of the Uniform Penalty and Interest Act to the extent not inconsistent with the Act. As a result, brokers also could be subject to civil penalties, including late-filing and late-payment penalties, a 20% negligence penalty, a 50% fraud penalty, and penalties for failing to keep or produce required books and records, in addition to statutory interest on any underpayment.

Exclusions

The Digital Asset Tax is not imposed on interstate commerce or where prohibited by federal constitutional or statutory limits, nor is it imposed on the provision of services to the United States or any of its agencies or instrumentalities.

Observations

The Department is given broad authority to administer and enforce the Act. As adopted and pending administrative interpretation from the Department of Revenue, the Digital Asset Tax leaves many questions unanswered for brokers, investors, and traders, such as:

- Which activities will constitute an exchange, transfer, or storage of digital assets subject to tax?
- Will there be any protection against multiple layers of taxation on a series of events?
- How broadly will the definitions of "digital asset broker" apply to DeFi and noncustodial transactions?
- Will other states follow Illinois' approach?

As of this writing, it appears that no other state has introduced comparable legislation imposing a stand-alone transaction tax on digital asset business activity. Tennessee recently extended its sales tax, effective January 1, 2027, to certain international money transmission services originating in state, reflecting a broader trend of states considering transaction or service-based taxes on financial activity.

Let’s talk

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

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