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Why Is the Infrastructure Bill Deciding the Fate of Crypto?

The bipartisan infrastructure bill has a new deadline of October 31, but an important question still looms: Why is a "must-pass bill" ostensibly focused on America's infrastructure deciding the fate of cryptocurrencies?

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The Section in Question

If you scroll through the infrastructure bill to page 2,419, you'll find Section 80603 where two curious provisions manage to turn the cryptocurrency industry upside down. The first amends the Internal Revenue Code (IRC) to redefine the term "broker" so that it includes "any person who is responsible for regularly providing any service effectuating transfers of digital assets on behalf of another person." In short, this requires not just exchanges like Coinbase or Robinhood to report personal information to the government, but also miners and developers.

While such an overstep is grounds for objection in and of itself, it's made worse by the fact that it is requiring an impossible standard of reporting.

Miners may "effectuate transfers," but that is not because someone personally contracted them to do so. Rather, they are simply doing their part to validate the blockchain, and the blockchain itself is publicly available. The government is able, just like anyone else, to see the limited information that miners have.

At best, this requirement represents a fundamental misunderstanding of the cryptocurrency industry in Congress. At worst, it sets a de facto ban on mining and other routine activities in the industry.

Scroll through another couple pages and you'll see where matters get worse. The bill also seeks to include digital assets (i.e., cryptocurrencies, NFTs, and the like) in Section 6050I(d) of the IRC.

At first glance, that probably does not sound very intimidating. However, if we turn to the IRC itself, the magnitude of this amendment becomes clear: the section in question requires any business transaction of $10,000 or more in cash to be reported to the government along with the

name, address, and social security number of the payer. Failure to do so within 15 days can result in fines and even felony charges. Without even a notice to the public, the infrastructure bill would require the same reporting on digital assets.

Show Your Work

Unfortunately, Congress has justified the decision to quietly insert this section into the bill because the Joint Committee on Taxation identified the cryptocurrency industry as a source of tax revenue. The Committee estimated that the new reporting requirements could yield $28 billion over the course of a decade.

That $28 billion created a challenge when Senators tried to amend the bill to remove the section on cryptocurrencies. If the section was removed, they would have then needed to scramble to find a new source of $28 billion.

However, it's not even clear that that money exists in the first place. Unlike miners on the blockchain, the Committee has yet to show their work. They published a table that outlines the expected revenue over the next ten years, but there is no justification for the numbers. There's no indication of what might happen to the tax revenue if the cryptocurrency industry leaves the United States, there's no range of possible outcomes under varying circumstances, and there is no note explaining whether or not this number is built off the assumption that the industry as

Yet, that was enough for Congress to include the section and the White House to celebrate it as the leading step in "strengthening tax enforcement" to offset the infrastructure bill.

A Ticking Clock

The infrastructure bill is expected to pass before the end of October, but that doesn't mean the case is closed. Congress should not be able to decide the fate of the entire crypto industry through a last-minute provision slipped into a must-pass bill. As Senator Cynthia Lummis (R-WY) put it, "This is why we need a real committee process to consider these issues, instead of secret drafting."

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