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GOP senators feud over cryptocurrency plan as lawmakers seek funding for infrastructure deal

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Two leading Republican senators are at odds over a proposal to step up tax-reporting requirements on cryptocurrency transactions, a measure designed to help pay for the $1 trillion infrastructure proposal moving through Congress.

Searching for new funds to pay for their infrastructure package, the White House and moderate Senate Republicans led by Sen. Rob Portman (Ohio) agreed to increase requirements for what brokerages have to report to the Internal Revenue Service. The measure emerged as a late potential compromise after months of disagreements over how to pay for the package.

The new provision is aimed at improving voluntary compliance and helping the IRS track evasion of large cryptocurrency sales, which often go unreported. But industry groups and some lawmakers, including Sen. Patrick J. Toomey (R-Pa.), are warning that the language as drafted is too broad and could give the Biden administration the opportunity to crack down on not just cryptocurrency brokers but also bitcoin "miners" who are crucial for validating transactions on the decentralized network.

"Congress should not rush forward with this hastily-designed tax reporting regime for cryptocurrency, especially without a full understanding of the consequences," Toomey, a member of the banking committee, said in a statement on Monday. Toomey vowed to offer an amendment to change the bill. "Simply put, the text is unworkable."

The plan's authors strongly reject this characterization.

Portman, who drafted the measure, has denied that cryptocurrency miners and software developers would be targeted under the new provision. He is expected to deliver remarks on the Senate floor affirming that the plan does not apply to these groups.

Republican lawmakers involved in negotiations have also asked the Treasury Department to issue informal guidance clarifying that miners and software developers will not be subject to the new rules, according to a GOP official familiar with the matter.

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"This legislative language does not … force non-brokers, such as software developers and crypto miners, to comply with IRS reporting obligations," said Drew Nirenberg, a Portman spokesman. "It simply clarifies that any person or entity acting as a broker by facilitating trades for clients and receiving cash, must comply with a standard information reporting obligation."

The late haggling over the cryptocurrency provisions comes on top of months in which the White House and a bipartisan group of senators have struggled to figure out how to pay for the infrastructure package. Even changes as small as tougher tax enforcement on things like bitcoin could prove thorny as lawmakers try to guide any proposal into law.

Targeting cryptocurrencies — which have relatively little political clout in Washington — emerged last week as a possible compromise after Republicans ruled out taxing the rich and more aggressive IRS pursuit of tax cheats.

If the plan is weakened by industry pushback, the deficit impact of the package overall would increase, possibly imperiling its already tenuous support among many Republicans.

There are two main components to the new cryptocurrency provisions, which were crafted by Portman.

One would include digital assets such as crypto in requirements to report payments worth more than $10,000 to the IRS. That measure is not viewed as particularly controversial and is likely to be accepted even by many crypto industry advocates.

The second provision, however, would clarify the definition of a broker for players in the cryptocurrency market, which would require them to file a type of 1099 form for transactions on certain kinds of digital assets.

The dispute represents an early attempt by policymakers to grapple with new federal oversight on an unregulated part of the financial system that has emerged as a major player with startling speed.

From an idea for a decentralized digital currency sketched out in an obscure pseudonymous paper published in 2008, bitcoin has grown to be worth more than $600 billion — with millions of investors across the United States and the rest of the world. Cryptocurrencies such as bitcoin have exploded in popularity in part because they are outside the traditional banking system, which is heavily regulated by the government.

But as it has moved toward the mainstream, cryptocurrency investors have sought federal rules to provide greater clarity for investors about what is legal and safe to trade. That increased attention from the government also runs the risk of greater regulation that investors say could harm crypto's growth.

"This is one of the ironies in the crypto space: The crypto industry would like to have the government's imprimatur, because it gives them legitimacy. But once they have to deal with the specifics of being regulated — like reporting requirements — they do not like it," said Eswar Prasad, an economist at Cornell University who focuses on cryptocurrency issues.

Many supporters of cryptocurrency trading are open to requiring the major exchanges — such as Coinbase, the largest cryptocurrency platform — to report transactions to the IRS. Taxpayers are already supposed to report these transactions to the IRS, but having a third party provide the information to the IRS as well could deter avoidance. The measure could also serve as a consumer protection, given that the 1099 forms also have to be provided to the trader.

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