A New IRS Voluntary Disclosure Program Is Coming—and Crypto Will Be Part of It

By Steven Toscher, Michel Stein and Philipp Behrendt

For taxpayers with potentially willful tax noncompliance, the IRS Voluntary Disclosure Practice ("VDP") has always offered a metaphorical "carrot and stick" bargain: come forward before the government finds you, disclose the conduct, pay the tax and some penalties, and in return, substantially reduce the risk of criminal prosecution.

In recent years, however, that bargain has become increasingly difficult to sell. The current VDP can be slow, expensive, and administratively burdensome. That matters because voluntary disclosure works only if taxpayers with genuine criminal exposure see a meaningful advantage to coming forward.

Now, significant changes appear imminent. On August 25, 2026, IRS Criminal Investigation Chief Jarod Koopman announced that the IRS is close to finalizing what he called a "new voluntary disclosure program," expected to be released within approximately 60 days.

The redesigned program is intended to streamline case processing, reduce penalties, and target resolution within approximately 120 days. And the IRS has apparently resolved one issue that contributed to the delay: whether digital assets should have their own voluntary disclosure program or be incorporated into the general VDP. The answer for now is integration. Crypto will be part of the general program.

From Offshore VDP to a Single Program

Voluntary disclosure itself is not new. But historically, the IRS did not always treat every type of noncompliance the same.

For years, taxpayers with undisclosed foreign accounts had access to specialized offshore voluntary disclosure programs, most notably the Offshore Voluntary Disclosure Program ("OVDP"). Those programs existed alongside the IRS's more traditional domestic voluntary disclosure practice and offered relatively standardized disclosure periods, penalties, and procedures.

The IRS closed the OVDP in September 2018. Afterward, domestic and offshore voluntary disclosures were generally consolidated into the current VDP.

The current system, however, has attracted fewer taxpayers over the years. Several post-2018 changes made the VDP considerably less attractive. The standard framework generally requires a six-year disclosure period, imposes a 75% civil fraud penalty on the highest-liability year and a willful FBAR penalty of up to 50% where applicable, and subjects the taxpayer to a civil examination.

The problem was compounded in June 2024, when the IRS revised Form 14457 to require taxpayers to affirmatively admit, under penalties of perjury, that their noncompliance was willful before they were accepted into the program. The National Taxpayer Advocate ("NTA") included the VDP as the "Most Serious Problem #10" in her 2024 Annual Report to Congress, and quoted taxpayers and practitioners calling the requirement a "game-changer." The NTA concluded that the requirement had a chilling effect on participation and was part of a series of changes that had made the program more formal, burdensome, and less attractive.

The participation numbers reinforce the concern: The NTA states that as of August 31, 2024, the IRS had completed only 161 criminal VDP cases since fiscal year 2019. The IRS ultimately agreed with the NTA's recommendation and has since removed the willfulness checkbox from Form 14457, an early indication that the agency recognizes the current program needs to offer taxpayers a more workable path back into compliance.

The IRS responded in December 2025 by proposing a substantial redesign. The proposal contemplated more standardized penalties and potentially less reliance on traditional examinations. But it also drew criticism, including over a requirement that taxpayers generally prepare the necessary returns and fully pay the resulting liability within three months after conditional acceptance.

The ABA Section of Taxation submitted detailed comments recommending, among other things, more flexibility in the payment and submission deadlines, greater use of a streamlined certification process rather than full examinations, and faster case resolution. Koopman's recent remarks suggest the final program may move significantly in that direction.

A 120-Day VDP

The most striking proposed change is speed.

According to Koopman, the IRS intends to replace the current full-examination model with a more streamlined upfront screening process, potentially involving artificial intelligence, and target approximately 120 days to complete a case. That would fundamentally change the VDP experience.

But faster IRS processing does not necessarily mean less work for taxpayers. It may mean that substantially more work must be completed before entering the program. Koopman emphasized that taxpayers will need to arrive with their returns ready to be filed so the IRS can move quickly.

Why Crypto Was a Sticking Point

Only two months ago, the IRS was still debating whether digital assets should receive their own disclosure regime.

In June 2026, Koopman explained that IRS divisions were considering whether to create separate voluntary disclosure rules for digital assets or integrate them into the general VDP. A stand-alone program could provide greater clarity for crypto-specific issues, but it could also create another layer of complexity.

The debate has a familiar historical parallel. The IRS previously decided that offshore noncompliance was sufficiently different from ordinary domestic tax violations to justify a separate OVDP. Digital assets posed the same policy question: are crypto cases sufficiently unique to warrant their own program?

There were good reasons to think so. Crypto tax reconstructions can require combining records from numerous centralized exchanges and self-custody wallets, tracing transfers between wallets, reconstructing missing basis, reviewing decentralized exchange activity, and analyzing staking, lending, liquidity pools, bridges, NFTs, and other transactions that do not fit comfortably into conventional tax-accounting systems.

The ABA specifically urged the IRS to develop standardized approaches to digital-asset computations and reasonable procedures where records are unavailable or incomplete. Practitioners need rules that recognize that blockchain reconstruction can be iterative rather than perfectly linear.

As recently as June, the IRS acknowledged that the ABA and others had raised the absence of crypto-specific computational guidance as a significant gap.

The IRS has now apparently chosen not to create another separate OVDP-style regime for crypto non-compliance issues. Koopman announced that digital assets will instead be incorporated directly into the general VDP to simplify the process. That is probably the right structural approach, but only if the final program still contains rules tailored to digital assets.

Potentially Lower Crypto Penalties

Perhaps the most intriguing announcement concerns penalties.

Koopman indicated that the new program may provide a lower penalty percentage for nonfraudulent digital-asset noncompliance. He specifically described the type of situation practitioners frequently encounter: someone who has not filed for several years and has earned substantial income from digital assets but wants to return to compliance.

Exactly how this will interact with the traditional VDP remains unclear. Historically, VDP has been intended for taxpayers concerned about willful conduct and potential criminal exposure, while non-willful taxpayers generally use other compliance procedures.

The final guidance therefore will need to explain what "nonfraudulent" means, who qualifies for the reduced digital-asset penalty, and whether the revised program is effectively expanding the population of taxpayers who may appropriately use VDP.

The IRS is also considering reducing the applicable FBAR penalty from the current 50% level to approximately 20% to 30%.

Should Taxpayers Wait?

The prospect of a more favorable program creates an obvious question: should taxpayers who are currently considering voluntary disclosure wait?

Not necessarily.

A voluntary disclosure generally must occur before the IRS begins investigating the taxpayer or receives information identifying the noncompliance. That timing issue can be particularly significant for digital assets as exchange reporting, blockchain analytics, summons activity, and domestic and international information reporting continue to expand.

A taxpayer who waits for better terms but loses the ability to make a timely voluntary disclosure may end up considerably worse off.

For taxpayers with significant unresolved digital-asset issues, the better approach is therefore to begin the privileged legal and forensic analysis now: determine the potential criminal exposure, reconstruct the transactions, identify missing records, and evaluate whether voluntary disclosure remains available.

What to Watch This Fall

The final guidance will determine whether the new VDP actually restores the bargain that made earlier voluntary disclosure programs effective.

What happens to taxpayers already in VDP? The transition rules may be particularly important. Under the IRS's preliminary guidance, taxpayers whose cases remain at an early stage may be able to move into the new program, while taxpayers whose civil examinations have already begun and who have responded to an examiner's information request may be required to remain under the existing VDP, including its full examination process. The ABA Tax Section has urged the IRS to adopt a simpler rule allowing any taxpayer whose VDP case has not yet been finalized by a closing agreement to elect into the new regime.

The critical questions include whether the IRS truly delivers a 120-day process; how much must be prepared by the taxpayer before admission; whether the December 2025 full-payment requirement survives; what penalties apply to income tax, FBARs, and information returns; and, critically for crypto taxpayers, how the new nonfraudulent digital-asset penalty and computational procedures will work.

The decision to incorporate crypto into the general VDP itself is significant. The IRS appears to be moving away from treating digital assets as a specialized fringe issue and toward treating them as part of mainstream tax administration.

But mainstreaming digital assets does not eliminate their unique computational and evidentiary problems. Whether the new VDP succeeds for crypto taxpayers will depend on whether the IRS can combine one integrated disclosure program with rules flexible enough to address the realities of blockchain transactions.

We should have the answer to some, if not all, of these questions this fall.

Steven Toscher *is the Managing Principal of the law firm and specializes in civil and criminal tax controversy and litigation. Mr. Toscher is a Certified Tax Specialist in Taxation, the State Bar of California Board of Legal Specialization, a Fellow of the American College of Tax Counsel and has received an "AV" rating from Martindale Hubbell. Mr. Toscher serves as Co-Chair of the UCLA Tax Controversy Institute and Co-Chair of the ABA Criminal Tax Fraud and Tax Controversy Conference. Mr. Toscher is a frequent lecturer and author on tax controversy and litigation topics and is a co-author of the BNA Portfolio, Tax Crimes. Mr. Toscher was the 2018 recipient of the Joanne M. Garvey Award, given annually to recognize lifetime achievement and outstanding contributions to the field of tax law by a senior member of the California tax bar. Mr. Toscher is also the recipient the USD School of Law Richard Carpenter Excellence in Tax Award. In 2024 Mr. Toscher was the recipient of the prestigious Jules Ritholz Memorial Merit Award presented by the Civil and Criminal Tax Penalties Committee of the Taxation Section of the American Bar Association, recognizing tax lawyers who have demonstrated outstanding dedication, achievement and integrity in the field of civil and criminal tax controversies.*

For more information, please contact Steven Toscher at toscher@taxlitigator.com.

Michel R. Stein, *a principal of Hochman Salkin Toscher Perez P.C., is a nationally recognized tax attorney with nearly 30 years of experience in tax controversy and planning for individuals and business entities. He is widely respected for his ability to resolve complex and sensitive tax controversies before the Internal Revenue Service and the California Franchise Tax Board, including matters involving significant civil and criminal exposure, and is a trusted resource to clients and advisors navigating the most challenging areas of federal and state tax law. His commentary and insights have been featured in leading tax publications, webinars, and media outlets addressing emerging issues in tax enforcement and policy.*

Mr. Stein has represented hundreds of clients in civil tax examinations, administrative appeals, and litigation before the U.S. Tax Court, U.S. District Courts, California Superior Court, and the U.S. Courts of Appeals. He routinely advises and defends clients in matters involving California Residency, Digital Assets and Cryptocurrency Investigations, High-Net-Worth Taxpayer Compliance and Examination, Domestic and International Tax Compliance, Voluntary Disclosures and Streamlined Filings, Challenges to Listed and Reportable Transactions, Partnership Tax and Audit Rules, Employment Tax and Worker Classification Issues, as well as tax controversies arising from Complex Real Estate and Business Transactions. He began his legal career as an Attorney Advisor to Special Trial Judge Larry Nameroff of the U.S. Tax Court and is a Certified Specialist in Taxation Law by the State Bar of California.

For more information, please contact Michel R. Stein at stein@taxlitigator.com.

Philipp Behrendt *is a Principal at Hochman Salkin Toscher Perez P.C., licensed in California as well as in Germany and assists in advising clients in civil and criminal tax controversies as well as international money laundering investigations stemming from tax avoidance structures. He also focuses on the technical aspects involved in advising voluntary disclosures in connection with DeFis, NFTs, and other crypto assets. Philipp is a Liaison to the Young Lawyer Committee for the ABA Tax Section's Civil and Criminal Tax Penalties Committee and served on the Beverly Hills Bar Association's Barristers Board of Governors from 2022 to 2023. Philipp is the Chair of the Beverly Hills Bar Association's Tax Section and the Blockchain and Web3 Law Section.*

For more information, please contact Philipp Behrendt at behrendt@taxlitigator.com