

# Taxation of Virtual Digital Assets (VDAs)

- April 2022

*CA Yeeshu Sehgal*

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# WHY IT'S IMPORTANT TO TAX VDAs



## Crypto-tech industry to grow to \$241 million in India by 2030: Nasscom

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## India has highest number of crypto owners in the world at 10.07 crore: report



7 crore, 0.07 crore. (Photo: ...)



## The Rise of NFTs: Need For A Progressive Regulatory Framework

The rise of NFTs as a separate entity different from crypto currencies calls for the requirement of a regulatory framework to prevent forgeries and for the protection of intellectual property

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## About 20 million Indians jumped on to crypto bandwagon in 2021



Home / Markets / Cryptocurrency / India ranks second in terms of crypto adoption in the...

## India ranks second in terms of crypto adoption in the world



interest even exchanges e in daily

## Bitcoin price rises over \$41,000, other cryptocurrencies make gains

Both Bitcoin and Ethereum have made strong gains in the past 24 hours as the global cryptocurrency market was by and large trading in green.

# WHY TO TAX VDAs

Business > Cryptocurrency > This Crypto Firm Raises \$87 Million From Justin Bieber, Maria Sharapova, Others

## This Crypto Firm Raises \$87 Million From Justin Bieber, Maria Sharapova, Others

Cryptocurrency payments startup MoonPay has raised \$87 million from more than 60 high-profile investors.

Cryptocurrency | Reuters | Updated: April 13, 2022 10:54 am IST

### TRENDING

 Prashant Kishor Asked To Join Party, Has Drawn Up 2024 Plan: Congress

 After Shatrughan Sinha's Bypoll Win, Babul Supriyo's "Slap" Swipe At BJP



Saturday, Apr 16, 2022

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OUTLOOK MONEY

## Russia Amends Digital Currency Bill, To Include Crypto Mining, Trading: Report

Russia's finance ministry has amended its digital currency bill to include cryptocurrency mining provisions

April 13, 2022

10:26 PM GMT+5:30

Last Updated 3 days ago

Future of Money

## Nexo and Mastercard launch 'world first' crypto-backed payment card

Reuters

Counting backwards, just 12 years down the lane, Crypto-world was an alien community to just about the entire world. It still is, but the percentage of such people has reduced drastically. From the times when people were found questioning its sceptical nature, speculating about its pseudo named creator, seeing a likely proposed ban, to disclosing it in IT Returns from the April of 2022, India has come a long way.

# INDIA'S JOURNEY

2008	2010	2013	2016-18	2018	2020	2021	2022
The journey of cryptocurrency started with the publication of a paper titled "Bitcoin: A Peer to Peer Electronic Cash System" in 2008 by a pseudonymous developer by the name of Satoshi Nakamoto.	The first sale of an item using Bitcoin took place with someone swapping 10,000 Bitcoin for two pizzas.	The Reserve Bank of India (RBI) issued a circular warning users of the potential security-related risks pertaining to the use of virtual currencies in 2013	The RBI released another circular in 2017 conveying its apprehensions with virtual coins. Finally, a warning clarifying that virtual currencies are not a legal tender was issued by the RBI and the finance ministry by the end of 2017. In March 2018, a draft scheme for banning virtual currencies was submitted by the Central Board of Digital Tax (CBDT) to the finance ministry and just about a month later the RBI came out with a circular restraining banks, NBFCs and payment system providers from dealing with virtual currencies and providing services to virtual currency exchanges.	Nischal Shetty, Founder of WazirX, started the #IndiaWantsCrypto campaign for the positive regulation of crypto in India. The idea behind the campaign was to put out at least one tweet daily to create awareness about cryptocurrencies and impress upon policymakers to bring in conducive regulation around them.	Supreme Court Strikes Down the Crypto Banking Ban.	On Jan 29, 2021, the Indian government announced that it will introduce a bill to create a sovereign digital currency and subsequently put a blanket ban on private cryptocurrencies.	Taxation regime announced in Union Budget 2022. GST regime yet to be announced.



## WHAT IS A VDA?

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Section 2(47A) "virtual digital asset" means –

- a) any **information or code or number or token** (not being Indian currency or foreign currency), generated through cryptographic means or **otherwise**, by whatever name called, **providing a digital representation of value exchanged** with or without consideration, with the promise or **representation of having inherent value**, or functions as a **store of value** or a unit of account including its use in any financial transaction or investment, but not limited to investment scheme; and **can be transferred, stored or traded** electronically;
- b) a non-fungible token or any other token of similar nature, by whatever name called;
- c) **any other digital asset**, as the Central Government may, by notification in the Official Gazette specify:

Provided that the Central Government may, by notification in the Official Gazette, exclude any digital asset from the definition of virtual digital asset subject to such conditions as may be specified therein.

*Explanation.* – For the purposes of this clause, –

- (a) "**non-fungible token**" means such digital asset as the Central Government may, by notification in the Official Gazette, specify;
- (b) the expressions "currency", "foreign currency" and "Indian currency" shall have the same meanings as respectively assigned to them in clauses (h), (m) and (q) of section 2 of the Foreign Exchange Management Act, 1999.!



## DEFINITION DECODED

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Taken largely from the Draft Banning of Cryptocurrency & Regulation of Official Digital Currency Bill, 2019.

The following criteria need to be met to qualify as a VDA:

1. any information or code or number or token,
2. generated through cryptographic means **or otherwise**,
3. can be transferred, stored or traded electronically;
4. providing a digital representation of value exchanged with or without consideration, with the promise or representation of having inherent value,

**or**

5. functions as a store of value or a unit of account (including its use in any financial transaction or investment, but not limited to investment scheme).



## IS INDIAN CURRENCY OR A FOREIGN CURRENCY A VDA?

Indian currency or foreign currency as defined under Foreign Exchange Management Act, 1999 (“FEMA”) is **excluded** from the ambit of VDA meaning that anything that is Indian currency or foreign currency is automatically not a VDA.

**Section 2(q) of FEMA defines Indian currency as, ““Indian currency” means currency which is expressed or drawn in Indian rupees but does not include special bank notes and special one rupee notes issued under section 28A of the Reserve Bank of India Act, 1934”. Further, section 2(m) of the FEMA defines foreign currency as ““foreign currency” means any currency other than Indian currency”.**

Subscriptions to any OTT platform, mobile applications, e-commerce platforms, etc cannot be covered under virtual digital assets.



# NON-FUNGIBLE TOKENS AND OTHER DIGITAL ASSETS

The definition will be specified by the Central Government by notification.

It is also pertinent to note that the Finance Bill empowers the Central Government to notify any other digital asset as a VDA or exclude any digital asset from the definition of VDA.

## Elon Musk To Pump NFTs Next? NFT Creator Beeple Acknowledged By Tesla CEO

by Adrian Zmudzinski, Benzine Editor | 

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1		<b>Moonbirds</b> Floor price:  13  48,343.25	-
2		<b>Mutant Ape Yacht C...</b> Floor price:  24.8  5,910.51	-16.19%
3		<b>Bored Ape Yacht C...</b> Floor price:  107  5,694.09	-1.02%
4		<b>"MOAR" by Joan Co...</b> Floor price:  1.3  5,679.01	+29.93%
5		<b>CryptoPunks</b> Floor price: -  5,408.88	+78.98%

6			
7			
8			
9		<b>CLONE X - X TAKAS...</b> Floor price:  17.25  3,541.27	-73.08%
10		<b>Los Muertos World</b> Floor price:  0.28  3,239.95	+79.50%

 SOFTWARE DEVELOPMENT

Mar. 18, 2022 12:39 pm

# NFTs: One year after Beeple sale, nonfungible tokens have become mainstream

 The Statesman

[6000 per cent return on MuskMelon NFTs](#)

MuskMelon, a utility token was listed on Bitmart and XT platforms on April 15, 2022. Within the first hour of trade, The Melon token was up...

19 hours ago

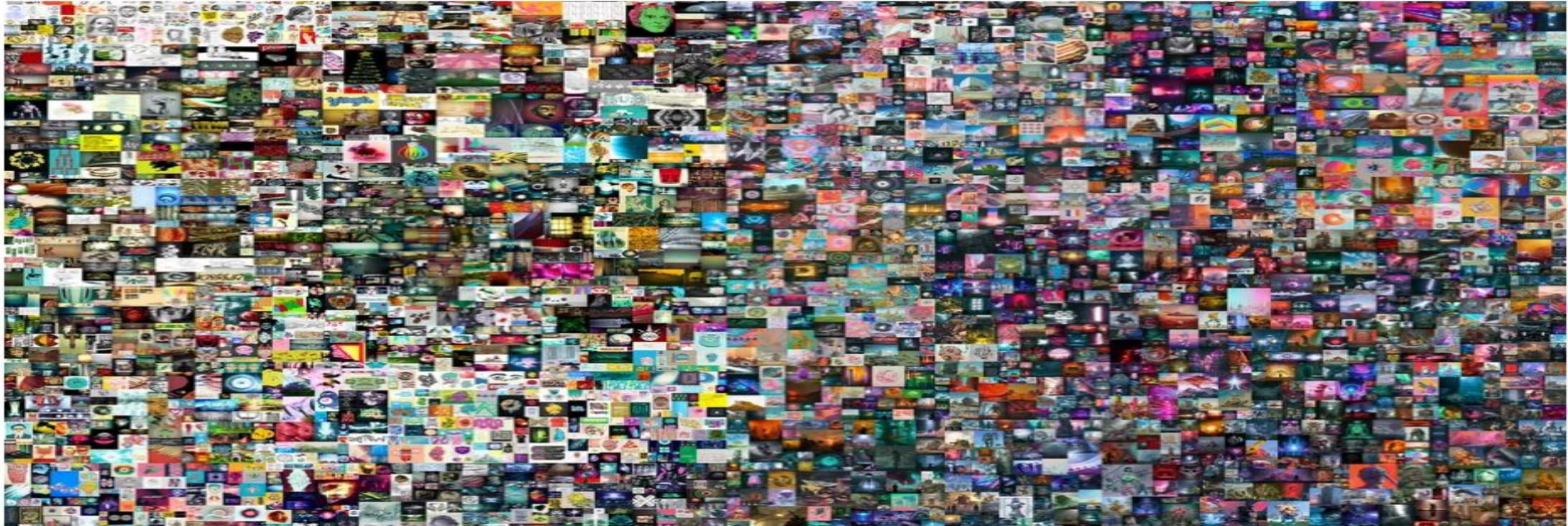


# Beeple sold an NFT for \$69 million

*Through a first-of-its-kind auction at Christie's*

By [Jacob Kastrenakes](#) | [@jake\\_k](#) | Mar 11, 2021, 10:09am EST

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Beeple's collage, *Everydays: The First 5000 Days*, sold at Christie's. | Image: Beeple

## TYPES OF VDAs

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The definition of VDA in the Finance Act'2022 is very broad, and could include majority of crypto assets currently being traded online.

VDAs have various use cases, **although, there is no standard classification.** We can classify VDAs on the basis of their functions.

**Payment tokens:** They can be used as a medium of exchange or goods or services and also as a store of value.

**Property Tokens:** These represent rights in immovable or movable property.

**Utility Tokens:** utility tokens facilitate the exchange of or access to specific goods or services etc

**Security Tokens:** Crypto-assets which fulfil the characteristics of 'securities' as defined under securities laws of India. India does not recognize VDAs as securities.

The list can be as much long as it can be since no fixed type can be given to VDAs due to their ever evolving and continuous dynamism in their underlying technology called as blockchain.



## Classification of Virtual Digital Asset

### **After the Union Budget 2022**

- ✓ The Govt. did not clarify if the virtual digital assets will be a currency, commodity, or security. In the absence of any such clarification, the virtual digital asset should be classified as a separate asset class. (Taxation discussed later)

### **Before the Union Budget 2022**

- ✓ Cryptocurrencies or NFTs should be deemed capital assets, if purchased for investments by the taxpayers. Therefore, any gain arising on the transfer of such assets shall be taxable as capital gains. However, if the transactions in such assets are substantial and frequent, it should be held that the taxpayer is trading in such assets. In this case, income from the sale of such assets should be taxable as business income.

## Nature of Virtual Digital Asset Before Union Budget 2022

- ✓ If gains arising from the transfer of virtual digital assets are treated as capital gains, their further classification into short-term or long-term gains would depend upon the period of holding of such assets.
- ✓ If a virtual asset is held for more than 36 months from the date of purchase, it will be considered a long-term capital asset; otherwise a short-term capital asset.

### Computation of capital gains

Particulars	Amount
Full value of consideration	xxx
<i>Less:</i> Cost of acquisition	(xxx)
<b>Long-term capital gains/Short-term capital gains</b>	<b>xxx</b>

### Computation of Business income

Particulars	Amount
Profits	xxx
<i>Less:</i> Expenses	(xxx)
<b>Net Profit/Loss</b>	<b>xxx</b>

## Tax rates

As per Section 115BBH, the income arising from the transfer of virtual digital assets shall be taxed at the rate of 30% plus applicable surcharge and cess.

Further, no deductions allowed apart from cost of acquisition.

## Is the regime similar to taxation of winnings from games

This is similar to the tax regime that currently exists with respect to taxation of winnings from games. Prior to this regime, it was possible to categorise transactions as either trading income and claim expenses or claim long term capital gain rate of 20% based on the facts of the case.



### No deduction to be allowed for any expenditure or allowance

Section 115BBH provides that no deduction in respect of any expenditure (other than cost of acquisition) or allowance or set off of any loss shall be allowed to the assessee under any provision of this Act in computing the income referred to in Section 115BBH.

Infrastructure costs, set up costs, electricity costs while mining VDAs are not allowed to be considered as deductible for the purposes of calculation of cost of acquisitions.

### No Inter head/ Intra head set off allowed. No carried forward of losses allowed

Section 115BBH(2)(b) provides that no set-off of loss from the transfer of the virtual digital asset computed shall be allowed against income computed **under any other provision of this Act** to the assessee, and such loss shall not be allowed to be carried forward to succeeding assessment years.



## Illustrations

Mr. A (Indian resident) has purchased 50,000 USDT (cryptocurrency) at Rs. 67 each on 16 July 2019. He transferred 20,000 USDT in the previous year 2021-22, and the remaining in 2022-23. What are the tax implications?

<i>Qty.</i>	<i>Sold on</i>	<i>Consideration</i>	<i>Brokerage</i>	<i>Net Profit or (Loss)</i>	<i>Tax to be paid</i>	<i>Tax Rate</i>	<i>Scenario</i>
20,000	01-03-2022	18,00,000	2,000	3,28,173	98,450*	20%	Pre Budget 2022
20,000	01-04-2022	10,00,000	2,500	-3,42,500	NIL	30%	Post Budget 2022
10,000	31-03-2023	15,00,000	3,000	8,27,000	2,48,100	30%	Post Budget 2022

\* The benefit of indexation shall be allowed for pre budget scenario because Section 115BBH shall be applicable from 1st April'2022.

Sales consideration less cost of acquisition shall be taxable. No set off and carryforward allowed.

## Illustrations

Mr. A has purchased 3,000 NFTs at Rs. 1,000 each on 16 July 2020. He sold all NFTs in the previous year 2022-23. The tax from the transfer of NFTs shall be computed as under:

<i>Qty.</i>	<i>Sold on</i>	<i>Consideration</i>	<i>Brokerage</i>	<i>Taxable Profit or (Loss)</i>	<i>Tax Rate</i>
1,500	01-04-2022	3,00,000	750	-12,00,000	30%
1,500	31-03-2023	17,00,000	1,250	2,00,000	30%

*No deduction shall be allowed for the brokerage. Sales consideration less cost of acquisition shall be taxable @ 30% plus applicable surcharge and cess.*

*The loss from the sale of NFTs done on 01-04-2022 cannot be set-off against the gains arising from the sale done on 31-03-2023.*

## GIFT TAX – Section 56(2)(x)

Section 56(2)(x) applies when any person receives any benefit whose value exceeds Rs. 50,000.

This provision is applicable irrespective of the residential status or class of assessee.

The donor or donee can be an individual, partnership firm, LLP, company, AOP, BOI, co-operative society or artificial juridical person, whether resident or non-resident.

The income in the hands of recipient arises from the following transactions:

- (a) Receiving monetary benefits without consideration;
- (b) Receiving immovable property without consideration or for inadequate consideration; and
- (c) Receiving specified movable properties without consideration or for inadequate consideration.



## NOT ALL GIFTS ARE TAXABLE

Section 56(2)(x) provisions certain exemptions in case of receipt of property (i) from a relative, (ii) under will or inheritance, (iii) from any trust or charitable institution registered under ITA, etc.

## AIR DROP TOKENS

In the crypto-asset markets, it is a common for some crypto projects to airdrop their tokens. Airdrop can be understood as a crypto project sending free tokens to their communities in a bid to encourage adoption and in turn reward them.

In such case, if the value of airdropped VDA exceeds INR 50,000 then it could be taxable in the hands of the recipient.



# DIRECT TAX IMPLICATIONS – WITHHOLDING PROVISIONS (TDS)

*(Applicable from 1<sup>st</sup> July'2022)*

## DEDUCTOR

Any person responsible for paying any sum by way of consideration for the transfer of a virtual digital asset is required to deduct tax at source.

## DEDUCTEE

Tax is required to be deducted under this provision if the amount is payable to a resident person.

## RATE OF TAX

Tax is required to be deducted at the rate of 1% of the consideration with no surcharge and cess. If the deductee does not furnish his PAN to the deductor, the tax shall be deducted at the rate of 20% as prescribed under Section 206AA. However, the provisions of Section 206AB shall not apply in the case of a specified person. Thus, even if the deductee has not furnished the return of income for a specified period, the tax shall be deducted at the rate prescribed under this provision and not as specified in Section 206AB, if the payer is a specified person. If the payer is not a specified person, the tax shall be deducted as per Section 206AB if the payee is a non-filer.



# DIRECT TAX IMPLICATIONS – WITHHOLDING PROVISIONS (TDS)

*(Applicable from 1<sup>st</sup> July'2022)*

## TIME OF DEDUCTION

The tax shall be deducted at the time of payment by any mode or at the time of credit of such sum to the account of the resident, whichever is earlier.

## AMOUNT ON WHICH TAX IS TO BE DEDUCTED

Tax is required to be deducted from the gross amount of consideration paid to the resident person for the transfer of virtual digital assets.

However, in the following cases, before releasing the consideration, the person responsible shall ensure that tax has been paid in respect of such consideration for the transfer of virtual digital asset:

- (a) Where consideration is wholly in kind;
- (b) Where a transaction is in exchange for another virtual digital asset, and there is no part in cash; or
- (c) Where consideration is partly in cash and partly in kind, but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such transfer.



# DIRECT TAX IMPLICATIONS – WITHHOLDING PROVISIONS (TDS)

*(Applicable from 1<sup>st</sup> July'2022)*

## EXEMPTION FROM TDS

### **Consideration below INR 10,000**

No tax shall be deducted under this provision if the consideration is payable by any person (other than a specified person) and its aggregate value does not exceed Rs. 10,000 during the financial year.

### **Consideration below Rs. 50,000**

No tax shall be deducted under this provision if the consideration is payable by the following specified persons and its aggregate value does not exceed Rs. 50,000 during the financial year:

- ✓ An individual or a HUF, whose total sales, gross receipts or turnover does not exceed Rs. 1 crore in case of business or Rs. 50 lakh in case of a profession, during the financial year immediately preceding the financial year in which such virtual digital asset is transferred;
- ✓ An individual or a HUF who does not have any income under the head profits and gains of business or profession.



# DIRECT TAX IMPLICATIONS – WITHHOLDING PROVISIONS (TDS)

(Applicable from 1<sup>st</sup> July'2022)

Category of payer	Threshold limit of turnover or gross receipt	Threshold limit of <u>consideration</u> for TDS applicability
Company	NIL	Rs. 10,000
Firm or LLP	NIL	Rs. 10,000
Individual	Upto Rs. 1 crore (for business) Upto Rs. 50 lakhs (for profession) (Also includes an individual not engaged in any business or profession)	Rs. 50,000
Any other Individual	NIL	Rs. 10,000
HUF	Upto Rs. 1 crore (for business) Upto Rs. 50 lakhs (for profession) (Also includes an HUF not engaged in any business or profession)	Rs. 50,000
Any other HUF	NIL	Rs. 10,000
Any other person	NIL	Rs. 10,000

# DIRECT TAX IMPLICATIONS – WITHHOLDING PROVISIONS (TDS)

*(Applicable from 1<sup>st</sup> July'2022)*

## OTHER IMPORTANT POINTS:

### NO TAN IS MANDATORY FOR A PERSON RESPONSIBLE FOR PAYING CONSIDERATION

### OVERRIDING EFFECT OF SECTION 194S

- ✓ Where a transaction is subject to TDS under section 194-O and section 194S, tax shall be deducted under section 194S.
- ✓ Further, a transaction in respect of which tax has been deducted under this provision, no tax shall be deducted or collected under any other provisions.



## INCOME TAX RETURN DISCLOSURES – FOR FY 21-22

A taxpayer would have to report transactions related to cryptocurrency as business income if held as stock in trade, or capital gains if held as investments. If reported as business income, then ITR-3 form will be applicable to an individual in FY 2020-21, whereas if it is reported as capital gains from investment, then the individual would have to use ITR-2.

**How to report in ITR-2/ITR-3** If cryptos are treated as investment, then long-term capital gains on sale of cryptos would need to be reported under CG schedule of ITR -2/ ITR-3 (if there are sources of business income), it will be reported under the head "From sale of assets section".

Short-term capital gains on sale of cryptos would need to be reported in CG schedule of ITR-2/ITR-3, under "STCG on assets section".

On the other hand, if treated as business income, then sale of cryptos needs to be reported in Part A - Trading account under "Sale of goods" in ITR-3. The net profit/loss from sale of cryptos after reducing the permissible expenses, needs to be reported under the head, "Net profit before taxes".



# INCOME TAX RETURN DISCLOSURES – FOREIGN ASSETS

If an individual qualifies as resident and ordinarily resident, there is a requirement to report foreign assets under schedule FA, "Details of Foreign Assets and Income from any source outside India" irrespective of income in the tax return.

<b>Schedule FA Details of Foreign Assets and Income from any source outside India</b>												
DETAILS OF FOREIGN ASSETS	<b>A1 Details of Foreign Depository Accounts held (including any beneficial interest) at any time during the calendar year ending as on 31<sup>st</sup> December, 2021</b>											
	Sl No	Country name	Country code	Name of financial institution	Address of financial institution	ZIP code	Account number	Status	Account opening date	Peak balance during the period	Closing balance	Gross interest paid/credited to the account during the period
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
	(i)											
(ii)												
	<b>A2 Details of Foreign Custodial Accounts held (including any beneficial interest) at any time during the calendar year ending as on 31<sup>st</sup> December, 2021</b>											
	Sl No	Country name	Country code	Name of financial institution	Address of financial institution	ZIP code	Account number	Status	Account opening date	Peak balance during the period	Closing balance	Gross amount paid/credited to the account during the period <i>(drop down to be provided specifying nature of amount viz. interest/dividend/proceeds from sale or redemption of financial assets/ other income)</i>
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
	(i)											
(ii)												
	<b>A3 Details of Foreign Equity and Debt Interest held (including any beneficial interest) in any entity at any time during the calendar year ending as on 31<sup>st</sup> December, 2021</b>											
	Sl No	Country name	Country code	Name of entity	Address of entity	ZIP code	Nature of entity	Date of acquiring the	Initial value of the	Peak value of investment	Closing value	Total gross amount paid/credited

# INCOME TAX RETURN DISCLOSURES – FOREIGN ASSETS

<b>A4 Details of Foreign Cash Value Insurance Contract or Annuity Contract held (including any beneficial interest) at any time during the calendar year ending as on 31<sup>st</sup> December, 2021</b>												
Sl No	Country name	Country code	Name of financial institution in which insurance contract held	Address of financial institution	ZIP code	Date of contract	The cash value or surrender value of the contract	Total gross amount paid/credited with respect to the contract during the period				
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)				
(i)												
(ii)												
<b>B Details of Financial Interest in any Entity held (including any beneficial interest) at any time during the calendar year ending as on 31<sup>st</sup> December, 2021</b>												
Sl No	Country Name and code	ZIP Code	Nature of entity	Name and Address of the Entity	Nature of Interest-Direct/ Beneficial owner/ Beneficiary	Date since held	Total Investment (at cost) (in rupees)	Income accrued from such Interest	Nature of Income	Income taxable and offered in this return		
										Amount	Schedule where offered	Item number of schedule
(1)	(2)	2a	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
(i)												
(ii)												
<b>C Details of Immovable Property held (including any beneficial interest) at any time during the calendar year ending as on 31<sup>st</sup> December, 2021</b>												

# INCOME TAX RETURN DISCLOSURES – FOREIGN ASSETS

<b>D Details of any other Capital Asset held (including any beneficial interest) at any time during the calendar year ending as on 31<sup>st</sup> December, 2021</b>												
SI No	Country Name and code	ZIP Code	Nature of Asset	Ownership-Direct/ Beneficial owner/ Beneficiary	Date of acquisition	Total Investment ( <i>at cost</i> ) ( <i>in rupees</i> )	Income derived from the asset	Nature of Income	Income taxable and offered in this return			
									Amount	Schedule where offered	Item number of schedule	
(1)	(2)	2b	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	
(i)												
(ii)												
<b>E Details of account(s) in which you have signing authority held (including any beneficial interest) at any time during the calendar year ending as on 31<sup>st</sup> December, 2021 and which has not been included in A to D above.</b>												
SI No	Name of the Institution in which the account is held	Address of the Institution	Country Name and Code	ZIP Code	Name of the account holder	Account Number	Peak Balance/ Investment during the year ( <i>in rupees</i> )	Whether income accrued is taxable in your hands?	If (7) is yes, Income accrued in the account	If (7) is yes, Income offered in this return		
										Amount	Schedule where offered	Item number of schedule
(1)	(2)	(3)	(3a)	(3b)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
(i)												
(ii)												
<b>F Details of trusts, created under the laws of a country outside India, in which you are a trustee, beneficiary or settlor</b>												
SI No	Country Name and code	ZIP Code	Name and address of the trust	Name and address	Name and address of Settlor	Name and address of Beneficiaries	Date since position	Whether income derived	If (8) is yes, Income	If (8) is yes, Income offered in this return		
										Amount	Schedule	Item

# INCOME TAX RETURN DISCLOSURES – FOREIGN ASSETS

<b>G</b> Details of any other income derived from any source outside India which is not included in (i) items A to F above and, (ii) income under the head business or profession									
Sl No	Country Name and code	ZIP Code	Name and address of the person from whom derived	Income derived	Nature of income	Whether taxable in your hands?	If (6) is yes, Income offered in this return		
							Amount	Schedule where offered	Item number of schedule
(1)	(2)	(2b)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
(i)									
(ii)									

**NOTE ►** Please refer to instructions for filling out this schedule. In case of an individual, not being an Indian citizen, who is in India on a business, employment or student visa, an asset acquired during any previous year in which he was non-resident is not mandatory to be reported in this schedule if no income is derived from that asset during the current previous year.

# CHALLENGES

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CALCULATION OF FMV FOR THE PURPOSES OF SECTION 56(2)(X)

CRYPTO TO CRYPTO TRADING

VALUATION ISSUES

APPLICABILITY OF EQUALISATION LEVY ON CRYPTO EXCHANGES

GST CHALLENGES

EMPLOYEE STOCK OPTION PLANS IN CRYPTOS OR OTHER VDAs

COST OF ACQUISITION - NEEDS TO BE CLARIFIED IN DETAIL

PERIOD OF HOLDING FOR VDAs RECEIVED AS GIFTS

NECESSITY OF UNIFORM KYC REGULATIONS FOR CRYPTO OR VDA EXCHANGES

COST OF ACQUISITION IN CASE OF CRYPTO TO CRYPTO TRANSFER

TAXATION OF NON-RESIDENT INDIANS WHO HAVE SOLD CRYPTO OR VDAs ON AN EXCHANGE OUTSIDE INDIA

# KEY DEVELOPMENTS AROUND THE WORLD

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## United States of America

As there are large number of investors and blockchain firms in USA. There is no such regulatory framework for the asset class. The Securities and Exchange Commission (SEC) typically views cryptocurrency as a security, while the Commodity Futures Trading Commission (CFTC) calls Bitcoin a commodity, and the Treasury calls it a currency. Crypto exchanges in USA fall under Bank Secrecy Act (BSA) and must register with Financial Crimes Enforcement Network (FinCEN). They are also required to comply with anti-money laundering (AML) and combating the financing of terrorism (CFT) obligations. The Internal Revenue Service (IRS) classifies cryptocurrencies as property for federal income tax purposes.

## Canada

Canada has a proactive stance towards cryptocurrencies. It became first country to approve Bitcoin exchange trading fund (ETF) in February 2021. Additionally, the Canadian Securities Administrators (CSA) and the Investment Industry Regulatory Organization of Canada (IIROC) have clarified that crypto trading platforms and dealers in the country must register with provincial regulators. Furthermore, Canada classifies crypto investment firms as money service businesses (MSBs) and requires that they register with the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC). From taxation point Canada treats cryptocurrency similar to other commodities.

## United Kingdom

United Kingdom considers cryptocurrency as property but not legal tender. Cryptocurrency exchanges must register with the UK Financial Conduct Authority (FCA) and are banned from offering crypto derivatives trading. Regulatory body has introduced cryptocurrency specific requirements relating to KYC as well as with anti-money laundering (AML) and combating the financing of terrorism (CFT) obligations. Investors still has to pay capital gains tax on crypto trading profits more broadly, taxability depends on the crypto activities undertaken and who engages in the transaction.

# KEY DEVELOPMENTS AROUND THE WORLD

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## Japan

Japan considers cryptocurrency as a legal property under the payment services act (PSA). Crypto exchanges in country must register with Financial Services Agency (FSA) and comply with AML and CFT obligations. Japan treats trading gains generated from cryptocurrency as “miscellaneous income” and taxes investors accordingly.

## Australia

Australia classifies cryptocurrency as a legal property which makes them subject to capital gains tax. Exchanges are free to operate in the country, provided that they register with the Australian Transaction Reports and Analysis Centre (AUSTRAC) and meet specific AML/CTF obligations. In 2019, the Australian Securities and Investments Commission (ASIC) introduced regulatory requirements for initial coin offerings (ICOs) and banned exchanges offering privacy coins.

## WAY AHEAD

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- India's very own Central Bank regulated Currency (CBDC), which will act as the digital counterpart of the Indian Rupee has been announced in the Union Budget 2022 speech by the Hon'ble Finance Minister.
- However, as the RBI would be the regulator for such digital currency, it departs from the decentralised manner in which other cryptocurrencies presently operate.
- The tax proposals introduced by Budget 2022 along with the dilution of Version 1.0 of the Crypto bill do give a signal that India would finally open up to cryptocurrencies and provide the much-needed certainty.

## GRATITUDE

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