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Decoding Crypto Taxation: A Comparative Study of Non-Traceability and Regulatory Responses in India

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Decoding Crypto Taxation: A Comparative Study of Non-Traceability and Regulatory Responses in India

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Abstract

The rapid proliferation of cryptocurrencies has disrupted traditional tax frameworks by introducing decentralised, pseudonymous, and borderless modes of value transfer. This paper examines the problem of non-traceability in cryptocurrency transactions and its implications for tax enforcement, with a specific focus on India. It analyses how features such as wallet anonymity, peer-to-peer transfers, and the use of privacy-enhancing technologies complicate income recognition, valuation, and reporting obligations under existing tax laws. The study critically evaluates India's evolving regulatory approach, including the taxation of virtual digital assets, reporting mandates, and compliance mechanisms, while identifying gaps in enforcement arising from technological opacity.

Adopting a comparative methodology, the paper contrasts India's framework with select jurisdictions such as the United States, the United Kingdom, and the European Union, highlighting diverse strategies including third-party reporting requirements, blockchain analytics, and stricter exchange-based compliance models. The research argues that while India has taken significant steps toward formalising cryptocurrency taxation, the absence of robust traceability mechanisms and international coordination undermines effective tax collection and regulatory oversight.

The paper concludes by proposing a balanced approach that integrates technological tools, regulatory clarity, and cross-border cooperation to address the challenges of non-traceability without stifling innovation. It emphasises the need for a nuanced tax policy that reconciles the principles of fiscal sovereignty with the realities of decentralised digital economies.

Keywords: *Cryptocurrency, Taxation, Non-Traceability, Virtual Digital Assets, Comparative Law, Regulatory Framework, India.*

Introduction

The world financial system underwent drastic changes in the last twenty years due to rapid digital innovations and emerging of decentralized financial products. A landmark phenomenon that has reshaped traditional notion of money, financial regulation and sovereign control over monetary systems is cryptocurrencies, launched in 2009 with Bitcoin. Once the prototype of digital experiment, cryptocurrencies today are a recognised global asset class having huge impact on economics, technology, and legal and regulatory aspects. In fact, cryptocurrencies are considered to be the embodiment of financial innovation and one of the driving forces for development of payment systems and cross-border financial transactions and, sometimes, a subject matter of analysis in sovereign monetary policy development.¹

At its heart, a cryptocurrency is a decentralized digital asset and relies on blockchain technology—a distributed ledger that records transactions across many computers in such a way that the record of transactions cannot be altered retroactively without the alteration of all subsequent blocks and without the collusion of a majority of the network participants. This decentralized system of record-keeping makes cryptocurrencies independent of central banks or financial intermediaries. Furthermore, whereas traditional fiat money relies on the backing and legal tender status provided by sovereign states and financial institutions for its value, a cryptocurrency relies on cryptographic protocols, distributed ledger system consensus mechanisms, technological confidence and market acceptance. This implies a restructuring of financial architecture towards decentralised value systems in the era of digital technologies².

Over a span of time, the scope of digital assets have significantly increased, moving beyond Bitcoin and other earlier cryptocurrencies to include thousands of digital coins and tokens such as Etheruem, Binance Coin, Ripple and their various utility tokens and decentralized finance products³. These tokens serve multiple purpose including payment methods, transferability of rights under a smart contract, access right⁴s or voting rights, underlying value transfer of real assets, etc. In this regard, non-fungible tokens (NFTs), decentralized exchanges, tokenized real assets, etc further increase the array of the digital asset class.⁵

However, the rapid increase in cryptocurrency trading has led to challenges at the regulatory and legal fronts globally. The governments of different countries have struggled in classifying crypto-assets under any existing category. It is categorized as property in some countries, a commodity in others, while it is treated as a financial instrument or a taxable digital asset in the rest of them.

¹ Rishabh Singh, Understanding Cryptocurrency Taxation in India: A Policy Analysis, 16(2) Journal of Financial and Economic Law 102 (2022).

² P. De Filippi & A. Wright, Blockchain and the Law: The Rule of Code (Harvard University Press, 2018)

³ European Central Bank, “Virtual Currency Schemes – A Further Analysis” (2015), pp. 20–35.

⁴ World Economic Forum, “Tokenization of Assets and Potential Implications for Financial Markets” (2021)

⁵ A. Narayanan et al., Bitcoin and Cryptocurrency Technologies: A Comprehensive Introduction (Princeton University Press, 2016),

Although some countries have restricted their usage, others are moving towards integrating the assets in their traditional financial system, which also poses a difficulty in terms of taxability and regulate these assets in the cross-border aspect of the transactions due to different legal jurisdictions.

India, for one, presents a unique case study in crypto-assets regulations and taxation. Initial stance taken by the Indian monetary authority and financial institutions on crypto-assets was apprehensive and doubtful. Considering issues relating to financial stability, investors protection, illicit money laundering⁶ and terrorism funding through virtual⁷ currency, the RBI had in 2018 issued a circular restricting regulated entities from dealing in crypto-assets. The prohibition though later lifted by the Supreme Court of India vide judgment in Internet and Mobile Association of India v. RBI (2020) was inconclusive on definitive classification of the crypto-assets as currency and their legal status in Indian financial ecosystem and consequently created uncertainty.⁸

Concept of Virtual Digital Assets (VDA) in India

The term Virtual Digital Assets (VDA) has been brought under the purview of the Indian legal system under Section 2(47A) of the Income Tax Act, 1961 via the Finance Act, 2022 in an attempt to regulate its taxation and ensure that all transactions involving the use of cryptocurrencies falls under the official tax ambit.

A Virtual Digital Asset basically represents any information, token, code or number that has been produced through cryptographic measures, signifies digital form of value and is transferable, storable or tradeable electronically. The broad definition ensures that a wide range of crypto assets be brought under the tax ambit be it Bitcoin, Ethereum or Non-Fungible Token (NFTs) and other blockchain tokens.

The addition of VDA into the Indian tax system has brought forth a new and separate category instead of defining it as property or a currency. It shows a pragmatic approach to regulate these virtual assets through the tax laws as the law makers are concerned about revenue collection without delving deep into the definition of the cryptocurrency as an asset or as an item. Though, ambiguity still lies in its comprehensive nature and the classification of its assets or related transactions among others.

⁶ R. Singh, "Understanding Cryptocurrency Taxation in India: A Policy Analysis," (2022) 16(2) Journal of Financial and Economic Law 102, 108.

⁷ Singh, R., "Understanding Cryptocurrency Taxation in India: A Policy Analysis," (2022) 16(2) Journal of Financial and Economic Law 102, 108.

⁸ Jyoti Arora & Lakhwinder Kaur, "A Study of the Indian Taxation System on Cryptocurrency", Gyan Management Journal, Vol. 18, Issue 1, 2023,

Nature and Characteristics of Cryptocurrencies

A cryptocurrency differs from its traditional counterparts on various fronts that help it to stand out from traditional financial instruments:

(i) Decentralization

This is probably the most unique feature that stands out cryptocurrencies from other forms of currency. Unlike the conventional currency that are issued and controlled by the banks and the government, cryptocurrencies are run by decentralized systems where no single entity has the power to control the system.

(ii) Transparency with Pseudonymity

These systems have a transparency associated with it. All the transaction take place on a public ledger; however, the names are replaced with their public key. These public key is not linked directly to the person and that makes the system pseudo-anonymous.

(iii) Immutability

Once a transaction is recorded on a blockchain, it is nearly impossible to alter or delete it without significant effort from the network of miners. The records of a transaction can never be changed on the blockchain.

(iv) Security through Cryptography

Advanced cryptographic technologies are used in to ensure that these digital currencies are not compromised to fraud or hacking. Every transaction needs to be encrypted to be validated and added to the blockchain.

(v) Limited Supply in Many Cases

Many cryptocurrencies such as Bitcoin are designed to have a finite supply. This scarcity factor can make it an attractive store of value.

(vi) Global Accessibility

Cryptocurrencies can be accessed by individuals anywhere in the world that has an internet connection. There is no dependence on any banking institutions or even local laws to send and receive these digital currencies across borders.

(vii) Volatility

The price of cryptocurrencies can be quite volatile. Depending on the market sentiment, regulatory news or technological changes, the price of digital currencies may spike or dip significantly.

Technological Base: Blockchain as infrastructures layer

The underlying system that runs the whole world of cryptocurrencies is blockchain, which is an infrastructure for decentralized processing of transactions. Blockchain is based on a decentralized distributed ledger that records each transaction into a block, which is then linked to past blocks by means of cryptography.⁹

⁹ Satoshi Nakamoto, "Bitcoin: A Peer-to-Peer Electronic Cash System" (2008).

One of its main innovations is the absence of a central authority of trust. With the emergence of blockchain, there are no more banks or reliable ¹⁰third-party entities. Instead, the trust is monitored by the set of all users of the network, through ways like - proof of work or proof of stake.¹¹

Blockchain records' immutability increases transparency and minimizes opportunity for cheating and abuse. But the immutability also creates difficulties for taxes authorities as once a transaction has been entered into the blockchain, it cannot be changed or retracted. Transparency, but in practice pseudymity from wallet addresses in the real world.¹²

Smart contracts are another innovation built on blockchain which further broaden the scope of it as self-executing contracts. They are essentially code used to create conditions that once met will automatically lead to execution of steps. The Ethereum has made it possible for developers to make use of this feature and create decentralized applications.

Practical Value of Cryptocurrency

In present day usage, cryptocurrencies are somewhat significant in the economy. For instance, cryptocurrencies are gained for use in digital payments, for adding to an investment portfolio, and for conducting international financial transactions. It is quite clear that the primary economic contribution of cryptocurrencies is in cutting transaction costs and removing middlemen in transfers.

The traditional way of making cross-border payments is complicated, involving many middle men and middle women, conversion costs and delays. Cryptocurrencies can make this process very simple, allowing instantaneous transfers of funds across most parts of the world at much lower costs. This has great potential for remittance.

From an investor's perspective, cryptocurrencies are a newly defined asset class with both high volatility and high potential returns; institutional investors, hedge funds and individual investors are incorporating digital assets as components of diversified portfolios. Nevertheless, this volatility also begets systemic risks especially in the event of a leveraged trade or a speculative bubble. Furthermore, the introduction of cryptocurrencies has called into question the current model of monetary policy. Local fiat currencies are subject to monetary policy, be it decisions regarding interest rate spikes or inflation targeting, while cryptocurrencies are not affected by these policies. This has led to the combination of two monetary systems on parallel tracks.

¹⁰ P. De Filippi & A. Wright, *Blockchain and the Law: The Rule of Code* (Harvard University Press, 2018),

¹¹ A. Narayanan et al., *Bitcoin and Cryptocurrency Technologies: A Comprehensive Introduction* (Princeton University Press, 2016),

¹² M. Swan, *Blockchain: Blueprint for a New Economy* (O'Reilly Media, 2015),

RBI's Regulatory Position: The issue of monetary policy and the overall financial system

The most prominent regulatory intervention in this aspect was seen in the approach of the Reserve Bank of India. As the apex body of banking in India, RBI is primarily concerned with monetary stability and the health of the overall financial system. In 2013, the RBI released its first statement warning all users, holders, and traders of virtual currency about various risks associated with them. Following this statement, the RBI continued to issue advisories warning of similar dangers associated with digital currency. However, the most decisive blow on this emerging market was delivered in April 2018 when the RBI issued a circular that directed all regulated entities to cease extending any services and dealing in any manner with entities engaged in the business of virtual currencies.¹³

This essentially led to an effective banking ban being imposed upon cryptocurrency exchanges. Given the indispensable role of banks for the functioning of any commercial enterprise in India, particularly for fiat to crypto conversions, this circular put an immediate hold on the cryptocurrency exchanges. These institutions were put to a number of significant hardships and the volumes of trade in cryptocurrencies plunged in the Indian market after this circular.

The reasons for this step given by the RBI were, namely that: (i) cryptocurrencies posed risks of instability to the financial system; (ii) posed the risk of fraud, money laundering and consumer exploitation; and (iii) that there was no intrinsic value and they were backed by no sovereign nation, unlike fiat currency, etc.

Internet and Mobile Association of India v. RBI (2020): A Paradigm Shift

However, the circular dated April 6, 2018, was challenged before the Supreme Court of India and in the landmark judgment of *Internet and Mobile Association of India v. Reserve Bank of India (2020)*, the Supreme Court, on grounds of proportionality and the lack of actual evidence of any harm being caused by cryptocurrencies to the regulated financial system and the entities that formed it, overturned the said circular by the RBI, in so far as it imposed restrictions on dealing with cryptocurrency related entities. While doing so, the Supreme Court did not classify cryptocurrencies as legal tender or declared them as generally acceptable means of payment, instead leaving its legal status up in the air but upholding the fundamental right of traders to conduct business. The judgement however breathed life back into the Indian crypto market which was earlier strangled by the said circular by restoring the banking access.

¹³ Gudgeon, L. et al., "The Decentralized Financial Crisis: Attacking DeFi," (2020) Centre for Blockchain Technologies Working Paper, 6

Section 115BBH: Flat Taxation Regime and Its Legal Implications

This section imposed a flat 30 percent tax on any income derived from the transfer of VDAs irrespective of whether the income would have been otherwise classified as either short-term or long-term capital gain or business income, based on existing taxing laws. Legally, the provisions of this section override the generally accepted taxation principles such as horizontal tax equity, whereby income of a similar type is to be taxed similarly. Section 115BBH removes all distinctions by imposing a single tax rate on all VDA transactions. Moreover, the provisions severely restricted all possible deductions other than merely cost of acquisition of VDAs, thereby negating transaction costs, administrative fees, the cost of electricity required for mining, advisor fees and other associated operational costs. Losses arising from one VDA transfer cannot be set off against income from another VDA transaction nor against any other income. The strict ring-fencing around VDAs creates a rigid tax mechanism, making the provisions unfair on many traders, especially high frequency traders and professional investors, whose income stream depends upon the balancing of losses, and deduction of operational costs. As regards the validity of section 115BBH, it has not been challenged or tested in the judiciary as of yet, however it clearly points towards the fact that the provision has been formulated for reasons of revenue generation rather than neutrality in the tax regime.

Finance Act, 2022 and the Formal Introduction of Virtual Digital Assets (VDAs)

The Finance Act, 2022 marked a turning point in India's regulatory approach to cryptocurrencies. It was the first piece of legislation that established a structured tax framework for Virtual Digital Assets (VDAs). Rather than resolving the longstanding debate of whether a cryptocurrency is currency, commodity, security or property, the Legislature adopted a pragmatic approach. It created a new separate category under which to tax these assets for the purposes of computation of income tax.

Section 2(47A) of the Income-tax Act states that VDA means: "any information, code, number or token generated through cryptographic means or otherwise, representing a digital value which can be transferred, stored or traded electronically. This definition, being widely couched, brings a large segment of the crypto assets, from Bitcoins, Non-Fungible Tokens (NFTs) etc within its ambit. In essence, the Legislature effectively circumvented the whole debate about classification, by simply creating a category of its own. This framework for taxing crypto assets, is unlike anything provided by traditional securities or property laws. The definition allows the Legislature to apply its tax principles to VDAs while eschewing the debate regarding whether it is currency, property, etc. However, conceptually it creates ambiguities as these VDAs, while taxed under a specific definition for the purposes of computing income tax, are not recognised

as a legal tender nor formally as securities or commodities, and their legal position therefore is left indeterminate.

Comparison with International/Global Practices

United States: Property-Based Taxation with Flexible Holding Rules.

Under the existing framework under the Internal Revenue Service (IRS) the cryptocurrency is deemed to be property. As such, each transaction whether sale, transfer for value, or usage as payment; is a taxable transaction. The gains or losses are then segregated into two categories, namely: Short-term capital gains where the gain/loss arises out of the disposal of property held for less than one year, subject to the rate applicable to the individual's income tax rate, and Long-term capital gains where the gain/loss arises from disposal of property held for more than a year, subject to concessional capital gains tax rates, ranging roughly between 0%-20%.

What is important here is the segregation of assets on the basis of holding period. While the argument can be made about incentive it generates towards long-term holding, the fact that losses from crypto transaction can be set-off against other capital gains as well, and carried forward for future if unable to set off, does present some comfort to the tax payers. Mining and staking rewards continue to remain income in the nature of "ordinary income" on receipt.

United Kingdom: Capital Gains Tax with an Allowance.

Similarly, in the United Kingdom crypto is considered as a property asset, and hence subject to Capital Gains tax (CGT). A taxable disposal includes when you sell your cryptocurrency, swap it for another, spend it, or give it away as a gift.¹⁴ An annual allowance for tax-free gains exist wherein individual taxpayers have an annual allowance for gains. However, for amounts exceeding the annual allowance, an individual needs to report these gains.¹⁵

Similar to the US, mining and staking rewards are taxable as income. A salient feature here, in the case of the UK, is the detailed disclosure and reporting regime for all users, which means there's a strict mandate to keep records, but still allow for capital loss to be offset against capital gains. While not as advanced as the U.S regime, it is still more investor-friendly and less burdensome for the majority compared to India.

¹⁴ Freeman Law, "United Kingdom Cryptocurrency Tax Guide," (2023) available at: <https://freemanlaw.com> (last visited April 2026).

¹⁵ Basu, A. & Gupta, P., "Regulating Virtual Currencies in India: A Comparative Analysis," (2021) 15(2) Journal of Financial Regulation 87, 96.

Germany: Long-Term Holding Exemption.

This is perhaps the most investor friendly and progressive regime across the globe. For assets held for more than 1 year before their disposal the gain is exempt completely.¹⁶ Assets held for more than a year but disposed off within a year are taxable at capital gains tax rates that applies to the taxpayer's personal income tax bracket. Also, an annual exemption of the first 600 Euros of gain has been introduced. Thus, compared to a flat 30% tax, Germany promotes long-term holding and significantly reduces tax burden for passive investors.

Japan: Progressive Taxation.

In Japan, cryptocurrency gains fall under "miscellaneous income". The gains are taxed at a progressive rate, from 15%-55% depending on the taxpayer's income bracket. Unlike India's flat 30% rate irrespective of income levels, this system would make the taxation fairly progressive. There are proposed changes to be made this year in Japan with regard to rates, as well as loss carry forward options in order to make the system more competitive in the global landscape.

India: Strict Regime of flat taxation.

Under section 115BBH of the Income Tax Act, "tax shall, at the rate of thirty per cent, be chargeable on income arising from the transfer of any Virtual Digital Asset". This means that regardless of how long the user has held the VDA, if profit is made the rate applicable is a flat 30%. Further section 194S mandates for 1% TDS on transfer of VDAs to make it compliant. No losses from crypto transaction can be carried forward, except for an offset against future capital gains.

Policy learnings for India

Drawing comparisons from a global context, the current Indian framework seems to emphasize revenue certainty and enforcement but appears to limit market flexibility and investor incentives. International precedents suggest that balanced taxing approaches like that incorporating loss adjustability, holding period related benefits and slabs do allow compliance and market development to co-exist.

An advanced Indian framework could look at options such as:

1. Introduction of a holding-period based tax differentiation.
2. Allowing minor loss set-off for VDAs.
3. Capping/rethinking TDS structures to ensure liquidity efficiency.
4. A clear delineation between investment and trading activity.
5. Such reforms would better harmonize India with global approaches while still keeping a regulatory hand on market development.

¹⁶ Baur, D.G. & Dimpfl, T., "The Volatility of Bitcoin and Its Role as a Financial Asset," (2018) 94 Finance Research Letters 154, 160

Conclusion

Cryptocurrency taxation is still a nascent area on a global front but one constant appears to be the effort to integrate VDAs into already established tax frameworks as opposed to putting them in separate high-tax buckets. India's system is notably aggressive, simple and tax compliant. However, as evidenced by countries like US, UK and Germany, it may be a bit too extreme in its intent and in the long term a more balanced approach, focusing on both revenue generation as well as investor engagement and market growth, might be a better model.

One of the primary conclusions emerging out of this study is that the current regime has prioritized ease of administration and revenue assurance over the economic neutrality of the taxation mechanism and the market fluidity. The introduction of a flat rate of 30% for income from VDAs without any distinction between capital gains or business income enhances ease of calculation and enforcement but diverges from the well-established principles of income taxation that distinguish between various forms of income based on factors like holding period, intent and nature of the assets. However, the present scheme completely omits these distinctions in favor of a uniform income structure, and this does not cater to the varied nature of crypto economic transactions. This would be having far reaching consequences on investors' activities like frequent trading and investment over long term.

On a macro-level this study concludes that, taxation of cryptocurrencies in India is an evolving not a finalized framework that appears to have had a mixed impact on the ecosystem as the country navigates among the aims of revenue generation, regulatory controls, facilitation of technological innovation and risk mitigation, where the focus clearly seems to be placed on taxation efficiency and control over the market, rather than the development of the market and investor facilitating measures.

On future trajectory, it is estimated that India will see progressive reforms over the years in this area as a global consensus develops in this space and as the volume of transactions increases domestically it will probably evolve to a point where a differential tax treatment will be considered for various types of crypto-assets and various modes of transaction. A blockchain based transaction recording system can also be a potential solution in near future to simplify tax procedures.

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