

## Taxation of Virtual Digital Assets (Cryptocurrency) in India

### What are Virtual Digital Assets?

- a. Any information, code, 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/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

### Taxation on Income from Virtual Digital Assets

- a. 30% tax on sale consideration on transfer of VDA.
- b. Deduction only in respect of cost of acquisition of virtual digital asset
- c. No deduction in respect of any other expenditure
- d. No deduction in respect of any loss
- e. No set off of loss from transfer of the virtual digital asset
- f. No loss from transfer of the virtual digital asset is allowed to be carried forward to succeeding assessment years
- g. The income from the transfer of VDA can be offered to tax under the head of Business or Profession or Other sources or Capital Gains depending on the nature of holding the VDA.

### Applicability of Advance Tax

Advance tax applies to income from virtual digital assets (VDA) if the tax payable during the financial year exceeds Rs. 10,000. However, residents without income under the head "Profit and gains of business or profession" and individuals aged 60 years or older are exempt. Interest under section 234C may not apply in such cases.

### Withholding Tax for Residents (Tax Deducted at Source)

- a. Section 194S of the Income Tax Act mandates a **1% tax deduction** on payments made to residents for the transfer of virtual digital assets.
- b. Exemptions from tax deduction apply if the consideration does not exceed **Rs. 50,000** for specified persons or **Rs. 10,000** for others within a financial year.
- c. Surcharge is not applicable to the tax deduction rate under section 194S, unlike section 115BBH.
- d. Considerations wholly or partly in kind require verification of tax payment before releasing the consideration.
- e. Payments made by specified persons are not subject to Section 203A or 206AB. Therefore, even if the deductee hasn't filed their income tax return, tax is deducted at the rate specified in this provision, not under Section 206AB.
- f. If tax is deducted under section 194S, no other TDS/TCS provision shall apply to the transaction.
- g. If the deductee does not furnish his PAN to the deductor, the tax shall be deducted at the rate of 20% as prescribed.
- h. Specified persons are not required to obtain a Tax Deduction or Collection Account Number (TAN) for tax deduction under this section, using their PAN instead.

**Specified Person:** A specified person refers to a.) an individual or Hindu undivided family (HUF) whose total sales, gross receipts, or turnover from business does not exceed Rs. 1 crore or Rs. 50 lakh for professions in the preceding financial year, b.) an individual or a Hindu undivided family, not having any income under the head "Profits and gains of business or profession"

Deductor	Turnover/Gross Receipts Threshold	Threshold of Consideration (Rs.)
Individual/HUF having business/profession	Business – Upto Rs. 1 Crore Profession – Upto Rs. 50 Lakhs	50,000
Individual/HUF not having business/profession	-	50,000
Any other person	-	10,000

## **Withholding Tax for Non-Residents (Tax Deducted at Source)**

Section 195 will be applicable to the payer (whether resident or non-resident) on any payment of consideration on transfer of VDA to a non-resident or foreign company. The applicable tax for deduction would be 30%.

## **Virtual Digital Assets received as Gifts**

- a. Gift of VDA (Received without consideration) for value exceeding Rs.50,000 – Tax is applicable
- b. Gift of VDA through inheritance/will, marriage, death – Not Taxable