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TIOL Knowledge Foundation

Taxation of Digital Assets in India

Executive Summary

1. Global spot crypto trade volumes surged significantly, roughly quadrupling from 2023 to late-2024. India has emerged as a major player in this market, with volumes comparable to developed economies, driven by its scale, rapid growth, and large digital-native user base, making it critical to the global crypto ecosystem.
2. However, this volume growth hasn't benefited domestic Indian crypto exchanges. The tax framework implemented by the Government of India, intended to curb local trading, inadvertently pushed citizens toward non-compliant offshore exchanges. These foreign platforms allowed traders to avoid the mandated Tax Deducted at Source (TDS), thus undermining the domestic market and the intended tax regime.
3. Not only did this create a non-level playing field in favour of foreign offshore exchanges, it also cost the government large amounts of money in foregone tax collections. As our report concludes, Indian exchanges captured only ~8–10% of total trading volume **(~₹45,000 Cr in FY24–25)**, while offshore volumes dominated and grew from **₹2.63 Lakh Cr. (2023–24) to ~₹4.88 Lakh Cr. in FY24–25.**
    a. Domestic exchanges have been the only meaningful TDS collection channel, remitting **~₹338 Cr.** over FY22–23 and FY23–24 combined, and an estimated **~₹450 Cr.** in FY24–25 alone
    b. In contrast, offshore exchanges that cater to a large number of Indians neither deduct TDS nor share user-level tax data, creating a structural arbitrage: the same trade faces 1% upfront friction if routed onshore, and practically 0% if routed via an offshore exchange
4. **Financial Impact:** Since July 2022, offshore non-compliance with Sec 194S has already created a significant, quantifiable TDS gap, reflecting both capital flight and a shrinking on-shore tax base.
    a. Since the 1% TDS took effect in July 2022, an estimated ₹11,000 Crore+ of TDS on crypto trades has not been collected from offshore platforms. Notably, in just Oct 2024–Oct 2025, about ₹4,877 Cr. of TDS went unremitted on Indian trades executed offshore
    b. Income-tax filings underscore how underpowered the 30% tax on crypto gains (Sec 115BBH) has been in practice. The government collected only about ₹269.09 Crore in FY22–23 and ₹437.43 Cr. in FY23–24 - roughly ₹706 Cr. in total - while, based on estimated offshore trading gains, around ₹36,257 Cr. in potential capital gains tax has slipped outside the net since the regime was introduced.
    c. Status quo policies, high adoption with low on-shore compliance, pose a large future revenue risk. If no action is taken, Indian users' offshore trading could cumulatively reach ~₹39.9 Lakh Cr. over the next five years, translating to a potential ₹39,971 Cr. in uncollected TDS by FY2029–30.
    d. In terms of Capital Gains, in a conservative scenario where minor tweaks to the framework are successful in enabling a pre-2022 level market share for domestic exchanges, the government is looking at five-year capital gains collection estimates of ~₹66,618 Cr., a multi-fold jump over today's numbers.
5. In this context, there is scope for aligning the tax code with global best practices and capture a much higher value of this increasing pie.

Recommendations

1. **Recalibrate TDS Rate (e.g., 0.01%–0.1%) : Reduce the 1% TDS** to a nominal rate in the range of 0.01%–0.1%. A lower TDS will significantly cut trading friction and the incentive to flee to offshore platforms. This calibration preserves liquidity on Indian exchanges, encourages traders to remain in regulated channels, and ultimately *increases* the taxable volume (by expanding the base for the 30% gains tax).
2. **Bring offshore exchanges within the tax net.** Amend Section 194S of the Income-tax Act to explicitly require **all** VDA platforms (including non-resident/offshore ones) to deduct and remit TDS for trades involving Indian users irrespective of a permanent establishment or place of business in India as has been done under certain other provisions of the Income Tax Act. This ensures regulatory oversight and accountability, closing the loophole that currently allows overseas platforms to bypass tax duties.
3. **Rationalize Tax Treatment and align crypto taxation with other assets.** Amend Section 115BBH to allow traders to offset VDA trading losses against gains (and carry forward losses), similar to equity or property transactions. Permitting loss set-offs will make the effective tax burden more reasonable, encourage honest reporting of gains, and remove the present disincentive where any profitable trade faces a flat 30% tax even if the net portfolio gain is small or negative.
4. **Improve tax intelligence without high frictions.** Implement robust reporting requirements such as mandating crypto exchanges to file a Statement of Financial Transactions (SFT) for VDA trades above certain thresholds. By leveraging annual information returns from exchanges (especially those registered with FIU), tax authorities can get a comprehensive data trail of crypto transactions. This direct reporting achieves the original intent of TDS (transaction traceability) in a more efficient way – capturing market activity at scale while a lower TDS keeps the market liquid.

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