

# TAXTIME

NEWSLETTER

## DIRECT TAX NEWS

### LOSS FROM ONE CRYPTO CANNOT BE SET OFF WITH GAIN OF ANOTHER



- Loss from sale of one crypto will not be allowed to be set off against the gain from the sale of another crypto while computing tax, the Finance Ministry clarified in the Lok Sabha on Monday.
- It also said that the cost of mining will not be treated as cost of acquisition in the case of virtual digital assets (VDA). The clarifications set off a chain of reactions from crypto players and exchanges anxious that the moves will “cripple” the crypto trade.
- While tax experts feel the explanation brings more clarity, crypto players have urged the government to reconsider.
- The Finance Bill, 2022 proposes that any income from the transfer of a VDA will be taxed at 30 per cent. Further, while computing the income from such a transfer, no deduction in respect of any expenditure (other than the cost of acquisition) or allowance is allowed.
- “As per the proposed provisions of Section 115 BBH to the Income Tax Act, 1961, infrastructure costs incurred in the mining of VDA will not be treated as a cost of acquisition as the same will be in the nature of capital expenditure which is not allowable as deduction as per the provisions of the Act,” Minister of State for Finance Pankaj Chaudhary said on Monday, in a written reply to a question raised by Karti Chidambaram.
- Chaudhary also clarified that currently cryptocurrencies are unregulated in India.

## **NEW RESULTS ON THE PREVENTION OF TAX TREATY SHOPPING SHOW PROGRESS**



The implementation of the BEPS package to tackle international tax avoidance continues to progress, as the OECD releases the latest peer review report assessing the actions taken by jurisdictions to prevent tax treaty shopping and other forms of treaty abuse under Action 6 of the OECD/G20 BEPS Project.

This peer review process, which includes data on tax treaties concluded by each of the 139 jurisdictions that were members of the OECD/G20 Inclusive Framework on BEPS on 31 May 2021, was the first to be carried out under the revised methodology forming the basis of the assessment of the Action 6 minimum standard.

The fourth peer review report reveals that members of the OECD/G20 Inclusive Framework on BEPS are respecting their commitment to implement the minimum standard on treaty shopping. It further demonstrates that the BEPS Multilateral Instrument (MLI) has been the tool used by the vast majority of jurisdictions that have begun implementing the BEPS Action 6 minimum standard, and that the MLI has continued to significantly expand the implementation of the minimum standard for the jurisdictions that have ratified it.

The impact and coverage of the MLI are expected to rapidly increase as jurisdictions continue their ratifications and as other jurisdictions with large tax treaty networks consider joining it. To date, the MLI covers 99 jurisdictions and over 1800 bilateral tax treaties.

## **GST RATES OVERHAUL MAY BE DELAYED BY A FEW MONTHS**

- A much-awaited restructuring of the goods & services tax (GST) slabs to raise the revenue-neutral rate (RNR), from a little over 11% now to 15.5%, could be delayed by a few months, as high global commodity prices have resulted in a rise in inflationary expectations among households and firms and brought the Reserve Bank of India's (RBI) accommodative policy stance under critical review.
- A delay in the GST slabs recast could have serious implications for state governments' revenues, since a five-year compensation mechanism for their GST revenue shortfall is set to end on June 30. It could also become more difficult for the Centre to resist states' demand for an extension of the compensation in order to avoid a revenue shock to states. States' spending, especially revenue expenditure, surged in the last couple of years in the wake of the pandemic, even amid severe revenue constraints.

## **GOVT. WORKING ON CLASSIFICATION OF CRYPTOCURRENCY UNDER GST LAW**



The Centre is considering on classification of cryptocurrency under the GST law so that tax can be levied on the entire value of the transaction. At present, 18% Goods and Services Tax (GST) is levied only on services provided by crypto exchanges and is categorised as financial services.

GST officers told the PTI news agency that cryptocurrencies are similar to casinos, gambling, betting, which have 28% of the GST on the entire value. Besides, GST at 3% is levied on the entire transaction value in the case of gold.

Another GST official said that if GST will be levied on the entire transaction of cryptocurrencies then the rate would be in the range of 0.1-1%. However, firstly the 'classification' decision will have to be finalised and then the rate will be discussed.

The GST has not clearly made a classification of cryptocurrency. In the absence of a law regulating such virtual digital currencies, the classification has to take into account whether the law classifies it as an actionable claim.

An actionable claim is a claim which can be made by a creditor, for any type of debt other than a debt secured by a mortgage of immovable property.

# TODAY'S QUOTE

*The time is always right to do  
what is right*

*- Martin Luther King Jr.*

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