
TAXATION OF DIGITAL ASSETS IN INDIA: NORMAL VS VDA REGIME AND COMPARATIVE GLOBAL ALIGNMENT

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ABSTRACT

This article critically examines India's dual approach towards taxing the virtual digital assets- namely the traditional capital gains and business income framework (the 'normal regime') versus the new Virtual Digital Assets (VDA) regime introduced under the Finance Act, 2022. The article also gives a brief description of what are Virtual Digital Assets under the Indian law and clarifies which digital instruments fall outside this classification. The article progressively, then outlines the key features of the VDA regime including the flat 30% tax rate on gains, disallowance of deductions, and denial of loss set-offs, and these are then compared against the more flexible provisions of the Income Tax Act, 1961 ('Normal Regime'). The analysis further explores the constitutional and economic ramifications of this new framework and evaluates India's approach in light of global practices in jurisdictions such as the United States, United Kingdom, Germany, and Singapore.

Keywords: Digital Assets, Cryptocurrency, Virtual Digital Assets, Income Tax Act, Section 115BBH, Global Taxation, Capital Gains, Blockchain, OECD

I. Introduction

The global landscape has witnessed an unprecedented surge in the use and trade of Virtual Digital Assets (*hereinafter*, referred to as ‘VDAs’), driven largely by advancements in blockchain technology that offer enhanced security and transparency in transactions. This rapid proliferation has presented both opportunities and challenges for regulatory authorities. On one hand, VDAs have introduced a new and potentially lucrative tax base, expanding the fiscal net. On the other hand, the novelty and evolving nature of this asset class have exposed significant regulatory and legislative gaps, making effective governance and taxation a complex task.

Around a decade ago, the world was introduced to its first cryptocurrency—Bitcoin, launched in 2009 by the pseudonymous entity Satoshi Nakamoto. Since then, the digital asset landscape has expanded rapidly with the emergence of numerous other cryptocurrencies such as Ethereum, Litecoin, Ripple, etc. As per an estimate, more than 8,000 cryptocurrencies exist as of January 2022.¹ As the popularity and use of these assets continue to grow globally, countries have agreed and responded by creating regulatory frameworks and tax policies to govern their use and ensure compliance.² “*The taxation of VDAs is a complex subject that involves several considerations, including the determination of their nature (whether as a currency, property, or financial instrument), their valuation, and the applicable tax rates*”).³

India addressed the taxation of Virtual Digital Assets (VDAs) through the Finance Act, 2022, by introducing a distinct tax regime specifically tailored for such assets. This marked a significant departure from the conventional tax framework governing capital gains and business income, reflecting the government's attempt to adapt to the unique characteristics and challenges posed by VDAs.⁴

II. Digital Assets: Legal and Economic Background

Digital Assets are the virtual representation of the value recorded in the blockchain technology, which can be transferred or traded electronically. They include cryptocurrencies, stablecoins,

¹ Taxmann, *Understand the Taxation of Virtual Digital Assets - Taxmann*, TAXMANN BLOG (Feb. 8, 2022), <https://www.taxmann.com/post/blog/taxation-of-virtual-digital-assets/>.

² Ashta Siddhi Nagar - & Mudra Singh -, *Taxation of Virtual Digital Assets: A Comparative Analysis of India and the UK*, 16 IJSAT 2038 (2025).

³ Dutta S., Income tax on virtual digital assets Under Section 115BBH, CA CLUB INDIA (5 May, 2022) available on <https://www.google.com/amp/s/www.caclubindia.com/amp/articles/income-tax-on-virtual-digital-assets-under-section-115bbh-47118.asp>.

⁴ Finance Act, 2022, No. 6, Acts of Parliament, 2022 (India).

Non-fungible Tokens (NFT's), and other tokenized instruments. India's fast-growing digital economy and rising interest in digital assets, driven by their disruptive potential, have emerged amid a volatile regulatory landscape marked by shifting bans, court disputes, and inconsistent policies. At one point of time, these assets were simply known as specialized items, but in the current scenario the VDA's or crypto assets have now become an intrinsic part of the worldwide financial field. The VDA market in India is projected to reach USD 6.4 billion with more than 107.30 million active users by 2025.⁵

Witnessing these shifts in the economy, the Indian Government for the first time introduced a statutory definition of VDA's. In India, the Finance Act, 2022 introduced a statutory definition of VDAs by inserting § 2(47A) into the Income Tax Act, 1961.⁶ According to the section, A **Virtual Digital Asset (VDA)** is any form of code, number, token, or information—excluding Indian or foreign currency—produced through cryptographic methods or otherwise, that represents value regardless of whether consideration is involved. Such assets may possess inherent value, function as a store of value or a unit of account, be utilised in financial transactions or investments, and are capable of being transferred, stored, or traded electronically. The definition also covers non-fungible tokens (NFTs) or other similar tokens, as well as any additional digital assets that the Central Government may declare through notification in the Official Gazette. The Government also holds the authority to remove certain digital assets from this definition via notification, subject to specified conditions.

With reference to the section, a “non-fungible token” refers to a digital asset as designated by the Central Government, and the terms “currency,” “foreign currency,” and “Indian currency” retain the same meanings as provided under Section 2 of the Foreign Exchange Management Act, 1999. However, the Central Board of Direct Taxes (CBDT) has excluded certain asset-backed NFTs from this definition through Notification No. 75/2022.⁷ The notification excludes gift cards, loyalty points, and subscriptions from the definition of VDAs.

India made progress in 2023 in incorporating operations involving digital assets into its legal system. The Prevention of Money Laundering Act (PMLA) required virtual asset service providers to adhere to anti-money laundering (AML) and Know Your Customer (KYC)

⁵ Anjali Shukla & Dr Monika Rastogi, *The Evolution Of Digital Asset Regulation In India: Legal Implications, Economic Risks And Balancing Innovation With Consumer Protection*, 13 (2025).

⁶ Income-tax Act, 1961, No. 43, Acts of Parliament, § 2(47A) (India).

⁷ CBDT Notification No. 75/2022, G.S.R. 588(E) (July 30, 2022).

standards in order to improve accountability and stop illegal activity. In addition to voicing worries about financial stability and calling for a ban on cryptocurrencies, the RBI took a cautious stance and launched the Central Bank Digital Currency (CBDC), or digital rupee, which marked a significant milestone in the country's-controlled use of blockchain technology. At the same time, it was stated that the Information Technology Act of 2000 will be replaced with a new Digital India Act that would address a number of challenges, including digital asset governance. India also utilized its 2023 G20 Presidency to urge international collaboration in establishing universal regulatory norms for digital assets, highlighting the sector's global scope and associated concerns.

Though the country has not yet passed a comprehensive legislation specifically controlling cryptocurrencies and blockchain-based assets, regulatory efforts have grown ever more coordinated and encompassing.⁸ India's approach seeks to balance consumer protection, financial stability, innovation, and security, but faces challenges like unclear legal classification, overlapping jurisdictions, and the absence of a unified future-ready framework.

III. Taxation under the "Normal Regime"

Before the insertion of the statutory definition of "**Virtual Digital Asset**" (VDA) under section 2(47A) of the Finance Act, 2022, income arising from digital assets—such as cryptocurrencies, NFTs, and similar instruments—was taxed under the general provisions of the Income Tax Act, 1961. The treatment varied depending on the nature and frequency of transactions, with income being classified under different heads.

A. Income From Capital Gains

If an individual, a group of individuals, a partnership firm, or a company invested in digital assets with the intention of holding them as capital, any profit derived from their transfer was treated as capital gains. The taxability of such gains was determined with reference to the period of holding, and was further categorized into:

1. **Short-Term Capital Gains (STCG):** Digital assets held for less than 36 months were regarded as short-term. Gains from such transfers were taxed at

⁸ *Supra*, at 5

the applicable slab rates.

2. **Long-Term Capital Gains (LTCG):** Digital assets held for more than 36 months were considered long-term. These gains attracted tax at the rate of 20%, with the benefit of indexation under section 112 of the Act.⁹

B. Profits and Gains from Business or Profession

For taxpayers who trade VDAs frequently and systematically, treating it as a business activity, the income is classified under "Profits and Gains from Business or Profession."¹⁰

It was treated as such under sec. 28¹¹ and taxed at the applicable slab or corporate rate. In these cases, the income is taxed at a rate of 30% as per sec. 115BBH.¹² Business-related expenses cannot be claimed as deductions, consistent with the rigid framework of this provision. Such business transactions fall within the ambit of the dedicated tax regime for virtual digital assets.

The separate treatment of digital assets under the regular Income Tax Act provisions and later under the special VDA regime caused a lot of problems. Taxpayers were often confused about which category their income would fall under and what tax rate would apply. Since there was no single clear framework, tax authorities also applied the rules differently in many cases. This gap even allowed some people and companies to plan their transactions in a way that reduced their tax burden, which made the system less fair and less effective.

IV. The VDA Regime: A Parallel Framework

The government after realizing the regulatory ambiguity and the potential revenue loss to the state by not recognizing the digital assets as a potential taxable income source, introduced a standalone taxation regime for Virtual Digital Assets (VDA) through sec. 115BBH, of the Finance Act, 2022. The features of the regime are detailed below:

⁹ Income-tax Act, 1961, § 112 (India).

¹⁰ Finlaw Blog, *Virtual Digital Assets Taxable Under Which Head of Income: Explained*, FINLAW BLOG (Apr. 18, 2025), <https://finlaw.in/blog/virtual-digital-assets-taxable-under-which-head-of-income-explained>.

¹¹ Income-tax Act, 1961, § 28 (India).

¹² *Id.* § 115BBH.

A. Flat Tax Rate of 30%

Section 115BBH, of the Finance Act, 2022 mandates that all income arising from the transfer of the VDAs will be taxed at a uniform rate of 30%, regardless of the duration for which the asset is held or the nature of the taxpayer.

B. Acquisition Cost Deduction

Taxpayers can only deduct the cost for acquisition of VDA.¹³ The money spent on acquiring them or even money spent on trading in them, all the extra costs will not be deducted, at the time of paying of taxes. Moreover, deductions under Chapter VI-A (like 80C or 80D), are not permitted either.

C. No Loss Set-Off or Carry Forward

The Income Tax Act of 1961 allows taxpayers to deduct losses from one income source (such as a business or property) against earnings from another. If these losses cannot be completely utilized in the same fiscal year, the legislation allows them to be carried forward and offset against future revenue for a defined number of years, subject to certain restrictions. The same cannot be said true for losses from VDA. **Section 115BBH(2)(b) prohibits setting off VDA losses against any income, even from other VDAs. Nor can such losses be carried forward under Chapter VI.**¹⁴

D. TDS on Transfers

There is a 1% deduction at source (TDS) on payments for transfers of VDAs exceeding Rs. 10,000 (or Rs. 50,000 for specified persons) per annum, imposed by section 194S of the Act.¹⁵ This deduction ensures traceability and early compliance of the act.

E. Gifts of VDAs Now Taxable

VDAs were included as 'property' by the amendment made by the Finance Act, 2022 in the section 56(2)(x).¹⁶ Hence, gifts of VDAs over the limit of Rs. 50,000 without

¹³ Income Tax Act, 1961, § 115BBH(2)(a) (India).

¹⁴ *Ibid.* § 115BBH(2)(b).

¹⁵ *Ibid.* § 194S.

¹⁶ Income Tax Act, 1961, § 56(2)(x) (India).

adequate consideration are taxable as “income from other sources” in the hands of the person receiving them.

V. Normal Regime vs. VDA Regime: A Comparative Analysis

Feature	Old Rules (Normal Regime)	New Rules (VDA Regime)
Tax Rate	Varied (Slab rate or 20% with benefits)	Flat 30% for everyone
Holding Period	Mattered (Short-term vs. Long-term)	Does not matter
Deductions	Many allowed (costs, expenses, 80C, etc.)	Only acquisition cost allowed
Losses	Could be adjusted against other income	Cannot be adjusted or carried forward
TDS	Not applicable	1% TDS on transactions
Gifts	Not clearly taxable	Taxable as income for the receiver

VI. Legal and Constitutional Critique of the VDA Regime

In India, the framework of tax deduction is primarily guided by the “**ability-to-pay**” principle, which seeks to promote equity and fairness among taxpayers. According to this principle, the tax burden should be aligned with an individual’s or entity’s capacity to generate income. Thus, taxpayers with higher incomes are expected to contribute proportionately more in taxes, ensuring a progressive distribution of the tax burden in accordance with their economic capacity. **The uniform 30% tax rate violates the above principle, as it taxes the higher and lower income group at the same rate, without any discrimination**, which may not pass the

test of **Article 14 of the Constitution** which stands for the equality of the equals.¹⁷

Unlike other heads of income, **the VDA regime expressly prohibits the set-off or carry-forward of losses**, thereby imposing a disproportionate burden on taxpayers engaged in digital asset transactions. Taxpayers are required to bear the full incidence of taxation on gains without any relief for corresponding losses, which effectively penalizes risk-taking. This treatment is particularly detrimental to entrepreneurs seeking to venture into the nascent domain of digital assets, where speculative activity is inherent. Such restrictive provisions diminish active participation in the digital asset market and, in the long run, risk diverting both capital and talent away from India's digital asset ecosystem, ultimately weakening its position in the global financial and technological landscape.

ERC-404 (hybrid tokens) uniquely combines the characteristics of ERC-20 (fungible tokens) and ERC-721 (non-fungible tokens) to create semi-fungible tokens.¹⁸ Their hybrid nature allows to them to switch between being fungible and non-fungible, depending on their use case or context, thereby enhancing their utility and offering fresh opportunities in the digital token space.¹⁹ The problem with them is while most NFTs are taxed as VDAs, hybrid NFTs for e.g. A tokenized concert ticket with embedded rights poses clarification issues, especially following CBDT Notification No. 75/2022, which excludes NFTs linked to physical assets.²⁰

VII. Comparative Global Approach to Digital Asset Taxation

In December 2024, the **US Treasury** announced that brokers (specifically decentralized finance or DeFi brokers) will be responsible for reporting on “gross proceeds of the sale of their digital assets” via a 1099 form starting in 2026 for transactions made in 2025.²¹ The Internal Revenue Services (IRS), treat crypto as “property” and are subject to the capital gains tax, which is only owed when the assets are sold for a gain, if the assets are sold within a year than they are considered short term gains and taxed higher which can be upto 37% ,²² if they

¹⁷ INDIA CONST. art. 14.

¹⁸ Zerocap, *What Is ERC 404? The Hybrid NFTs*, ZEROCAP (Feb. 19, 2024), <https://zerocap.com/insights/snippets/erc-404-hybrid-nfts/>.

¹⁹ *Ibid.*

²⁰ CBDT Notification No. 75/2022, *Supra* note 7.

²¹ *Crypto Tax Reporting In 2025: What Investors And Traders Need To Know - Pittsburgh IRS Tax Relief Attorney*, (July 30, 2025), <https://taxlane.com/crypto-tax-reporting-in-2025-what-investors-and-traders-need-to-know/>.

²² *Crypto Tax and Digital Asset Updates: What You Need to Know in 2025*, <https://www.taxplaniq.com/blog/crypto-tax-and-digital-asset-updates-what-you-need-to-know-in-2025> (last visited Sept. 10, 2025).

are held for more than a year they fall into the category of long term gains and are taxed significantly lower at the slab rate of 0%, 15%, or 20%.²³ Losses can be offset under § 1211 of the Internal Revenue Code.²⁴

Germany is also no exception, to taxation on digital assets. Nearly 30% of the German population is reported holding crypto as of 2025.²⁵ The BMF has classified crypto as private assets in Germany, and the gains from its disposal are taxed under the §23 Abs. 1 Nr. 2 S. 1 of the Income Tax Act (Einkommensteuergesetz - EStG).²⁶ But there does exist a silver lining, if the assets are held for more than a year, all gains from selling or trading become completely exempt from taxes.

In case of **Singapore**, profits from cryptocurrency are only taxed when the activity is considered a business, rest all of the time it is typically tax-exempt. For companies, profits from crypto are subject to 17% income tax rate, with an exemption to businesses in transaction in digital payment tokens (e.g., Bitcoin, Ether) from the Goods and Services Tax (GST).²⁷ This supportive regulatory and tax environment, combined with government incentives for blockchain technology, establishes Singapore as a leading hub for cryptocurrency and blockchain innovation. The country is a Tax-haven for cryptocurrency related businesses.²⁸

In the **United Kingdom (UK)** digital assets include cryptocurrencies, tokens, NFTs (Non-Fungible Tokens), and other digital representations of value that can be stored, traded, or used for various purposes.²⁹ The Financial Conduct Authority (FCA) has primarily categorized digital assets in three primary categories Exchange tokens, Utility Tokens and Security Tokens. These categorizations have helped establish regulatory approach in the UK. Her Majesty's Revenue and Customs (HMRC) regard cryptocurrencies as **assets** and requires individuals to report income or gains for tax purposes. This can include **Capital Gains Tax** or **Income Tax** depending on how the assets are used.³⁰ Capital gains tax (10% or 20%) applies, with loss

²³ IRS Notice 2014-21, 2014-16 I.R.B. 938 (Apr. 14, 2014) (U.S.).

²⁴ 26 U.S.C. § 1211 (U.S.).

²⁵ *Germany Crypto Tax Guide for 2025*, <https://www.cointracker.io/blog/germany-crypto-tax-guide> (last visited Sept. 10, 2025).

²⁶ *Supra*, note 25.

²⁷ Income Tax Act, 1947, § 10(1)(a) (Sing.).

²⁸ *See generally* Taxing Cryptocurrency in Singapore, STERLING STRATEGISTS (Oct. 26, 2023), <https://sterling-strategists.com/digest/taxing-cryptocurrency-in-singapore/> [<https://perma.cc/4XU7-5TQ6>].

²⁹ *The Legal Status of Digital Assets in the UK*, JURANCE INTERNATIONAL LAW BLOG, <https://jurancelegal.com/the-legal-status-of-digital-assets-in-the-uk> (last visited Sept. 16, 2025).

³⁰ *Id.*

offsetting permitted. Income tax applies for mining and s+6A taking activities.³¹ In the country, the legal protection for Digital assets is still at developing stage, however the SC has recognized the assets as property under specific conditions.

There exists a part of the world which can be considered as tax heaven for cryptocurrencies, as they have entirely exempted crypto from taxation, or they do not recognize crypto as taxable income or their policies are designed in such a way that it attracts the investors and businesses to invest more in them. These are Brunei, Cyprus, El Salvador (which adopted Bitcoin as legal tender), Georgia, Germany (if held for more than a year), Hong Kong, Malaysia, Oman, Panama, Saudi Arabia, Switzerland, United Arab Emirates.³² While there exists other part of the world where Crypto is outright completely banned for one reason or the other. These include Afghanistan, Algeria, Bangladesh, China, Egypt, Morocco, Nepal, Tunisia.³³

VIII. Is India's Approach Aligned with Global Standards?

In the recent past, India is seeking to change its harsher approach towards crypto to friendlier one. This shift towards crypto is due to the fact that many of the nations are changing its approach towards crypto currencies especially the US where president Trump has announced more crypto-friendly announcements.³⁴ One of the reasons for such paradigm shift is because of the nature of the crypto currencies as, they are transacted borderless, India has realized that it cannot, have a unilateral approach towards them.

India has cautiously but proactively worked towards adopting a crypto tax regime, it has not altogether banned crypto but has established efficient and effective framework which has already proved to be challenging. By taxing 30% on income earned and 1% TDS on transactions that exceed a certain threshold, India has opened the door for digital assets to be considered in the taxable bracket.

However, India's journey in framing a coherent tax regime for digital assets has been far from seamless. Persistent debates continue around the definitional scope of "virtual digital assets,"

³¹ HM Revenue & Customs, Cryptoassets Manual (UK), CRYPTO20000–CRYPTO25100 (2021).

³² Visual Capitalist, *Mapped: Crypto Taxation Around the World*, <https://www.voronoiaapp.com/money/Mapped-Crypto-Taxation-Around-the-World--4124> (last visited Sept. 16, 2025).

³³ *Id.*

³⁴ www.ETLegalWorld.com, *India Reviewing Crypto Position Due to Global Changes, Senior Official Says*, ETLEGALWORLD.COM, <https://legal.economictimes.indiatimes.com/news/law-policy/india-reviewing-crypto-position-due-to-global-changes-senior-official-says/117863714> (last visited Sept. 16, 2025).

the identification of the taxable event, and the extent to which India's framework aligns with evolving global standards. Internationally too, consensus remains elusive, as many jurisdictions are still grappling with the appropriate model for taxing cryptocurrencies and other digital assets. For instance, Japan subjects crypto gains to progressive taxation at rates reaching up to 55 percent, depending on the taxpayer's income bracket, whereas countries like Egypt have taken the opposite route by imposing outright bans on digital assets, largely driven by religious and policy considerations.

India's current structure focuses on administrability and revenue certainty, with the main focus on the point that there is no under reporting and an increased tax base. On contrast, international standard setting bodies have primarily focused on taxpayer's transparency and information exchange between the authorities. The international bodies have not focused on tax rates and increasing the tax base. The OECD's *Crypto-Asset Reporting Framework* (CARF) and related CRS updates promote standardized reporting by crypto service providers so tax authorities can identify cross-border holdings and income.³⁵

On alignment, India is convergent with global trends on transparency and enforcement: its TDS/reporting measures and emphasis on traceability mirror CARF's objectives. However, India diverges materially on tax policy design—the flat 30% rate, tight denial of deductions, and bar on loss relief are more coercive and less aligned with many jurisdictions that treat crypto gains under ordinary income or capital-gains frameworks with familiar offset rules. This makes India's regime administratively robust but potentially distortive for investment, trading strategies, and innovation. In short: India aligns with international standards on transparency and compliance, but not on normative tax treatment—where India has chosen revenue certainty over symmetry with commonly adopted tax policy approaches.³⁶

IX. Policy Recommendations

India's current framework for taxing Virtual Digital Assets (VDAs), introduced through the Finance Act, 2022, reflects a revenue-protective approach rather than a growth-oriented one.

³⁵ Org. for Econ. Co-operation & Dev. [OECD], *Crypto-Asset Reporting Framework and Amendments to the Common Reporting Standard* 5–10, OECD (2022), <https://www.oecd.org/tax/exchange-of-tax-information/crypto-asset-reporting-framework-and-amendments-to-the-common-reporting-standard.pdf> (detailing reporting obligations for crypto-asset intermediaries and alignment with CRS).

³⁶ Nat'l Acad. of Direct Taxes, *Taxation of Virtual Digital Assets* 13–16 (Gov't of India 2023) (training manual discussing denial of set-off, carry-forward, and policy rationale).

The flat 30% tax under Section 115BBH of the Income-Tax Act, coupled with denial of deductions and prohibition of loss set-off, has created compliance certainty but also risks discouraging innovation and long-term investment.³⁷ A recalibration of policy is therefore necessary.

First, India should consider reclassifying VDA transactions under existing heads of income, particularly capital gains, instead of maintaining a sui generis regime. This would allow the application of progressive rates and established principles, ensuring parity between digital and traditional assets.³⁸

Second, permitting set-off and carry-forward of losses, at least within the VDA category, would align India with international practice. Most jurisdictions—including the United States and the United Kingdom—treat crypto assets analogously to securities, where loss adjustments are a recognized mechanism to ensure fairness.³⁹

Third, the 1% Tax Deducted at Source (TDS) under Section 194S should be rationalized. While the intent is to build reporting trails, the high rate has reduced liquidity and increased compliance burdens. A lower withholding rate, such as 0.1% or 0.01%, similar to securities markets, could balance transparency with market efficiency.⁴⁰

Fourth, India should actively engage with global initiatives like the OECD's *Crypto-Asset Reporting Framework (CARF)* to harmonize reporting standards. This would bolster cross-border cooperation, reduce risks of tax evasion, and position India as a credible player in shaping international digital tax policy.⁴¹

Adopting these reforms would not only align India's VDA tax regime with international best practices but also complement its broader goals of fostering a digital economy under initiatives like *Digital India*. A balanced tax structure that secures revenue while encouraging responsible innovation can transform India into a hub for blockchain and fintech development. By easing

³⁷ Finance Act, No. 6 of 2022, § 115BBH, India Code (2022), <https://www.indiacode.nic.in>.

³⁸ Income-Tax Act, No. 43 of 1961, ch. IV (India), India Code (1961).

³⁹ Internal Revenue Serv., Notice 2014-21, 2014-16 I.R.B. 938 (U.S.) (treating virtual currency as property for tax purposes); HM Revenue & Customs, *Cryptoassets Manual*, CRYPTO20000 (U.K. 2021).

⁴⁰ Income-Tax Act, No. 43 of 1961, § 194S (India), inserted by Finance Act, No. 6 of 2022; see also Income Tax Dep't, *TDS on Payment for Transfer of Virtual Digital Assets (VDAs)* (2022), <https://incometaxindia.gov.in>.

⁴¹ Org. for Econ. Co-operation & Dev. [OECD], *Crypto-Asset Reporting Framework and Amendments to the Common Reporting Standard* 5–10 (2022), <https://www.oecd.org/tax/exchange-of-tax-information/crypto-asset-reporting-framework-and-amendments-to-the-common-reporting-standard.pdf>.

compliance burdens, rationalizing tax rates, and embedding international transparency standards, India can strike the right equilibrium between regulation and innovation. Ultimately, such an approach would safeguard the revenue base, enhance investor confidence, and position India as a leader in shaping the global discourse on digital asset taxation.

X. Conclusion

The taxation of Virtual Digital Assets (VDAs) represents one of the most significant legal and economic challenges of the digital age. India's introduction of a dedicated regime under the Finance Act, 2022, marked an important step in acknowledging the fiscal relevance of VDAs and in attempting to regulate a sector that had previously existed in a grey zone. By statutorily defining VDAs and subjecting them to a flat 30% tax with a 1% TDS requirement, the government signaled its intent to ensure traceability, compliance, and revenue security.⁴² These measures reflect a desire to prevent tax evasion, maintain transparency, and bring VDAs under the formal economy.

Yet, while India's approach has provided clarity and established administrative certainty, it also suffers from structural and conceptual limitations. The denial of deductions, the bar on loss set-off, and the uniform 30% tax rate create a regime that prioritizes revenue collection over fairness and efficiency.⁴³ Such provisions disproportionately burden smaller investors and entrepreneurs, undermining the ability-to-pay principle and discouraging risk-taking in a sector that thrives on innovation. The rigidity of this framework may ultimately hinder India's ambition to become a global leader in blockchain and fintech development.

Comparatively, India's model diverges from many jurisdictions. While the United States, the United Kingdom, and Germany treat digital assets within their existing capital gains or property tax regimes—allowing deductions, loss offsets, and progressive rates—India has carved out a sui generis structure that stands apart.⁴⁴ Although convergence is visible on the front of transparency and information-sharing, particularly in line with the OECD's *Crypto-Asset*

⁴² Finance Act, No. 6 of 2022, §§ 115BBH, 194S, India Code (2022), <https://www.indiacode.nic.in>.

⁴³ Id. § 115BBH (disallowing deductions and loss set-off for VDA transactions).

⁴⁴ I.R.S. Notice 2014-21, 2014-16 I.R.B. 938 (treating virtual currency as property for U.S. tax purposes); HM Revenue & Customs, *Cryptoassets Manual*, CRYPTO20000 (U.K. 2021), <https://www.gov.uk/hmrc-internal-manuals/cryptoassets-manual/crypto20000>; Bundesministerium der Finanzen [BMF] [Federal Ministry of Finance], Schreiben vom 10. Mai 2022, IV C 1 – S 2256/19/10003 :001 (Ger.).

Reporting Framework (CARF), divergence on substantive tax treatment remains stark.⁴⁵ This duality—convergence in compliance, divergence in equity—reveals the hybrid nature of India’s VDA tax policy.

Looking forward, the path for India lies in recalibration rather than rejection. A more balanced approach, one that integrates VDAs within established tax heads, rationalizes the TDS rate, and permits loss adjustments, would bring India closer to global standards while safeguarding revenue.⁴⁶ Such reforms would not only strengthen investor confidence but also position India as a jurisdiction that fosters innovation responsibly. Ultimately, the goal should be to strike a nuanced balance—ensuring that taxation of VDAs is neither so harsh as to stifle growth nor so lenient as to enable abuse. In achieving this balance, India has the opportunity to lead the global conversation on digital asset taxation, setting a precedent for emerging economies navigating similar transitions.

⁴⁵ Org. for Econ. Co-operation & Dev. [OECD], *Crypto-Asset Reporting Framework and Amendments to the Common Reporting Standard* 5–10 (2022), <https://www.oecd.org/tax/exchange-of-tax-information/crypto-asset-reporting-framework-and-amendments-to-the-common-reporting-standard.pdf>.

⁴⁶ See, e.g., Income Tax Dep’t, *TDS on Payment for Transfer of Virtual Digital Assets (VDAs)* (2022), <https://incometaxindia.gov.in> (noting current 1% TDS rate under § 194S).