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Virtual digital assets: Norms laid out for tax deduction onus

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By: [ENS Economic Bureau](#) | New Delhi |

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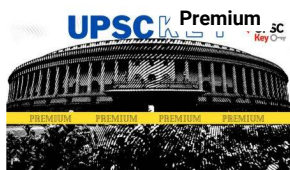
Issuing detailed guidelines on the TDS rule for virtual digital assets (VDAs) such as cryptocurrencies, the Central Board of Direct Taxes (CBDT) on Wednesday laid down the various scenarios on how the tax will be applicable and on whom will the onus to deduct it lie.

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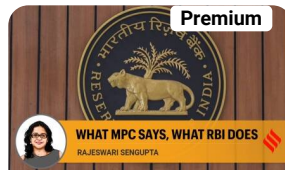
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Similarly, in case the transfer of VDA takes place on or through an exchange, and the VDA being transferred is owned by this exchange, the primary responsibility to deduct tax remains with the buyer or his broker. As an alternative, the exchange may enter into a written agreement with the buyer or his broker that in regard to all such transactions the exchange would be paying the tax on or before the due date for that quarter.

This mainly deals with situations where the transfer of a VDA is being made against money. The CBDT has also laid down examples of cases where the transfer of VDA happens in exchange of another VDA.

For example, if two different cryptocurrencies, say bitcoin and ether, are being exchanged, both the persons would be considered buyers as well as sellers. Therefore, both will need to pay tax with respect to transfer of the cryptocurrency. The guidelines also allow exchanges facilitating such transactions to deduct tax in these cases.

Additionally, the CBDT has defined four primary VDAs — bitcoin, ether, USD Tether and USD Coin — for the purpose of tax deduction on lesser known cryptocurrencies. “For example, in case of trade for Monero to Deso ... the exchanges shall immediately execute a market order for converting this tax deducted in kind (1% Monero/1% Deso in the above example) to one of the primary VDAs (BT, ETH, USDT, USDC) which can be easily converted into INR. This step will

ensure that the tax deducted under section 194S of the Act in the form of non-primary VDAs like Deso/Monero is converted to an equivalent of primary VDAs which have a ready INR market,” it said.

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Commenting on these guidelines, AKM Global tax partner Amit Maheshwari said, “Broadly, the responsibility to deduct TDS has been put on the exchanges which will increase the regulatory and compliance burden for them ... The exchanges have to further disclose these transactions in their tax return and maintain a proper trail. However, this would be helpful to the buyers and sellers both since they can enter into contracts with the exchange for passing the responsibility to deduct tax on their behalf in VDA to VDA transfers or otherwise as well.”

Neeraj Agarwala, partner, Nangia Andersen LLP, said, “Overall, the CBDT has successfully clarified several open issues which were being debated in the professional circle. However, several of the recommendations made by the CBDT, especially with regards to the documents required to be maintained between the transacting parties, for example agreement, challans, undertakings etc. may not be practical and hence may result in several of clarifications issued under this circular redundant.”

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