

Income tax rules for assessment after search cases to apply to crypto income for up to 6 previous assessment years from February 1, 2025

By Neelanjit Das, ET Online | Last Updated: Feb 05, 2025, 12:34:00 PM IST

Synopsis

Budget 2025: The Finance Minister has announced that now assessment for search cases will include virtual digital assets (VDA) which includes crypto, non-fungible tokens (NFT), and others. This assessment after an income tax search procedure can go back up to six assessment years. Moreover, the definition of virtual digital asset (VDA) has been extended in Budget 2025.



Getty Images

Income tax search rules to cover cryptos from today

Now assessment for search cases can be undertaken by the [Income Tax Department](#) for undisclosed [virtual digital asset](#) (VDA) for up to six assessment years preceding the year in which search was conducted. In section 158B of the Income-tax Act, in clause (b), after the words “money, bullion, jewellery” at both the places where they occur, the words “, virtual digital asset” shall be inserted and shall be deemed to have been inserted with effect from the 1st February, 2025.

[Budget with ET](#)

[Tax calculator](#)

The [Finance](#) Minister has announced that now under Section 158A of the Income Tax Act, 1961 virtual digital asset (VDA) are to be included.





The Finance Minister said during [Budget 2025](#) speech: "Amendments proposed in provisions of Block assessment for search and requisition cases under Chapter XIV-B

- It is proposed to add the term “virtual digital asset” to the said definition of undisclosed income of the block period. The time-limit for completion of block assessment is proposed to be made as twelve months from end of the quarter in which the last of the authorisations for search or requisition has been executed.

Vide Finance (No. 2) Act, 2024, the concept of block assessment was introduced by amending provisions of Chapter XIV-B (sections 158B to 158BI of the Act) to be made applicable where a search under section 132 of the Act is initiated or requisition under section 132A of the Act is made, on or after 01st September, 2024.



Skills 🌟 Career 🌟 Money 🌟

 <p>Artificial Intelligence(AI) Java Programming with ChatGPT: Learn using Generative AI By - Metla Sudha Sekhar, IT Specialist and Developer</p> <p>View Program ↗</p>	 <p>Artificial Intelligence(AI) Basics of Generative AI: Unveiling Tomorrows Innovations By - Metla Sudha Sekhar, IT Specialist and Developer</p> <p>View Program ↗</p>	 <p>Artificial Intelligence(AI) Generative AI for Dynamic Java Web Applications with ChatGPT By - Metla Sudha Sekhar, IT Specialist and Developer</p> <p>View Program ↗</p>	 <p>Artificial Intelligence(AI) Mastering Generative AI By - Metla Sudha Sekhar, IT Specialist and Developer</p> <p>View Program ↗</p>
---	---	--	---

What does this amendment mean?

ET Wealth Online has asked various experts and here's what they said:

Advocate Divyasha Mathur, Assistant Professor of Legal Practice, Jindal Global Law School: Currently, as per Section 158B(b) “undisclosed income” includes any money, bullion, jewelry or other valuable article or thing or any expenditure or any income based on any entry in the books of account or other documents or transactions which has not been or would not have been disclosed for this Act, or any incorrect claim of expense, exemption, deduction or allowance under the IT Act. Including VDAs within the definition of undisclosed income will ensure that they are subjected to appropriate scrutiny during the newly revived block assessment process. With effect from February 1, 2025, with respect to any search conducted after this date, [crypto](#) traders and investors should be prepared to explain the source of money invested in such VDAs to the tax department. Crypto traders will also have to report transactions on decentralized and global exchanges. This will promote trading on regulated crypto exchanges operating in India.

Daizy Chawla, Managing Partner, S&A Law Offices: "The amendment means that the [Virtual Digital Assets](#) (VDA) as defined under Section 2(47)(A) as amended by the Finance Act, 2025 shall also form part of the undisclosed income if same are found during the search or requisition process. The most common example is Bitcoin. In case during the search/requisition process carried out by Income Tax Department, it is found that any Virtual Digital Assets belonging to the search person or for that matter of any other person also found during the search, has not been disclosed as required to be under the Income Tax, then same shall also be considered for the purpose of undisclosed income."

Priyanka Jain, associate partner, Vaish Associates Advocates: The government wants to ensure that crypto-assets (like Bitcoin, Ethereum, and other digital currencies) are properly declared as part of the taxable income of individuals or entities. Many people engage in crypto-trading and investments, but often fail to report these earnings or transactions properly. Now, if this income relating to virtual digital assets are not reported in the income tax returns (such as cryptocurrency or NFT) are unearthed during the search proceedings by the investigation team, it will be classified as an undisclosed income.

Purpose of the Amendment:

- The amendment helps capture previously overlooked digital assets. For example, there could be new forms of tokens or digital assets that were not considered in earlier laws but still use blockchain or similar technologies to secure transactions.
- Prevents tax evasion related to crypto-assets by ensuring that any crypto-asset even if not specifically listed will be treated as an undisclosed income if not reported earlier in the tax returns.
- The aforesaid amendment in the definition is also in light of and aligned with the Crypto-Asset Reporting Framework. The OECD, working with G20 countries, has developed the CAREF, a dedicated global tax transparency framework which provides for the automatic exchange of tax information on transactions in crypto assets in a standardised manner with the jurisdictions of residence of taxpayers on an annual basis.

Kunal Savani, Partner, Cyril Amarchand Mangaldas: The proposed amendment is to the section which outlines the special procedure for assessing search cases. The provision grants the tax authorities the power to conduct block assessments in instances where a search is carried out. Income assessed through such block assessments will be taxed at a rate of 60%. Furthermore, the time limit for completing a block assessment is proposed to be set at twelve months from the end of the quarter in which the final authorization for search or requisition is executed.

Rashi Khanna, Associate Partner, DMD Advocates: This amendment has been introduced by the government with the objective of tightening the scrutiny in respect of undisclosed / unreported crypto assets. This would essentially mean that in case any unreported VDA is seized during a search, then the Tax Department may question the source of money used for the purchasing such VDA and can possibly levy a tax of 60% and penalty @ 50% on the income that may be derived by the assessee through such VDA.

Pallav Pradyumn Narang, Partner, CNK: Chapter XIV-B of the Income-tax Act provides for a special assessment procedure known as block assessment, which is applicable when undisclosed income is unearthed during a search or requisition under Section 132 or 132A. Previously, the definition of undisclosed income covered income that was not recorded in the books of accounts and was detected only due to a search. With this amendment, income from virtual digital assets—such as cryptocurrencies, NFTs, and other blockchain-based assets—explicitly falls within the ambit of undisclosed income. The implication of this change is that henceforth any unreported Virtual Digital Assets (VDAs) or hidden gains from VDAs found during a search will be assessed under block assessment procedures. During block assessments, Tax authorities can disregard exemptions and deductions available under regular assessment provisions.

Aditya Chopra, Managing Partner, The Victoriam Legalis: The amendments to Section 158BB aim to improve the precision of block period income calculations by effectively differentiating between income disclosed in tax returns submitted prior to a search and other undisclosed income. A proposed modification to clause (i) of subsection (1) will change the terminology from "total income disclosed" to "undisclosed income" that has been declared in the return. This means that any income reported in returns filed under Section 139 or as a response to notices under subsection (1) of Section 142 or Section 148, prior to the initiation of a search or requisition, will be included as part of the total income for the block period. Such declared income will be eligible for credit when assessing the tax liability for that period. Additionally, clause (iv) of subsection (1) is proposed to be amended to clarify the computation of income related to the previous year, ensuring that income from normal business operations, where the return due date has not yet lapsed before the search initiation, is taxed according to standard provisions.

What is undisclosed income for the purpose of Income Tax Act?

Section 158B of the Act defines "undisclosed income" for the purposes of Chapter XIV-B. It is proposed to add the term "virtual digital asset" to the said definition. 3. Sub-section (2) and sub-section (3) of section 158BA of the Act provide that any assessment or reassessment or recomputation or a reference or an order pertaining to any assessment year falling in

the block period pending on the date of initiation of the search or making of requisition, shall abate.

Further, sub-section (5) of the said section provides that if any proceeding initiated under Chapter XIVB has been annulled in appeal or any other legal proceeding, then, the assessment or reassessment relating to any assessment year which has abated under sub-section (2) or sub-section (3), shall revive. It is proposed to align the said sub-sections by adding the words "recomputation", "reference" or "order" in sub-section (5) of the said section.

Chawla explains that the block assessment in the cases of Search after the amendment of September 2024 is six years preceding to the year of search and the year of search. "For example: if the search is conducted in the FY 2024-25 (AY 2025-26), the block assessment shall be of previous six years preceding to AY 2025-26 (FY 2024-25) i.e. from AY 2019-20 to AY 2024-25 (Six years) [or FY 2018-19 to FY 2023-25] + AY 2025-26 [or FY 2024-25] (the year of search)."

"The insertion to Section 158B through Finance Act 2025 is applicable from 1st Feb 2025 i.e. any searches conducted after this period or any period if there is an amendment while passing the Finance Act 2025. The same is not retrospective," says Chawla.

Definition of virtual digital assets (VDAs) expanded in Budget 2025

Jain from Vaish Associates Advocates says, The Finance Bill, 2025 also expands the definition of Virtual Digital Asset (VDA): The amendment is broadening the definition of VDAs to include any digital asset or crypto-asset that:

- Represents value in a digital form.
- Relies on cryptographically secured distributed ledger technology (i.e., blockchain) or similar technologies for validating and securing transactions.

"This ensures that even if a new type of crypto-asset emerges in the future, it will still fall under the same definition and will be subject to reporting and taxation, addressing the problem of undisclosed income in the crypto space. This could apply to digital tokens, NFTs, and DeFi assets (decentralized finance tokens), which may not have been specifically listed as taxable assets. DeFi tokens are designed to represent real-world assets like real estate or commodities. If this token uses cryptography and distributed ledger technology (DLT) to secure transactions, it would automatically be considered a crypto-asset and fall under the same definition, even though it wasn't originally included in the definition. Even though these transactions are decentralized, they may still be tracked through the blockchain and linked to individuals or entities using tools like blockchain analytics, which can identify patterns of activity that might indicate undisclosed income," says Jain.

Sandeep Jhunjunwala, M&A Tax Partner at Nangia Andersen LLP, says, "The intention appears to incline towards the continuous attempt to capture the wide array of innovative digital assets such as utility tokens, security tokens, crypt derivatives etc, which have been masquerading their way into this ever evolving yet not formally regulated sector in India. In an attempt to allay the current shortcoming faced by the Government due to lack of a robust regulatory framework to track activities in the crypto space, the Finance Bill 2025 proposes to introduce the obligation of reporting of such crypto-assets in a statement akin to Statement of Financial Transactions. Notification of rules corresponding to this reporting requirement would unveil contours around the reporting entity on whom the obligation is cast, the depth of information sought, monetary thresholds if any. Non-disclosure of income from VDAs under the regime introduced in the Finance Act, 2022 could expose the taxpayer to search proceedings."

(Originally published on Feb 01, 2025)

Lessons from the Grandmasters