

Budget 2018: Have skin in Bitcoin game? Don't worry, cryptos not 'illegal'

Legal or not, the taxman is already looking at cryptocurrencies and those who trade in them

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If you have money riding on Bitcoins and are confused, or worse, despondent, after Finance Minister Arun Jaitley's remarks on cryptocurrencies in his Budget 2018 speech on Thursday, take a breath before exiting crypto trading. While some have interpreted Jaitley's remarks to mean that cryptocurrencies are henceforth illegal in India, that might not be the case going by the finance minister's exact phrasing.

"The government does not consider crypto-currencies legal tender or coin and will take all measures to eliminate use of these crypto-assets in financing illegitimate activities or as part of the payment system," Jaitley said while delivering the Budget 2018 speech, setting the fox loose in the henhouse, so to say.

Unpacking the finance minister's statement while speaking to the *Times of India*, Nischint Sanghavi, head of exchange at Bitcoin exchange Zebpay, explained that Jaitley has reiterated the Reserve Bank of India's (RBI's) stand that cryptocurrencies do not have the recognition of legal tender in the country. Sanghavi said the statement's meaning was being "misreported as Bitcoin is illegal", which he said was "not true". He also told the national daily that the country's Bitcoin exchanges employed the highest standards of KYC, adding that the transactions were transparent and conducted via bank accounts.

Further, the government does not appear to be opposed to blockchain technology. The finance minister proposed to use blockchain technology, which also serves as a base for cryptocurrencies, to ensure credibility and safety of digital transactions. "The government will explore use of blockchain technology proactively for ushering in the digital economy," Jaitley said.

Legal or not, the taxman is already looking at cryptocurrencies and those who trade in them. Speaking to the national daily, Richie Sancheti, a partner with the law firm of Nishith Desai Associates, explained that the tax treatment, whether it will be seen as "capital gains" or "profits and gains of business", of income from virtual currencies would depend on a case-to-case basis. Given the level of scrutiny, Sancheti advised investors "to ensure that inventory of cryptocurrency held is valued accurately and all taxes paid as and when due". To clarify, according to the national daily, if the Bitcoins are held for regular trading and the transactions are substantial and frequent in nature, then the net profits on sale of Bitcoins would be business income.

Speaking to *yourstory.in*, Ajeet Khurana, who recently took over as the head of the Blockchain and Cryptocurrency Committee of India, backed Sanghavi's reading of the statement. Khurana explained: "There has been no indication by the government that it is banning exchanges. Neither does it stop people from holding a cryptocurrency. It is just saying that the government doesn't recognise cryptocurrency as money, which no country in the world does except Japan."

As the *Business Standard* has explained earlier: In India, investing in cryptocurrencies still falls in the grey area in the absence of clear regulations and guidelines.

As reported earlier, the Union government has halted the registration of new cryptocurrency exchanges, the platforms where investors can buy or sell Bitcoins and other cryptocurrencies.

The Registrar of Companies (RoC), under the Ministry of Corporate Affairs, has stopped registering cryptocurrency exchanges under the Companies Act, 2013. In some cases, the RoC is asking for an undertaking from software development- or information technology-related companies that it will not deal with cryptocurrencies.

The only bit of clarity is on the tax front. As reported earlier, investors who have made a fortune selling the virtual currency will need to pay 20 per cent advance tax on the earnings to avoid any action by the income tax department.