ONLYDUST - Indian Specific tax considerations for Contributors

Sommaire 1

Introduction

Only Dust draws the attention of Contributors to the fact that the Rewards received for your Contributions may constitute taxable income. We invite you to contact the competent tax and social authorities and, if necessary, an advisor, in order to ensure your compliance in this respect. It is your sole responsibility to declare income from the Platform to the relevant tax and social security authorities.

The aim of this report is to apprise Contributors of potential tax obligations arising from engaging in this economic activity. These particulars are not intended as tax advice and do not anticipate all the particularities specific to each Contributor.

1. Are the Rewards I receive taxable?

The receipt of Rewards in return for services constitute taxable income. In India, these payments may be categorized as "Income from Business or Profession" or "Income from Other Sources" depending on the frequency of these activities and the nature of the recipient's business activities.

In India, taxable income is determined by reference to the currency value (in your local currency) on the date the Reward was made available (i.e. the date from which you became free to claim it).

Corporate income tax in India is at 22%, excluding cess, while the rate of tax for individuals depends on the total income earned in the financial year.

In case of individual taxpayers, Rewards are subject to the applicable income tax slab rate, ranging from 0% to 30%[1], depending on your total income in a given financial year. Health and education cess is also payable along with the income tax liability.

Declaration procedure for all types of income, including capital gains or income from profession, under Indian tax law involves filing an annual income tax return based on "self assessment". When crypto is received as payment for services, the value in legal currency on the date of receipt would be taxable as professional income. If the same crypto is sold subsequently at a higher price, the profits would be taxable under a separate head 'Income from transfer of virtual digital assets' ("Crypto Income") under Section 115BBH of the Income Tax Act. Crypto Income is currently taxable at 30%.

2. Can I receive the Rewards in cryptos or stablecoins?

Under the Indian tax laws, there seems to be no prohibition on receiving the consideration for services in currency or in the form of any other asset or commodity including cryptos or stablecoins.

Rewards may be denominated or determined in cryptos or stablecoins, but Contributors are required to share invoice of an amount equivalent to the value of assets in currency (EUR or USD).

[1] Up to INR 300000 : Nil ; INR 300001 to INR 600000 : 5% ; INR 600001 to INR 900000 : 10% ; INR 900001 to INR 1200000 : 15% ; INR 1200001 to INR 1500000 : 20% ; Above INR 1500000 : 30%.

For an individual profile Only Dust issues a receipt automatically and for the business profile Self employed or Organisation, Only Dust offers the invoicing mandate with the issue of an invoice in USD equivalent.

3. Will the Rewards be subject to Goods and Services Tax (GST)?

The activities undertaken by the Contributors in India i.e. development of blockchain protocols, in our view, will qualify as export of services provided that the payment is received in a 'foreign convertible currency' and the recipient of service is a foreign entity.

In India, currently there is zero liability of GST for the export of services.

4. Do I necessarily need to set up a company to provide Contributions?

There is no mandatory requirement to set up a company or have a registered entity for undertaking IT Development activity or providing 'Contributions'. However, in certain circumstances, such as when your turnover/ revenue exceeds a threshold limit (which is INR two million for most States in India), you may be required to obtain Goods and Services Tax (GST) Registration. We would advise you to approach a competent tax or other consultant to ensure compliance with the applicable law.

If you have registered a company or LLP for providing "Contributions", the Memorandum of Association, Articles of Association, Partnership Deed, or other charter documents should specifically mention IT service or software development services to appropriately represent the business activity of the legal entity.

5. What happens if my activity is considered to be carried out on a professional basis and I have not registered a business?

Regardless of whether your activity is considered to be carried out on a professional basis, you must comply with tax obligations and reporting requirements, but there is no need to register a business for providing 'Contributions'. As stated above, you may be required to obtain a GST registration if your turnover/ revenue exceeds a certain threshold.

Our Reward allocation policy has a capping on the amount of Rewards that may be allocated to individual Contributors who have not set up a legal form of business. This ceiling is set at $5,000. Beyond that amount, to continue to receive Rewards, you will need to switch to an "Self-employed" or "Organisation" business profile and complete a KYB via our partner Sumsub.

However, we would draw your attention to the fact that this threshold is not set by law and is only devised as part of our internal risk mitigation policy.

6. When do I have to register a business to continue providing Contributions?

To continue to receive Reward for Contributions made via Only Dust beyond the $5,000 limit, you will need to switch to an "Self-employed" or "Organisation" business profile and complete a KYB via our partner Sumsub.

However, in India, if your revenue/ annual turnover exceeds INR two million, you have to obtain GST registration and comply with GST filing requirements. It is best to consult a local tax advisor or other consultant to ensure you comply with the local applicable laws of your jurisdiction.

7. How do I register a business and what type of business should I choose?

The choice of legal form for your company obviously depends on your local law and a number of other considerations (how much revenue you expect to generate, how cryptos are treated for tax purposes, what tax and social security regimes apply, etc.).

Generally speaking, in India, legal compliances for incorporated companies are more onerous than those for individual professional service providers / Sole Proprietorship.

As stated above, there is no mandatory requirement to set up a company or have a registered entity for undertaking IT Development activity or providing 'Contributions', but if an individual may consider establishing a business entity in the form of, inter alia,:

a) Sole Proprietorship –Does not require any mandatory registration and does not enjoy any separate legal existence. The sole proprietor will have unlimited liability and, thus, will have to bear business losses, if any. o Partnership Firm – Must be established with a minimum of two partners. Governed by a formal agreement called a partnership deed but does not require any mandatory registration. However, there are certain legal benefits which are only available to registered partnership firms.

b) Limited Liability Partnership Firm ("LLP") – Must be established with a minimum of two partners and registered in India. LLP is a separate legal entity and the liability of the partners (Contributors) is limited to their agreed contribution in the LLP.

c) Private Limited Company – Must be incorporated in India with mandatory registration with the Registrar of Companies of the applicable jurisdiction.

d) One Person Company ("OPC") - The Companies Act, 2013 provides certain exemptions to the OPC with relation to compliance.

If you decide to set up a business, it might be prudent to choose a Sole Proprietorship. Starting a Company or a registered limited liability partnership would require more legal paperwork and regular filings with authorities, which might be too complicated.

A Sole Proprietorship is a legally recognized business entity, which the Contributor can deploy for leveraging credibility with clients, suppliers, and financial institutions. It may enable the Contributor to build a 'brand name' under the aegis of Sole Proprietorship. There is also an ease of formation i.e. setting up Sole Proprietorship is simple and inexpensive with minimal legal and compliance requirements.

There is no procedure for registration of Sole Proprietorship as such in India. The existence of the Sole Proprietorship can be shown by obtaining GST Registration or other documents such as UDYAM Certificate under Micro, Small and Medium Enterprises Development Act, 2006 etc. It is advisable to obtain a GST registration for Sole Proprietorship to enable the Contributor (the proprietor) to showcase that he/she is conducting business under the sole proprietorship structure.

The broad steps for setting up a Sole Proprietorship are as follows:

- The Contributor may choose a unique name for the Sole Proprietorship which is unique and not in use/ trademarked by any other entity.
- The Contributor must obtain GST registration if turnover/ revenue exceeds the prescribed threshold.
- The Contributor can open a Bank Account in the name of Sole Proprietorship. A Bank may require certain documents such as GST Registration, MSME certificate, CA Certificate or other document as proof of existence of Sole Proprietorship.

If you have any questions, we invite you to contact a local advisor or consultant.

8. What additional obligations do I have to meet if I operate as a professional?

If the Contributions are provided as part of your regular occupation, you will most likely have additional obligations, determined by your applicable laws.

Declaration of activity and Taxation System: Depending on the nature and other business activities, this payment received for your Contributions may be classified as “income from business or profession” or income from “other sources” which must be declared to the Tax Authorities while filing your returns. Further, you must obtain a Permanent Account Number (PAN) in case your total income or sale/ turnover exceeds a certain threshold or you meet other requirements under the applicable law. If you set up a company with legal personality, this income will be subject to corporate income tax. The part of the income that you pay yourself as salary will be subject to personal income tax.

Accounting obligations. You will almost certainly be required to keep accounts, which may involve consulting a chartered accountant. All cash flows will have to be accounted for.

Reporting obligations: In principle, you will have to file your Tax returns and may be required to submit annual account or other statements depending on the legal form you choose.

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