

**GOVERNMENT COLLEGE FOR GIRLS
LUDHIANA**

INCOME-TAX LAW AND ACCOUNTS

P.Y. 2022-23

A.Y. 2023-24

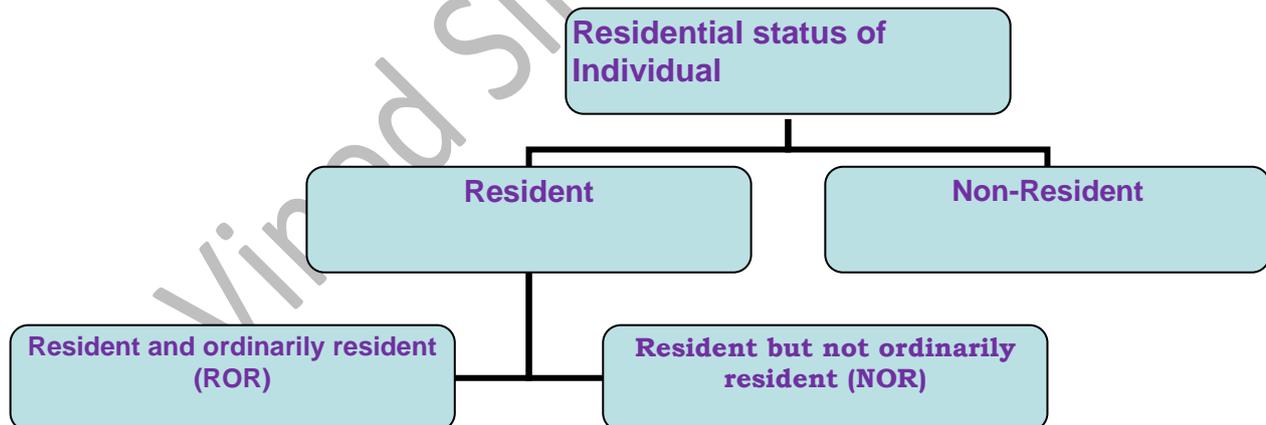
CHAPTER- 4

BASIS OF CHARGE

Residential status is determined for each category of persons separately. It is the duty of the Assessee to place all material facts before the assessing officer for calculating correct residential status. Residence and citizenship **are two different things**. The residence of a person may change from year to year but citizenship cannot be changed every year.

Importance of Residential Status

1. **Total income** of an assessee **cannot be determined without knowing** his residential status.
2. The residential status shall be determined for every person for **each previous year independently**.
3. The onus of **responsibility to prove** the residential status is **on the assessee**.

RESIDENTIAL STATUS OF INDIVIDUAL

Residential Status of an Individual: - An individual may either be a

1. Resident and
2. Non Resident

In certain cases, an individual can be “**not ordinarily resident**” in India.

(1) RESIDENT: -

If an individual **satisfies anyone** of the following basic conditions stated u/s 6(1), then he will be known as resident in India during any previous year.

BASIC CONDITIONS STATED U/S 6(1)

a)	If an individual stays in India for a period or periods totaling in all at least 182 days during the relevant previous year
OR	
b)	If an individual stays in India for a period or periods totaling in all at least 365 days in four years preceding the relevant previous year and for a period or periods totaling in at least 60 days during the relevant previous year.

EXCEPTION TO RULE OF 60 DAYS STAY IN INDIA STATED IN CONDITION (b)

- (I) If an individual who is a **citizen of India** goes out of India for **employment purposes** (**approved by Central Govt.**) or as a crew member of an Indian shipping company then the condition of **60 days** is replaced by **182 days**.
- (II) If a citizen of India or a **foreign national of Indian origin** (who **is living outside India**) comes on a **visit to India** for any purposes during the relevant previous year then the condition of **60 days** is replaced by **182 days**.

In other words, if an individual **covered under the above-mentioned exceptions** then only condition (a) is to be satisfied to become a resident in India.

However, **such person having total income**, other than the income from foreign sources [i.e. income which accrues or arises outside India (**except income from a business controlled from or profession set up in India**) which is not deemed to accrue or arise in India], **exceeding Rs 15 Lakhs** during the previous year will be treated as resident in India if—

- The period of his stay during the relevant previous year **amounts to 182 days** or more, **OR**
- He has been in India during the 4 years immediately preceding the previous year for a total period of 365 days or more and has been in India for **a at least 120** days in the previous year.

Note:

1	The day on which he enters India, as well as the day on which he leaves India, shall be taken into account as the stay of the Individual in India.
2	A person is said to be of Indian origin if <u>he or either</u> of his parents or any of his grandparents was born in undivided India.
3	Place and purpose of stay in India is immaterial.
4	A person may be resident of more than one country for any previous year.
5	If a person is resident in India in a previous year in respect of any source of income ,

	he shall be deemed to be resident in India in the previous year relevant to the assessment year in respect of each of his other source of income as per section 6(5).
6	Official Tours Permitted: Official tours abroad in connection with employment in India shall not be regarded as employment outside India.

Deemed Resident u/s 6(1A):-

An individual, **being an Indian citizen**, having total income, **other than income from foreign sources** [i.e., income which accrues or arises outside India (except income from a business controlled from or profession set up in India) and which is not deemed to accrue or arise in India] , **exceeding Rs 15 Lakh** during the previous year would be deemed to resident in India in that previous year, if he is **not liable to pay tax in any other country or territory by reasons of his domicile or residence or any other criteria of similar nature.**

However, this provision **will not apply** in case of an individual who is resident of India in the previous year as per **section 6(1).**

1.1 RESIDENT AND ORDINARILY RESIDENT -----An individual who is resident is said to be "Resident and ordinarily resident" if he satisfies **both of the following two conditions.**

a)	He has been a resident as per section 6(1) in India in 2 out of 10 previous years immediately proceeding the relevant previous year.
AND	
b)	He has been stayed in India for a period 730 days or more in seven previous years immediately preceding the relevant previous year.

1.2 NOT ORDINARILY RESIDENT U/S 6(6)(a) :- An individual who is resident is said to be "Not Ordinarily resident in India" if he satisfies **any one of the following conditions:**

a)	He has been a non-resident in India in 9 out of 10 previous years immediately preceding the relevant previous year
OR	
b)	He has been stayed in India for a period 729 days or less in seven previous years immediately preceding the relevant previous year
OR	
c)	If such individual is an Indian citizen or person of Indian Origin (who, being outside India, comes to India, comes on a visit to India in any previous year)

	having total income, other than the income from foreign source [i.e., income which accrue or arises outside India (other than income derived from a business controlled in or profession set up in India) and which is not deemed to accrue or arises in India], exceeding Rs 15 Lakh during the previous year, who has been in India for 120 days or more but less than 182 days during that previous year.
OR	
d)	If such individual is an Indian citizen who is deemed to be resident in India u/s 6(1A) [It may be noted that a deemed resident will always be a resident but not ordinarily resident]

If an assessee does **not satisfy anyone the above mentioned conditions** then such an assessee will be treated as resident and ordinarily resident.

.(2) NON RESIDENT U/S 2(30):- If an individual **does not satisfy anyone of the two basic conditions** stated u/s 6(1) then he is said to be **NON RESIDENT** for the relevant previous year.

Meaning of Employment: The term employment is not defined in the Income-tax Act. A man may employ himself so as to earn profit in many ways. Thus he can **set up an independent practice** abroad or businessman can shift his business activity in a foreign country.

Provision illustrated— If we want to check the **residential status of an individual for the assessment year 2023-24**, then we apply the provision in the following manner.

<u>For the basic conditions</u>	
a) Previous Year 2022-23	a) 182 days or more b) 60 days in 2022-23 and 365 days in total in 2021-22 2020-21 2019-20 2018-19
<u>For additional conditions</u>	
a) resident in any 2 years out of 10 previous year immediately to the relevant previous years 1) 2021-22 2) 2020-21 3) 2019-20 4) 2018-19 5) 2017-18	Resident here means he has to satisfy any of the two basic conditions i.e. either he has to stay 182 days in the previous year OR 365 days in 4 years plus 60 days in the relevant previous year

6) 2016-17	
7) 2015-16	
8) 2014-15	
9) 2013-14	
10) 2012-13	
b) He has been stayed in India 730 day or more in 2021--22 to 2015-16 i.e. in 7 years.	

Example 1. A citizen of U.S.A. has been staying in India since 1987. He leaves India on **16-7-2022** on a visit to USA and returns on **4-1-2023**. Determine his residential status for the previous year 2022-23.

Answer- His stay in India during the previous year (1.4.2022 to 31.3.2023) is as under:

April, 2022	30 days	October, 2020--	
May	31	November	--
June	30	December	--
July	16	January	28
August	--	February	29
September	--	March	31

			195 days

As he is in India for more than 182 days during the relevant previous year, he satisfies the first condition and is, therefore, a resident.

In this case we **need not examine the second condition** as the first condition is already satisfied.

A is resident and ordinarily resident of India because he has also satisfy both of the additional conditions.

Two Additional conditions are as follows—

- He has been resident **in 2 out of 10 previous years** immediately preceding the relevant previous year.
- He has been stayed in India for **a period of 730 days or more in seven years** immediately preceding the relevant previous year.

In short, A has satisfied one of the basic condition and both of the supplementary conditions. Therefore, A is **resident and ordinarily resident** of India for the relevant previous year.

Question No 1. Indian citizen and businessman Shri Raj Gopal, who resides in Jaipur, went to Germany for **employment purposes** on 15-8-2022 and came back to India on 10-11-2023. He has never been out of India in the past.

- Determine residential status of Shri Raj Gopal for the assessment year 2023-24.
- Will your answer be different if he had gone on a **leisure trip**?

Answer- (a) Non-resident

(b) Resident and ordinarily resident

Question No 2. Rickey ponting, an Australian cricketer has been coming to India for 100 days every year since 2010-11.

- (a) Determine his residential status for the assessment year 2023-24.
(b) Will your answer be different if he has coming to India for 110 days instead of 100 days every year.

Answer—Rickey Ponting satisfies the second condition of category A because he is in India for more than 60 days during the relevant previous year and for 400 days during four years preceding the relevant previous year. Therefore, he is a resident.

Further, in this case, although he satisfies the first condition of category B of being resident for at least 2 out of 10 preceding previous years but he does not satisfy the second condition of category B as during 7 years preceding the previous year, he is in India for only 700 days. He shall, therefore, be a resident but not ordinarily resident in India.

b) Yes. He will in this case, be **resident and ordinarily resident** in India. He satisfies both conditions of category 'B' as he was in India for 770 days in the last seven years and he was resident for at least two previous years out of 10 previous years immediately preceding the relevant previous year.

Question No 3. X came to India from America for the first time on 10-10-22. He returns to his home country after staying in India up to 5-7-2023. Will he be a resident in India for the assessment year 2022-23?

Answer- Non-resident

Question No 4. X came to India from America for the first time on 2-10-2021. He returned to his home country after staying in India up to 28-9-2022. Will he be a resident in India for the assessment year 2022-23 and 2023-24?

Answer- Non resident

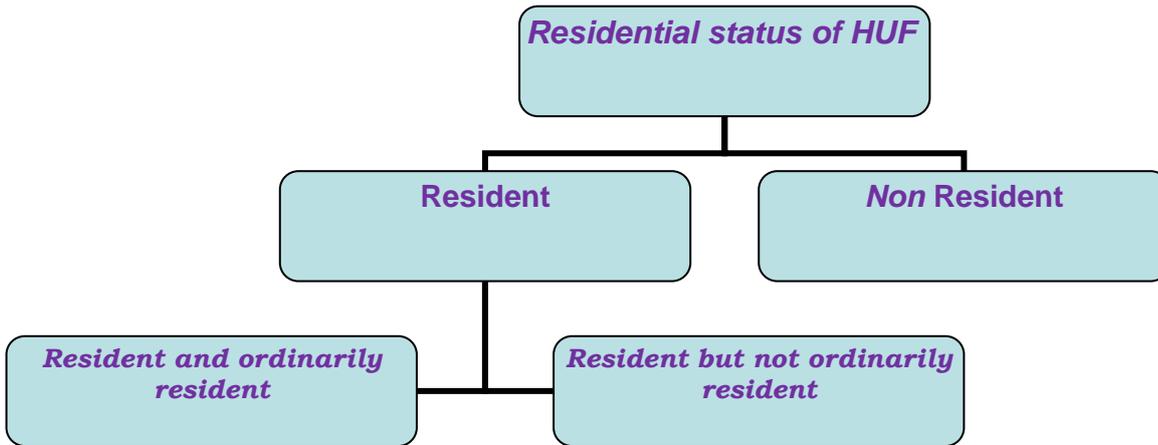
Question No 5. R, an Indian citizen left India for the first time on 21-9-2021 for employment in Germany. During the previous year 2022-23 he comes to India on 5-5-2022 for 150 days. Determine the residential status of R for the assessment year 2022-23 and 2023-24?

Answer- Non-resident for both years

Question No 6. G was born in Lahore in 1946. He has been staying in England since 1970. He came to visit India on 2-10-2022 and returns on 30-3-2023. Determine his residential status for assessment year 2022-23.

(Non-resident)

RESIDENTIAL STATUS OF HINDU UNDIVIDED FAMILY



(1) RESIDENT: - A HUF is said to be resident if it satisfies only one of the basic conditions as stated u/s 6(2)

Basic condition u/s 6(2): - Control and management of the affairs of HUF is wholly or partly situated in India during the relevant previous year. The word "Control and management" here mean the place from where the plans are chalked out, directions are given and real management is done.

(1.1) Resident and Ordinarily Resident-- A HUF which is resident in India shall be said to be Resident and Ordinarily resident if the manager or the Karta of the HUF satisfies both of the following two conditions:-

a)	He has been a resident in India in 2 out of 10 previous years immediately preceding the relevant previous year.
AND	
b)	He has been stayed in India for a period 730 days or more in seven previous years immediately preceding the relevant previous year.

(1.2) NOT ORDINARILY RESIDENT- A HUF which is resident in India shall be said to be Not ordinarily resident if the manager or the Karta of the HUF satisfies any one of the following two conditions:-

a)	He has been a non-resident in India in 9 out of 10 previous years immediately preceding the relevant previous year
OR	
b)	He has been stayed in India for a period 729 days or less in seven previous years immediately preceding the relevant previous year

(3) NON-RESIDENT: - A HUF is said to be NON-RESIDENT, if it does not satisfy the main condition stated u/s 6(2). In other words, if the control and management of the affairs of HUF is wholly situated outside India during the relevant previous year.

Q No 9 During the **previous year 2022-23** R and Sons HUF was partly controlled from India by its Karta R who is citizen of India but stays outside India. For the purpose of managing the affairs of the HUF, R has been regularly visiting India. Determine the residential status of the HUF for the **assessment year 2023-24** if:

- A) R has been visiting India for 100 days every year for the last 12 years
- B) R has been visiting India for 110 days every year for the last 12 years
- C) R has been visiting India for the last 12 years. During the immediately preceding 4 previous year he was in India for 50 days every year and prior to that for 200 days every year.

Answer- During the previous year 2022-23, the **control and management of the affairs** of the HUF was **partly situated in India**. Hence, the HUF is **resident** for the assessment year 2023-24.

It is further to be examined whether the HUF can be **said to be resident and ordinarily resident** in India. For this purpose, the **Karta should satisfy both the following conditions:-**

- a) He (Karta) has been resident in India in **at least 2 out of 10 previous years** immediately preceding the relevant previous year.
- b) He has been in India for a **period of 730 days or more in 7 previous years** immediately preceding the relevant previous year.

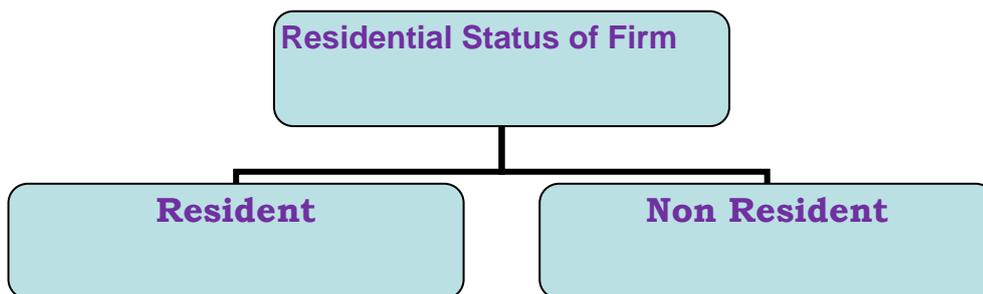
In case (A) R **neither** satisfies the **first condition nor the second condition** mentioned above as Karta is a citizen of India. Where an individual is a citizen of India and who is outside India makes a visit to India he shall be said to be resident in India only when he was in Indian in the relevant previous year for **182 days as the condition of 60 days along with 365 days in the 4 preceding previous years** shall **not apply**. Therefore, the HUF is resident but not ordinarily resident in India.

In case (B), R, although satisfies condition (b) mentioned above as he was here for **770 days in the past 7 years** but he does **not** satisfy condition (a) above as he is not a resident in India in **at least two out of 10 preceding previous years**. Therefore, the HUF, is resident but not ordinarily in India.

In case (C) R was **non-resident for 4 preceding previous** years but prior to that he was resident. Hence, the first condition of category B, being resident in **at least 2 out of 10 preceding years** is satisfied. Further, he has been in India for **800 days (50 X 4 + 200 X 3) during 7 years** preceding the relevant previous years. Therefore, the **second condition of being in India for 730 days or more** is also satisfied. Hence, the HUF is resident and ordinarily resident in India.

RESIDENTIAL STATUS OF FIRM OR AOP OR BOI AND OF OTHER PERSONS (EXCEPT CO.)

There is absolutely **no link** between the **residential status of a firm and its partners**. In other words, both are independent for this purpose. A firm is either resident or non resident during the relevant previous year. It can **never be NOR**.



(1) RESIDENT :- A firm or AOP or BOI etc. is said to be resident during the relevant previous year, if it satisfies only one basic condition as stated u/s 6(2)

Basic condition u/s 6(2) :- The Control and Management of the affairs of the firm or AOP is **wholly or partly situated in India** during the relevant previous year. The word 'control and management' here means **de facto control and management and not de-jures**.

(2) NON-RESIDENT: - If the control and management of the affairs of a firm or AOP or BOI etc. is **wholly situated outside India** during the relevant previous year then it is treated as NON-RESIDENT in India during the relevant previous year.

RESIDENTIAL STATUS OF A COMPANY U/S 6(3)

Residential status of a company is determined as follows:

Section	Company	Residential Status
6(3)(i)	Indian company	Always resident in India
6(3)(ii)	A foreign company (whose turnover/gross receipt in the previous year is more than Rs 50 crore)	It will be resident in India if its place of effective management, during the relevant previous year, is in India
6(3)(ii)	A foreign company (whose turnover/gross receipt in the previous year is Rs 50 crore or less)	Always non-resident in India

Q 10 (22-P1) X Ltd is an Indian company. It has 10 shareholders who are foreign citizens and non-resident in India. The business of the company is fully controlled from outside India. Find out the residential status of X Ltd. for the assessment year 2023-24.

Answer—X Ltd. is an Indian Company. An Indian company is always resident in India. This rule is equally applicable even if shareholders are foreign citizens as well as a non-resident or even if business is controlled from outside India.

Q 11 (22- P2) Y Ltd. is a company incorporated in Mauritius (turnover more than Rs 50 crore). It has 10 shareholders who are Indian citizens and resident in India. The company has active business outside India and is controlled wholly from outside India by a team of professionals. What is the residential status of Y Ltd. for the assessment year 2023-24?

Answer—Y Ltd. is a foreign company. It is controlled wholly from outside India (POEM is outside India). It is, therefore, non-resident in India for the assessment year 2023-24. Residential Status of shareholders is irrelevant. Likewise, the nationality of shareholders is not taken into consideration.

Q 12 (22-P3) Z Ltd is incorporated in Japan. It has 15 shareholders (10 are Indian citizens and resident in India). The company has no active business in Japan. Gross annual turnover of the company for the previous year 2022-23 is Rs 48 crore mainly from operations conducted from Korea, Sri Lanka and India. The company is managed by a team of professionals from India. Find out the residential status of Z Ltd. for the assessment year 2023-24.

Answer—Z Ltd. is a foreign company. Gross turnover of the company for the relevant previous year is Rs 48 crore. A foreign company (whose turnover/gross receipts is not more than Rs 50 crore) is treated as non-resident in India.

Indian Company is always & always Resident.

Incidence of Tax Liability:

Incidence of tax liability depends upon the residential status of the assessee and also depends upon the place and time of accrual or receipt of income. What type of income is taxable, what type of assessee is more clear from the following chart: -

a) **For Individual and HUF**

S No	Source of Income	ROR	NOR	NR
1.	Income received or deemed to be received in India during the current financial year, whether earned or accrued in India or not.	T	T	T
2.	Income accruing or arising or deemed to accrue or arise in India during the current financial year whether received or deemed to be received in India or not	T	T	T
3.	Income accruing or arising outside India from a Business/Profession controlled from India during the current financial year	T	T	NT
4.	Business income earned and received outside India and business has been controlled from outside India during the current financial year	T	NT	NT
5.	Income accruing or arising outside India from any source other than Business/Profession controlled from India	T	NT	NT
6.	Past untaxed foreign income brought into India during the relevant previous year	NT	NT	NT

Note :

1	When Past untaxed foreign income remitted to India then such income will not be taxable because this is not the income of previous year
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2	No tax on remittance: Any income already taxed on accrual basis consequently remitted to India is not chargeable to tax at the time of remittance irrespective of the residential status. (v v v v v v v v v imp Point)
3	Manner of Income: Income may be in cash or in kind .
4	Dividend paid by an Indian company outside India is deemed to accrue or arise in India.

Conceptual clarity

- Receipts Vs Remittance**—The “receipt” of income refers to the first occasion when the recipient gets the money under his control. Once an amount is received as income, any remittance or transmission of the amount to another place does not result in “receipt” at the other place. E.g. An assessee receives \$ 10,000 in USA on May 16, 2022. Out of \$10,000, he remits Rs 50,000 to India on May 18, 2022. In this case, income is “received” outside India on May 16, 2022.
- Cash Vs Kind**—It is not necessary that income should be received in cash. Income may be received in cash or in kind. E.g. value of a free residential house provided to an employee is taxable as salary in the hands of employee though the income is not received in cash.
- Actual receipt Vs Deemed receipt**—It is not necessary that an income should be actually received in India in order to attract tax liability. An income deemed to be received in India in the previous year is also included in the taxable income of the assessee. E.g. interest credited to recognized provident fund of an employee in excess of 9.5%.

Q—What are the incomes that are deemed to be received in India ? (U/S 7)

Answer- The following incomes are deemed to be received in India in the previous year—

- **Annual accretion** in the previous year in a Recognised Provident Fund under Rule 6 of Part A of Fourth Schedule.
- **Transferred balance in a Recognised Provident Fund** under Rule 11(4) of Part A of Fourth Schedule.
- **Contribution made by Central Government** or by any other employer in the previous year to the account of an employee under a Pension Scheme u/s 80CCD.

INCOME DEEMED TO ACCRUE OR ARISE IN INDIA SECTION 9

Q —Write short notes on income deemed to accrue or arise in Indian u/s 9.

Answer—

Source of Income	Taxable in India being deemed to accrue or arise in India
Income, directly or indirectly, through or from— (a) Business connection in India (for assessee being Non-resident). (b) Property, asset or source of income in India (c) Transfer of capital asset situated in India	Yes
Income under the head “ Salaries ” for services rendered in India	Yes
Salaries paid by Government of India to an Indian citizen for services rendered outside India—[Exemption u/s 10(7) for allowances or perquisites]	Yes
Dividend paid by an Indian Company outside India— Exemption u/s 10(34)	Yes

Interest Income u/s 9(1)(v)

Payer/Conditions	Deemed to accrue or arise in India	Liable to tax in India
a) Government of India	Yes	Yes
b) Resident borrowed for carrying on business or profession outside India or earning income outside India	No	If recipient is Non-Resident –No If recipient is Resident –Yes
c) Resident borrowed for any other purpose other than above	Yes	Yes
d) Non Resident borrowed for carrying on Business or Profession in India	Yes	Yes
e) Non Resident borrowed for any other purpose other than above	No	If recipient is Non-Resident—No If Recipient is Resident—Yes

Royalties /Fees for Technical Services

Payer/Conditions	Deemed to accrue or arise in India	Liable to tax in India
a) Government of India	Yes	Yes
b) Resident making payments for carrying on business or profession outside India or earning income outside India	No	If recipient is Non-Resident –No If recipient is

		Resident –Yes
c) Resident making payments for any other purpose other than above	Yes	Yes
d) Non Resident making payments for carrying on Business or Profession in India	Yes	Yes
e) Non Resident making payments for any other purpose other than above	No	If recipient is Non-Resident—No If Recipient is Resident—Yes

Indian Income—Indian income includes the following :-

1	If the income is received (or deemed to be received) in India during the previous year and at the same time it accrues(or arises or is deemed to accrue or arise) in India during the previous year.
2	If the income is received (or deemed to be received) in India during the previous year but it accrues or arises outside India during the previous year.
3	If the income is received outside India during the previous year but it accrues (or arises or is deemed to accrue or arise) in India during the previous year.

Indian Income is taxable for all types of assesses.

Foreign Income—If the following two conditions are satisfied, then such income is “Foreign Income”-

1	Income is not received (or not deemed to be received) in India; and
2	Income does not accrue or arise (or does not deemed to accrue or arise) in India.

Q 10 (IPCC M 10)—From the following particulars of income furnished by X pertaining to the year ending **March 31,2023**, compute the total income for the **assessment year 2023-24**, if he is (a) resident and ordinarily resident; (b) resident but not ordinarily resident and (c) non-resident--

Profit on sale of shares in an Indian company (received in Germany)	15,000
Dividend from a Japanese company (received in Japan)	10,000
Income from house property (computed) in London deposited in a bank in London, later on remitted to India through approved banking channels	52,500
Dividend from an Indian company	6,000
Agricultural income from agricultural land in Gujarat	25,000

Answer—

Particulars	ROR	RNOR	NR
1. Profit on sale of shares in an Indian Co. received in Germany	15,000	15, 000	15,000
2. Dividend from a Japanese co. received in Japan	10,000	---	

3. Income from property in London deposited in a bank in London	52,500	---	
4. Dividend from RP Ltd., an Indian Co.	6000	6000	6000
5. Agricultural Income from lands in Guj.	----	---	
	83,500	21,000	21,000

Note—

- Agricultural income from India** is exempt.

Q No 11 The following are the particulars of income of R for the **previous year 2022-23**:

(a) Income from a property in Delhi received in USA	80,000
(b) Income from a business in USA controlled from Delhi	1,20,000
(c) Income from a business in Bangalore controlled from USA	1,80,000
(d) Income from a property in USA received there but subsequently remitted to India	60,000
(e) Interest from deposits with an Indian company received in USA	20,000
(f) Profits for the year 2013-14 of a business in USA remitted to India during the Previous year 2022-23 (Not taxed earlier)	75,000
(g) Gifts received from his parents	45,000

Compute his income for the assessment year 2023-24 for all cases.

Answer- ROR 4,60,000; NOR 4,00,000 ; NR 2,80,000

Q No 12 X earns the following income during the financial year 2022-23:

(a) Interest from an Indian company received in London	1,000
(b) Pension from former employer in India received in USA	4,000
(c) Profits earned from a business in Paris which is controlled in India, half of the Profits being received in India	20,000
(d) Income from agriculture in Bhutan and remitted to India	5,000
(e) Income from property in England received there	4,000
(f) Past foreign untaxed income brought to India	10,000

Compute his income for the **assessment year 2023-24** in all cases.

Answer—ROR 34,000 NOR 25,000 NR 15,000

Q No 13 During the financial year 2022-23 Anil Kumar had the following income:

(a) Salary income received in India for services rendered in Pakistan	10,000
(b) Income from profession in India, but received in Germany	3,000
(c) Property income in Uganda (out of which Rs 3,000 was remitted to India)	6,000
(d) Profits earned from business in Bangalore	5,000
(e) Agriculture income in Kenya	10,000
(f) Profits from a business carried on at Nepal but controlled from India	20,000
(g) Past untaxed profits remitted to India during the previous year from USA	90,000

Compute his income for the **assessment year 2023-24** in all cases.

Answer- ROR 54,000 NOR 38,000 NR 18,000

Q No 14 Following are the taxable income of Shri Ratan Chand for the **previous year 2022-23**:

1) Income from salary accrued and received in India	Rs 20,000
2) Profit of a hotel business at Melbourne	Rs 30,000
3) Dividend declared in Perth but received in India	Rs 4000
4) Income from transfer of a long term capital asset situated in India	Rs 20,000
5) Interest on debentures of a company at Manchester, which was received in India	Rs 6000
6) Interest received from Shri Philip, a non-resident, on the loan provided to him for a business carried on in India	Rs 5000
7) Royalty received in Germany from Shri Kailash a resident in India for technical services provided for a business carried on in Germany	Rs 20,000
8) Fees from an Indian Company carrying on business at London from technical services rendered at London having been directly deposited by the company in his bank account in India	Rs 30000

Compute Shri Ratan Chand's Total income for the **assessment year 2023-24**, if he is a) resident

b) NOR c) NR

Answer- 135000, 85000, 85000

Q No 15 Samsung, a South Korean company, a non resident under the Income Tax Act,1961, had the following receipts of royalty in **2022-23**. Indicate whether they will be taxable in India. Give reasons for your answer.

- Rs 50,000 from Govt of India under an agreement approved by the Govt of South Korea and India
- Rs 1,00,000 from Calcutta Co. Ltd., a resident Indian company, for import of technical know how for use in a business in India.
- Rs 75,000 from a Mumbai company, a resident Indian Organisation, for importing of drawing for use in its business in Singapore and Malaysia;
- Rs 50,000 from Keshoram, a non-resident under Indian Income tax law, for use of a formula for a business in India; and
- Rs 40,000 from X, an Indian non-resident for use of drawing and technical know-how for a business in the U.K.

Answer- a) Taxable b) Taxable c) not taxable d) Taxable e) not taxable (A 05)

Q 16 Determine the taxability of income of US based company Heli Ltd., in India on entering following transactions during the financial year 2022-23: (PCC- N 09)

- Rs 5 lacs received from an Indian domestic company for providing technical know how in India.
- Rs 6 lacs from an Indian firm for conducting the feasibility study for the new projects in Finland.
- Rs 4 lacs from a non-resident for use of patent for a business in India.
- Rs 8 lacs from a non-resident Indian for use of know how for a business in Singapore.
- Rs 10 lacs for supply of manuals and designs for the business to be established in Singapore.

Answer (a) Taxable (b) Not taxable (c) Taxable (d) Not taxable (e) Not taxable

Q 17 (10 S) From the following particulars, find out the gross total income of Mohan for **Assessment year 2023-24**, when he is (i) Resident (ii) Not ordinarily resident and (iii) Non-resident of India,

- Received Rs 10,000 in India which accrued in England.
- Rs 20,000 earned in India but received in England
- Rs 10,000 earned and received in Africa but brought to India.
- Rs 28,000 earned and received in Japan from a business which was controlled and managed in Japan and this amount was not brought to India.
- Rs 16,000 untaxed foreign income of some earlier year was brought to India in previous year.

Answer--

S.No.	Particulars	ROR	RNOR	NR
1.	Income received in India	10,000	10,000	10,000
2.	Income earned in India	20,000	20,000	20,000
3.	Income earned and received in Africa i.e. outside India	10,000	NIL	NIL
4.	Business income earned and received in Japan which was controlled and managed in Japan	28,000	NIL	NIL
5.	Past Untaxed foreign income	NIL	NIL	NIL
		68,000	30,000	30,000

Q 18 (08 A) From the following information, determine the total income of Surbhi for the year 2022-23 if she is a (a) Resident but ordinarily resident (b) Resident but not ordinarily resident (c) Non-resident:

- Salary for services rendered in Sri Lanka Rs 90,000 (out of this Rs 20,000 was received in India).

- (2) Profit from sale of house property in New Delhi, money received in Pakistan Rs 1,50,000.
 (3) Dividend from X Ltd., a foreign company received outside India Rs 50,000
 (4) Profit from agriculture in Chandigarh Rs 2,50,000
 (5) Income from growing and manufacturing tea in Bangladesh Rs 8,40,000 (25% received in India)
 (6) Profit from business in Singapore and managed from there (received in Singapore) Rs 3,00,000

Answer—

S N	Particulars	ROR	RNOR	NR
1.	Salary for services rendered in Sri Lanka <ul style="list-style-type: none"> • Received in India • Earned and received outside India 	20,000 70,000	20,000 NIL	20,000 NIL
2.	Profit from sale of a house property in New Delhi	1,50,000	1,50,000	1,50,000
3.	Dividend from X Ltd., a foreign company received outside India	50,000	NIL	NIL
4.	Profit from agriculture in Chandigarh	NIL	NIL	NIL
5.	Income from growing and manufacturing tea in Bangladesh <ul style="list-style-type: none"> • Received in India • Received and earned outside India 	2,10,000 6,30,000	2,10,000 NIL	2,10,000 NIL
6.	Profit from business in Singapore and managed from there (received in Singapore)	3,00,000	NIL	NIL
	TOTAL	14,30,000	3,80,000	3,80,000

Q 19 (04 S) – Shri Hanuman Prasad has the following incomes for the previous year ending on 31.3.2023.

- | | |
|---|--------|
| 1. Income from salary in India from a company (He went to Australia for some months due to his service and received salary for such period there) | 50,000 |
| 2. Dividend from an Indian company received in England and spent there | 10,000 |
| 3. Income from house property in India received in Pakistan | 20,000 |
| 4. Dividend from a foreign company received in England and deposited in a bank there | 10,000 |
| 5. Income from business in Kolkata, managed from USA | 20,000 |
| 6. Income from business in USA (controlled from Kanpur Head Office) | 12,000 |
| 7. Income was earned in Australia and received there, but brought into India | 25,000 |
| 8. His material uncle sent a Bank Draft from France as a gift to him on his marriage | 20,000 |

Compute the gross total income, if he is (a) ROR (b) RNOR (c) NR

Answer—

S N.	Particulars	ROR	RNOR	NR
1.	Income from salary in India from a company	50,000	50,000	50,000
2.	Dividend from an Indian Company	10,000	10,000	10,000
3.	Income from house property in India received in Pakistan	20,000	20,000	20,000
4.	Dividend from a foreign company received in England	10,000	NIL	NIL
5.	Income from business in Kolkata	20,000	20,000	20,000
6.	Income from business in USA (controlled from Kanpur)	12,000	12,000	NIL
7.	Income was earned in Australia and received there	25,000	NIL	NIL

8.	Gift from material uncle on marriage	NIL	NIL	NIL
		1,47,000	1,12,000	100,000

Note—

1. Business income earned and received outside India but wholly or partly controlled from India is taxable for ROR and RNOR but not for NR.

Q 20 (03 A, 28 E4)—Shankar a foreign national furnishes the following particulars of his income relevant for the previous year 2022-23.

1. Profit on sale of plant at London (1/2 is received in India)	1,46,000
2. Profit on sale of Plant at Delhi (1/2 is received in London)	1,02,000
3. Salary from an Indian Company received in London (1/2 is paid for rendering services In India)	60,000
4. Interest on U.K. Development Bonds (entire amount is received in London)	40,000
5. Income from property in London received there	30,000
6. Profit from a business in Delhi managed from India	49,000
7. Income from agriculture in London received there, half of which is used for meeting hostel expenses of Shanker's son in England and remaining amount is later on remitted to India	25,000
8. Dividend received in London on 6.6.2022 from a company registered in India but mainly operating in U.K.	17,000
9. Rental income from a property in Nepal deposited by the tenant in a foreign branch of an Indian bank operating there	12,000
10. Gift from relative in foreign currency (1/3 rd of which is received in India and remaining amount is used for meeting education expenses of Shanker's son in USA)	3,70,000

Determine gross total income of Shanker for the **Assessment Year 2023-24**, if he is (a) ROR (b) NOR (c) NR

Answer—

S N	Particulars	ROR	NOR	NR
1.	Profit on sale of Plant at London (1/2 is received in India)			
	• Received in India	73,000	73,000	73,000
	• Received and earned outside India	73,000	NIL	NIL
2.	Profit from sale of Plant at Delhi	1,02,000	1,02,000	1,02,000
3.	Salary from Indian Company			
	• Accrued in India	30,000	30,000	30,000
	• Accrued and received outside India	30,000	NIL	NIL
4.	Interest on UK Development Bonds	40,000	NIL	NIL
5.	Income from property in London received there	30,000	NIL	NIL
6.	Profit from a business in Delhi managed from India	49,000	49,000	49,000
7.	Income from agriculture in London received there	25,000	NIL	NIL
8.	Dividend received in London on 6.6.2022 from a company registered in India	17,000	17,000	17,000
9.	Rental income from a property in Nepal deposited by the tenant	12,000	NIL	NIL
10.	Gift from relative in foreign currency (1/3 rd of which is received in India and remaining amount is used for	NIL	NIL	NIL

	meeting education expenses of Shanker's son in USA)			
		4,81,000	2,71,000	2,71,000

Q 21 (28 P-2) X is resident and ordinarily resident in India for the assessment year 2023-24. He gives the following information in respect of his income for the previous year 2022-23:

- Capital gain on sale of a house situated in Pune (sale consideration is received in Nepal) 10,00,000
- Salary received in Sri Lanka for rendering service in Tamilnadu (salary after standard Deduction) 1,60,000
- Interest received from Govt. of India (it is paid to him in Sri Lanka, the money is utilized by the Govt. outside India) 2,56,000
- Royalty received from A Ltd. (a foreign company which is non-resident in India) outside India (royalty is paid for a manufacturing business situated outside India) 92,00,000

Find the taxable income of X for the assessment year 2023-24.

Answer—1,06,16,000

Q 22 (28 P-3) For the assessment year 2023-24, X is non-resident in India. From the information given below, find out his income chargeable to tax for the assessment year 2023-24:

- Royalty received by him outside India from the Govt of India 8,17,000
- Technical fees received from A Ltd. (an Indian company) in Germany for advise given by him in respect of a project situated in Iran. 1,17,000
- Income from a business situated in Sri Lanka (goods are sold in Sri Lanka, sale consideration is received in Sri Lanka but business is controlled partly in Sri Lanka and partly in India) 2,17,000
- Income from a business connection in India (it is received outside India) 3,17,000

Answer – 1134000

Q 23 (28-P4) X furnishes the following particulars of his income earned during the previous year relevant to the assessment year 2023-24:

- Int. on German Development Bonds (2/5th is received in India) 60,000
- Income from agriculture in Bangladesh, received there but later on Rs 50000 is remitted to India (agricultural activity is controlled from Bangladesh) 1,81,000
- Income from property in Canada received outside India (Rs 76000 is used in Canada for meeting educational expenses of X's daughter in USA and Rs 10000 is later on remitted India) 86,000
- Income earned from business in Kampala (Uganda) which is controlled from Delhi (Rs 15000 is received in India) 65,000
- Dividend paid by a foreign company but received in India on April 10, 2022 46,500
- Past untaxed profit of 2017-18 brought in India in 2022-23 10,43,000
- Profit from a business in Madras and managed from outside India 27,000
- Profits on sale of building in India but received in Sri Lanka 14,80,000
- Pension from a former employer in India, received in Rangoon 36,000
- Gift in foreign currency from a friend received in India on January 20, 2023 80,000

Find out the GTI of X, if he is (i) resident and ordinarily resident in India, (ii) resident but not ordinarily resident in India (iii) non-resident in India for the assessment year 2023-24

Answer—2061500; 1758500;1708500

Q 24 (19-P7) X an Indian citizen, who is appointed as senior taxation officer by the Govt. of Nigeria, leaves India, for the first time on September 26, 2022 for joining his duties in Nigeria. During the previous year 2022-23, he comes to India for 176 days. Determine the residential status of X for the assessment years 2023-24.

Answer—During the previous year 2022-23, X is in India for 179 days and during four years preceding the previous year 2022-23, he was in India for more than 365 days. He will be non-resident for the assessment year 2022-23 (since an Indian citizen, leaving India for the purpose of employment, will be treated as resident in India only if he has been in India in that year for at least 182 days).

During the previous year 2022-23 (for the assessment year 2023-24), X comes to India for 176 days. He will be treated as non-resident in India for the assessment year 2023-24 (since an Indian citizen who comes on a visit to India during the previous year, will be treated as resident in India only if he has been in India in that year for at least 182 days).

Question- How is the residence of assessee determined for Income Tax purposes? Explain the incidence of residence on tax liability.

(V.V. Important)

A room without books is like body without soul

AVOID TENSION-----“Tension never solves any problem. Planning, intelligence, work and capacity to face reality will solve the problem”

“Never lose faith in yourself; you can do anything in the universe.....My dears”