RESIDENTIAL STATUS & SCOPE OF TOTAL INCOME

SECTION 5 TO 9

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THEORY QUESTION

Q1 [Imp.] Write a note on determination of residential status of an individual.
Q2. Write a note on determination of residential status of a Hindu Undivided Family.
Q3: Write a note on determination of Residential Status of a Firm/ Association of Persons/Body of Individual.
Q4. Write a note on determination of residential status of a Company.
Q5. Briefly discuss the provisions relating to determination of residential status of any person other than individual, Hindu Undivided Family, Company, Firm, Association of Persons or Body of Individual.
Q6. [V. Imp.] Write short note on income deemed to accrue or arise in India.
Q7. Explain income received in India.
Q8. Explain income deemed to be received in India.
Q9. Explain taxability of income accruing/arising abroad and also received abroad.
Q10. [V. Imp.] Write a note on scope of total income. Or Write a note on tax incidence in case of different status.
**RESIDENTIAL STATUS AND SCOPE OF TOTAL INCOME**

**Determination of residential status**: The residential status of a person has to be determined to ascertain which income is to be included in computing the total income.

The residential status as per the Income-tax Act are shown below –

<table>
<thead>
<tr>
<th>Residential Status Under the Income Tax Act, 1961</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resdent</td>
</tr>
<tr>
<td>Resdent and ordinarily resident</td>
</tr>
</tbody>
</table>

In the case of an individual, the duration for which he is present in India determines his residential status. Based on the time spent by him, he may be (a) resident and ordinarily resident, (b) resident but not ordinarily resident, or (c) non-resident.

The residential status of a person determines the taxability of the income. E.g., income earned outside India will not be taxable in the hands of a non-resident but will be taxable in case of a resident and ordinarily resident.

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**RESIDENTIAL STATUS SECTION 6**

The incidence of tax on any assessee depends upon his residential status under the Act. Therefore, after determining whether a particular amount is capital or revenue in nature, if the receipt is of a revenue nature and chargeable to tax, it has to be seen whether the assessee is liable to tax in respect of that income. The taxability of a particular receipt would thus depend upon not only on the nature of the income and the place of its accrual or receipt but also upon the assessee’s residential status.

For all purposes of income-tax, taxpayers are classified into three broad categories on the basis of their residential status. viz

1. Resident and ordinarily resident
2. Resident but not ordinarily resident
3. Non-resident

The residential status of an assessee must be ascertained with reference to each previous year. A person who is resident and ordinarily resident in one year may become non-resident or resident but not ordinarily resident in another year or vice versa. The provisions for determining the residential status of assessees are:
RESIDENTIAL STATUS OF INDIVIDUALS
SECTION 6(1)/6(6)(a)

Under section 6(1), an individual is said to be resident in India in any previous year, if he satisfies any one of the following conditions:

(i) He has been in India during the previous year for a total period of 182 days or more, or
(ii) 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 at least 60 days in the previous year.

If the individual satisfies any one of the conditions mentioned above, he is a resident, otherwise the individual is a non-resident.

Note:
(a) The term “stay in India” includes stay in the territorial waters of India (i.e., 12 nautical miles into the sea from the Indian coastline). Even the stay in a ship or boat moored in the territorial waters of India would be sufficient to make the individual resident in India. (1 nautical mile = 1.1515 miles = 1.852 Kms).

(b) It is not necessary that the period of stay must be continuous or active nor is it essential that the stay should be at the usual place of residence, business or employment of the individual.

(c) For the purpose of counting the number of days stayed in India, both the date of departure as well as the date of arrival are considered to be in India.

(d) The residence of an individual for income-tax purpose has nothing to do with citizenship, place of birth or domicile. An individual can, therefore, be resident in more countries than one even though he can have only one domicile.

Exceptions:
The following categories of individuals will be treated as residents only if the period of their stay during the relevant previous year amounts to 182 days. In other words even if such persons were in India for 365 days during the 4 preceding years and 60 days in the relevant previous year, they will not be treated as resident.

(1) Indian citizens, who leave India in any previous year as a member of the crew of an Indian ship or for purposes of employment outside India, or

(2) Indian citizen or person of Indian origin* engaged outside India in an employment or a business or profession or in any other vocation, who comes on a visit to India in any previous year

* A person is said to be of Indian origin if he or either of his parents or either of his grandparents were born in undivided India.

Not-ordinarily resident - Only individuals and HUF can be resident but not ordinarily resident in India. All other classes of assessee can be either a resident or non-resident. A not ordinarily resident person is one who satisfies any one of the conditions specified under section 6(6).

(i) If such individual has been non-resident in India in any 9 out of the 10 previous years preceding the relevant previous year, or
(ii) If such individual has during the 7 previous years preceding the relevant previous year been in India for a period of 729 days or less.
In simpler terms, an individual is said to be a resident and ordinarily resident if he satisfies both the following conditions:

(i) He is a resident in any 2 out of the last 10 years preceding the relevant previous year, and
(ii) His total stay in India in the last 7 years preceding the relevant previous year is 730 days or more.

If the individual satisfies both the conditions mentioned above, he is a resident and ordinarily resident but if only one or none of the conditions are satisfied, the individual is a resident but not ordinarily resident.

**Illustration 1:** Steve Waugh, the Australian cricketer comes to India for 100 days every year. Find out his residential status for the A.Y. 2014-15.

**Solution**
For the purpose of his residential status in India for A.Y. 2014-15, the relevant previous year is 2013-14.

**Step 1:** The total stay of Steve Waugh in the last 4 years preceding the previous year is 400 days (i.e. 100 × 4) and his stay in the previous year is 100 days. Therefore, since he has satisfied the second condition in section 6(1), he is a resident.

**Step 2:** Since his total stay in India in the last 7 years preceding the previous year is 700 days (i.e. 100 × 7), he does not satisfy the minimum requirement of 730 days in 7 years. Any one of the conditions not being satisfied, the individual is resident but not ordinarily resident.

Therefore, the residential status of Steve Waugh for the assessment year 2014-15 is resident but not ordinarily resident.

**Illustration 2:** Mr. B, a Canadian citizen, comes to India for the first time during the P.Y. 2009-10. During the financial years 2009-10, 2010-11, 2011-12, 2012-13 and 2013-14 he was in India for 55 days, 60 days, 90 days, 150 days and 70 days respectively. Determine his residential status for the A.Y. 2014-15.

**Solution**
During the previous year 2013-14, Mr. B was in India for 70 days and during the 4 years preceding the previous year 2013-14, he was in India for 355 days (i.e. 55 + 60 + 90 + 150 days).

Thus, he does not satisfy section 6(1). Therefore, he is a non-resident for the previous year 2013-14.

**Illustration 3:** Mr. C, a Japanese citizen left India after a stay of 10 years on 01.06.2011. During the financial year 2012-13, he comes to India for 46 days. Later, he returns to India for 1 year on 10.10.2013. Determine his residential status for the A.Y. 2014-15.

**Solution**
During the previous year 2013-14, Mr. C was in India for 173 days (i.e. 22 + 30 + 31 + 31 + 28 + 31 days). His stay in the last 4 years is:

<table>
<thead>
<tr>
<th>Year</th>
<th>Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012-13</td>
<td>46</td>
</tr>
<tr>
<td>2011-12</td>
<td>62 (i.e. 30 + 31 + 1)</td>
</tr>
<tr>
<td>2010-11</td>
<td>365 (since he left India on 01.06.2011 after 10 years)</td>
</tr>
<tr>
<td>2009-10</td>
<td>365 (since he left India on 01.06.2011 after 10 years)</td>
</tr>
<tr>
<td></td>
<td>838</td>
</tr>
</tbody>
</table>

Mr. C is a resident since his stay in the previous year 2013-14 is 173 days and in the last 4 years is more than 365 days.

For the purpose of being ordinarily resident, it is evident from the above calculations, that

(i) his stay in the last 7 years is more than 730 days and
(ii) since he was in India for 10 years prior to 01.06.2011, he was a resident in at least 2 out of the last 10 years preceding the relevant previous year.

Therefore, Mr. C is a resident and ordinarily resident for the A.Y.2014-15.

**Illustration 4:** Mr. D, an Indian citizen, leaves India on 22.09.2013 for the first time, to work as an officer of a company in France. Determine his residential status for the A.Y. 2014-15.

**Solution**
During the previous year 2013-14, Mr. D, an Indian citizen, was in India for 175 days (i.e. 30 + 31+ 30 + 31 + 31 + 22 days). He does not satisfy the minimum criteria of 182 days. Also, since he is an Indian citizen leaving India for the purposes of employment, the second condition under section 6(1) is not applicable to him.

Therefore, Mr. D is a non-resident for the A.Y.2014-15.

**Illustration 5:** Determine residential status of Mr. Atulya Singhal for the assessment year 2014-15, who stays in India during various financial years asunder:

<table>
<thead>
<tr>
<th>Previous Years</th>
<th>Stay</th>
<th>2006-07</th>
<th>91</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013-14</td>
<td>100</td>
<td>2005-06</td>
<td>90</td>
</tr>
<tr>
<td>2012-13</td>
<td>200</td>
<td>2004-05</td>
<td>88</td>
</tr>
<tr>
<td>2011-12</td>
<td>91</td>
<td>2003-04</td>
<td>89</td>
</tr>
<tr>
<td>2010-11</td>
<td>90</td>
<td>2002-03</td>
<td>86</td>
</tr>
<tr>
<td>2009-10</td>
<td>89</td>
<td>2001-02</td>
<td>87</td>
</tr>
<tr>
<td>2008-09</td>
<td>87</td>
<td>2000-01</td>
<td>89</td>
</tr>
<tr>
<td>2007-08</td>
<td>82</td>
<td>1999-00</td>
<td>90</td>
</tr>
</tbody>
</table>

**Solution:**

<table>
<thead>
<tr>
<th>Years</th>
<th>Status</th>
<th>2008-09</th>
<th>Non-resident</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013-14</td>
<td>Resident</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2012-13</td>
<td>Resident</td>
<td>2006-07</td>
<td>Non-resident</td>
</tr>
<tr>
<td>2011-12</td>
<td>Non-resident</td>
<td>2005-06</td>
<td>Non-resident</td>
</tr>
<tr>
<td>2010-11</td>
<td>Non-resident</td>
<td>2004-05</td>
<td>Non-resident</td>
</tr>
<tr>
<td>2009-10</td>
<td>Non-resident</td>
<td>2003-04</td>
<td>Non-resident</td>
</tr>
</tbody>
</table>

(a) He is non-resident in 9 out of 10 previous years preceding the previous year 2013-14.

(b) Total stay in 7 years preceding the previous year 2013-14 is 730 days.

Since the assessee is able to comply with at least one of the condition of Section 6(6)(a) as listed below, he will be considered to be NOR.

1. He is non-resident in India in at least nine years out of ten previous years preceding that year.
2. He has during the seven previous years preceding that year been in India for a period of 729 days or less.

**Illustration 6:** Determine residential status of Mr. Mukesh Srivasta for the assessment year 2014-15, who stays in India during various financial years asunder:
<table>
<thead>
<tr>
<th>Previous Years</th>
<th>Stay</th>
<th>2006-07</th>
<th>80</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013-14</td>
<td>75</td>
<td>2005-06</td>
<td>91</td>
</tr>
<tr>
<td>2012-13</td>
<td>197</td>
<td>2004-05</td>
<td>86</td>
</tr>
<tr>
<td>2011-12</td>
<td>94</td>
<td>2003-04</td>
<td>85</td>
</tr>
<tr>
<td>2010-11</td>
<td>89</td>
<td>2002-03</td>
<td>89</td>
</tr>
<tr>
<td>2009-10</td>
<td>90</td>
<td>2001-02</td>
<td>72</td>
</tr>
<tr>
<td>2008-09</td>
<td>89</td>
<td>2000-01</td>
<td>69</td>
</tr>
<tr>
<td>2007-08</td>
<td>91</td>
<td>1999-00</td>
<td>92</td>
</tr>
</tbody>
</table>

**Solution:**

<table>
<thead>
<tr>
<th>Years</th>
<th>Status</th>
<th>2008-09</th>
<th>Non-resident</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013-14</td>
<td>Resident</td>
<td>2007-08</td>
<td>Non-resident</td>
</tr>
<tr>
<td>2012-13</td>
<td>Resident</td>
<td>2006-07</td>
<td>Non-resident</td>
</tr>
<tr>
<td>2011-12</td>
<td>Non-resident</td>
<td>2005-06</td>
<td>Non-resident</td>
</tr>
<tr>
<td>2010-11</td>
<td>Non-resident</td>
<td>2004-05</td>
<td>Non-resident</td>
</tr>
<tr>
<td>2009-10</td>
<td>Non-resident</td>
<td>2003-04</td>
<td>Non-resident</td>
</tr>
</tbody>
</table>

(a) He is non-resident in 9 out of 10 previous years preceding the previous year 2013-14.

(b) Total stay in 7 years preceding the previous year 2013-14 is 730 days or more.

Since the assessee is able to comply with at least one of the condition of section 6(6)(a), he will be considered to be NOR.

**Illustration 7:** Mr. Smith an American citizen has come to India for the first time on 10.07.2009, as an employee of a multinational company. The particulars of his arrival and departure are as given below:

<table>
<thead>
<tr>
<th>Date of arrival</th>
<th>Date of departure</th>
</tr>
</thead>
<tbody>
<tr>
<td>10.07.2009</td>
<td>07.08.2009</td>
</tr>
<tr>
<td>07.02.2010</td>
<td>27.03.2010</td>
</tr>
<tr>
<td>27.11.2010</td>
<td>07.01.2011</td>
</tr>
<tr>
<td>10.09.2012</td>
<td>02.01.2013</td>
</tr>
<tr>
<td>Not yet returned</td>
<td></td>
</tr>
</tbody>
</table>

Determine his residential status for previous year 2009-10 to 2013-14.

**Solution:**

**Previous Year 2009-10**

{July – 22, August – 7, February – 22, March – 27}

Days of stay in India are 78, so Mr. Smith is non-resident.

**Previous Year 2010-11**

{November – 4, December – 31, January – 7}

Days of stay in India are 42, so Mr. Smith is non-resident.
Previous Year 2011-12
{October – 8, November – 30, December – 31}

Days of stay in India are 69, so Mr. Smith is non-resident.

Previous Year 2012-13
{September – 21, October –31, November – 30, December – 31, January – 2}

Days of stay in India are 115, so Mr. Smith is non-resident.

Previous Year 2013-14
{December – 12, January – 31, February – 13}

Days of stay in India are 56, so Mr. Smith is non-resident.

Illustration 8: Mr. Rajeev Arora an American citizen has come to India for the first time on 01.07.2010 as an executive of a multinational company. His employer has allowed him to visit USA every year and for this purpose he will be leaving India every year on 1st November and shall come back on 31st December, besides that he has visited Hong Kong on several occasions in connection with the official work, because he is looking after the employer’s operations in Hong Kong also, with details asunder:

<table>
<thead>
<tr>
<th>Date of leaving India</th>
<th>Date of arriving in India</th>
</tr>
</thead>
<tbody>
<tr>
<td>10.09.2010</td>
<td>30.09.2010</td>
</tr>
<tr>
<td>07.02.2011</td>
<td>08.05.2011</td>
</tr>
<tr>
<td>11.02.2013</td>
<td>12.06.2013</td>
</tr>
<tr>
<td>01.02.2014</td>
<td>10.04.2014</td>
</tr>
</tbody>
</table>

Determine his residential status for the previous years 2010-11 to 2013-14.

Solution:

Previous Year 2010-11

Days of stay in India are 144 so Mr. Rajeev Arora is non-resident.

Previous Year 2011-12
{May – 24, June – 30, July – 11, October – 11, November – 1, December – 1, January – 31, February – 10}

Days of stay in India are 119 so he is non-resident.

Previous Year 2012-13
{July – 9, August – 31, September – 30, October – 31, November – 1, December – 1, January – 31, February – 11}

Days of stay in India are 145 so he is non-resident.

Previous Year 2013-14
Days of stay in India are 176. During the preceding 4 years, his stay is for 365 days or more so he is resident. His stay during 7 years is 729 days or less, hence he is resident but not ordinarily resident.

**Illustration 9:** Mr. Lokesh Vermani and Mrs. Lokesh Vermani are settled outside India and they came to India on 15.10.2013 on a visit for 7 months. Both of them are Indian citizens. In the earlier years they were in India as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Mr. Lokesh Vermani</th>
<th>Mrs. Lokesh Vermani</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012 – 2013</td>
<td>235 Days</td>
<td>365 Days</td>
</tr>
<tr>
<td>2011 – 2012</td>
<td>330 Days</td>
<td>30 Days</td>
</tr>
<tr>
<td>2010 – 2011</td>
<td>Nil</td>
<td>28 Days</td>
</tr>
<tr>
<td>2009 – 2010</td>
<td>118 Days</td>
<td>120 Days</td>
</tr>
</tbody>
</table>

Find out the residential status of Mr. Lokesh Vermani and Mrs. Lokesh Vermani for the assessment year 2014-15.

**Solution:**
Both are NR for the assessment year 2014-15
Stay of Lokesh Vermani in India

<table>
<thead>
<tr>
<th>Previous Year 2013-14</th>
<th>168 Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>{17 + 30 + 31 + 31 + 28 + 31}</td>
<td></td>
</tr>
</tbody>
</table>

Stay of Mrs. Lokesh Vermani in India

<table>
<thead>
<tr>
<th>Previous Year 2013-14</th>
<th>168 Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>{17 + 30 + 31 + 31 + 28 + 31}</td>
<td></td>
</tr>
</tbody>
</table>

Since they are covered in special category they will be resident only if their stay in India in relevant previous year is 182 days or more, hence they are non–resident.

**Illustration 10:** On 01.06.2011 Mr. Zeen, a Malaysian citizen leaves India after stay of 10 years. During the financial year 2012-13 he comes to India for a period of 46 days. Later, he returns to India for one year on 10.10.2013.

Determine Zeen’s residential status for the assessment year 2014-15.

**Solution:**
No. of days of stay in India

<table>
<thead>
<tr>
<th>P.Y. 2013-14</th>
<th>173 Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>{22 + 30 + 31 + 31 + 28 + 31}</td>
<td></td>
</tr>
</tbody>
</table>

P.Y. 2012-13 46 Days

P.Y. 2011-12 62 Days

P.Y. 2010-11 365 Days

P.Y. 2009-10 365 Days

P.Y. 2008-09 365 Days
The person is **resident and ordinarily resident**. Mr. Zeen was in India for 60 days in 2013-14 and for 365 days or more in the 4 years immediately preceding the relevant previous year and he does not satisfy even a single condition of section 6(6)(a).

### RESIDENTIAL STATUS OF HUF

#### SECTION 6(2)/6(6)(b)

A HUF would be resident in India if the control and management of its affairs is situated wholly or partly in India. If the control and management of the affairs is situated wholly outside India it would become a non-resident.

The expression ‘control and management’ referred to under section 6 refers to the central control and management and not to the carrying on of day-to-day business by servants, employees or agents. The business may be done from outside India and yet its control and management may be wholly within India. Therefore, control and management of a business is said to be situated at a place where the head and brain of the adventure is situated. The place of control may be different from the usual place of running the business and sometimes even the registered office of the assessee. This is because the control and management of a business need not necessarily be done from the place of business or from the registered office of the assessee. But control and management do imply the functioning of the controlling and directing power at a particular place with some degree of permanence.

If the HUF is resident, then the status of the Karta determines whether it is resident and ordinarily resident or resident but not ordinarily resident. If the karta is resident and ordinarily resident, then the HUF is resident and ordinarily resident and if the karta is resident but not ordinarily resident, then HUF is resident but not ordinarily resident.

**Illustration 11:** The business of a HUF is transacted from Australia and all the policy decisions are taken there. Mr. E, the karta of the HUF, who was born in Kolkata, visits India during the P.Y.2013-14 after 15 years. He comes to India on 01.04.2013 and leaves for Australia on 01.12.2013. Determine the residential status of Mr. E and the HUF for A.Y. 2014-15.

**Solution**

(a) During the P.Y.2013-14, Mr. E has stayed in India for 245 days (i.e. 30 + 31 + 30 + 31 + 31 + 30 + 31 + 30 + 1 days). Therefore, he is a resident. However, since he has come to India after 15 years, he cannot satisfy any of the conditions for being ordinarily resident. Therefore, the residential status of Mr. E for the P.Y.2013-14 is resident but not ordinarily resident.

(b) Since the business of the HUF is transacted from Australia and nothing is mentioned regarding its control and management, it is assumed that the control and management is also wholly outside India. Therefore, the HUF is a non-resident for the P.Y. 2013-14.
Illustration 12: Karta of one Hindu Undivided Family comes to India every year for minimum 60 days and maximum 91 days. Determine residential status of the Hindu Undivided Family and also that of the Karta for the assessment year 2014-15.

Solution:
Hindu Undivided Family is resident since the Karta has come to India for at least 60 days but the stay of Karta during seven years can be maximum 637 days hence Hindu Undivided Family shall be considered to be resident but not ordinarily resident.

Karta in his individual capacity is non-resident because he cannot comply with even one of the two basic conditions.

Illustration 13: One Hindu Undivided Family is being managed partly from Mumbai and partly from Nepal. Dheeraj Singh (a foreign citizen), Karta of Hindu Undivided Family, comes on a visit to India every year since 1981 in month of April for 105 days.

Determine residential status of the Hindu Undivided Family and also that of the Karta in his individual capacity for the assessment year 2014-15.

Solution:
For the previous year 2013-14, the control and management of the affairs of Hindu Undivided Family is being partly managed from India. Hence Hindu Undivided Family is resident but Mr. Dheeraj Singh cannot comply with any of the conditions of section 6(6)(b), hence Hindu Undivided Family is resident and ordinarily resident.

Karta shall be considered to be resident and ordinarily resident because his stay during 7 years is 735 days. Also, he will not be non-resident in nine years out of ten years preceding the relevant previous year.

RESIDENTIAL STATUS OF FIRMS AND ASSOCIATION OF PERSONS
SECTION 6(2)

A firm and an AOP would be resident in India if the control and management of its affairs is situated wholly or partly in India. Where the control and management of the affairs is situated wholly outside India, the firm and AOP would become a non-resident.

RESIDENTIAL STATUS OF COMPANIES
SECTION 6(3)

A company is said to be resident in India if –
(i) it is an Indian company as defined under section 2(26), or
(ii) its control and management is situated wholly in India during the accounting year.

Thus, every Indian company is resident in India irrespective of the fact whether the control and management of its affairs is exercised from India or outside. But a company, other than an Indian company, would become resident in India only if the entire control and management of its affairs is in India.

The control and management of the affairs of company are said to be exercised from the place where the director’s meetings (not shareholders’ meetings) are held, decisions taken and directions issued.
Illustration 14: Wipro Ltd. an Indian company has most of its business outside India. Determine its residential status.

Solution: An Indian company shall always be considered to be resident in India.

Illustration 15: Afcon Infrastructure Ltd. is a Japanese company, but it is being controlled from India. Determine its residential status for the assessment year 2014-15.

Solution: Foreign company shall be resident in India only if its control and management is wholly in India. Hence, Afcon infrastructure Ltd. is resident company.

Illustration 16: Bista Ltd., a foreign company, has made prescribed arrangements for declaration and payment of dividend within India in accordance with section 194. Bista Ltd. carries on majority of its operations and decision making activities from Calcutta and Assam but some part of operational activities and few decisions are being taken from the place at which registered office of Bista Ltd. is located, i.e. Dhaka.

Determine its residential status for the assessment year 2014-15.

Solution: Bista Ltd. is neither an Indian company nor its control and management is wholly situated in India. Bista Ltd. is, therefore, non-resident in India for the assessment year 2014-15.

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**RESIDENTIAL STATUS OF LOCAL AUTHORITIES AND ARTIFICIAL JURIDICAL PERSONS**

**SECTION 6(4)**

Local authorities and artificial juridical persons would be resident in India if the control and management of its affairs is situated wholly or partly in India. Where the control and management of the affairs is situated wholly outside India, they would become non-residents.

**Note:** In simpler terms, an individual is said to be a resident and ordinarily resident if he satisfies both the following conditions:

(i) He is a resident in any 2 out of the last 10 years preceding the relevant previous year, and
(ii) His total stay in India in the last 7 years preceding the relevant previous year is 730 days or more.

If the individual satisfies both the conditions mentioned above, he is a resident and ordinarily resident but if only one or none of the conditions are satisfied, the individual is a resident but not ordinarily resident.
Residential Status & Scope of Total Income

SCOPE OF TOTAL INCOME
SECTION 6(5)

Section 5 provides the scope of total income in terms of the residential status of the assessee because the incidence of tax on any person depends upon his residential status. The scope of total income of an assessee depends upon the following three important considerations:

(i) the residential status of the assessee (as discussed earlier);
(ii) the place of accrual or receipt of income, whether actual or deemed; and
(iii) the point of time at which the income had accrued to or was received by or on behalf of the assessee.

The ambit of total income of the three classes of assessees would be as follows:

(1) **Resident and ordinarily resident** - The total income of a resident assessee would, under section 5(1), consist of:
   (i) income received or deemed to be received in India during the previous year;
   (ii) income which accrues or arises or is deemed to accrue or arise in India during the previous year; and
   (iii) income which accrues or arises outside India even if it is not received or brought into India during the previous year.

In simpler terms, a resident and ordinarily resident has to pay tax on the total income accrued or deemed to accrue, received or deemed to be received in or outside India.

(2) **Resident but not ordinarily resident** – Under section 5(1), the computation of total income of resident but not ordinarily resident is the same as in the case of resident and ordinarily resident stated above except for the fact that the income accruing or arising to him outside India is not to be included in his total income. However, where such income is derived from a business controlled from or profession set up in India, then it must be included in his total income even though it accrues or arises outside India.

(3) **Non-resident** - A non-resident’s total income under section 5(2) includes:
   (i) income received or deemed to be received in India in the previous year; and
   (ii) income which accrues or arises or is deemed to accrue or arise in India during the previous year.

**Note:** All assessees, whether resident or not, are chargeable to tax in respect of their income accrued, arisen, received or deemed to accrue, arise or to be received in India whereas residents alone are chargeable to tax in respect of income which accrues or arises outside India.

<table>
<thead>
<tr>
<th>Resident and Ordinarily Resident</th>
<th>Resident but Not Ordinarily Resident</th>
<th>Non-Resident</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income received/ deemed to be received/ accrued or arisen/ deemed to accrue or arise in or outside India.</td>
<td>Income which is received/deemed to be received/accrued or arisen/ deemed to accrue or arise in India. and Income which accrues or arises outside India being derived from a business controlled from or profession set up in India.</td>
<td>Income received/deemed to be received/ accrued or arisen/ deemed to accrue or arise in India.</td>
</tr>
</tbody>
</table>
DEEMED RECEIPT AND ACCRUAL OF INCOME IN INDIA

Meaning of Income deemed to accrue or arise in India [Section 9]
The following incomes shall be deemed to accrue or arise in India: —
1. All incomes accruing or arising, whether directly or indirectly, through or from any **business connection** in India, or from **any property in India**, or **from any asset or source of income** in India, or through the transfer of a **capital asset** situated in India, i.e. if the source of income is in India, income shall be accruing/arising in India.

If the source is partly in India and partly outside India, income shall be accruing/arising in India only to the extent the source is in India.

**Example**
Mr. Bhaskar Ramamurthi is employed in Punjab National Bank and is posted in Delhi branch on the remuneration of `25,000 p.m. In this case, his income shall be deemed to be accruing/arising in India but if he is transferred to the London branch w.e.f 01.01.2014, his income accruing/arising in India shall be `2,25,000 i.e. salary upto 31.12.2013 and the income which is accruing/arising abroad shall be `75,000 (i.e. salary from 01.01.2014 to 31.03.2014)

**Business connection**
If any person has business in India as well as outside India, it will be called business connection and in case of such business, the income of the business deemed to accrue or arise in India shall be only such part of the income as is reasonably attributable to the operations carried out in India.

**Determination of income in the case of non-residents**  **Rule 10**
In any case in which the Assessing Officer is of opinion that the actual amount of the income accruing or arising to any non-resident person whether directly or indirectly, from any business connection in India or from any property in India or from any asset or source of income in India or from any money lent at interest cannot be definitely ascertained, the amount of such income for the purposes of assessment to income-tax may be calculated:—

(i) at such percentage of the turnover as the Assessing Officer may consider to be reasonable, or

(ii) on any amount which bears the same proportion to the total profits and gains of the business of such person, as the receipts so accruing or arising bear to the total receipts of the business or

(iii) in such other manner as the Assessing Officer may deem suitable.

"**Business connection**" shall also include any business activity carried out through a person who acting on behalf of the non-resident,—

(a) habitually exercises in India, an **authority to conclude contracts on behalf of the non-resident**, but if his activities are limited to the purchase of goods or merchandise for the non-resident, it will not be considered to be business connection.

(b) habitually **maintains in India a stock of goods** from which he regularly delivers goods on behalf of the non-resident or

(c) habitually **secures orders in India**, for the non-resident.

There is **no business connection in the following three cases**: 
(i) In the case of a non-resident, no income shall be deemed to accrue or arise in India to him from operations which are **confined to the purchase of goods in India for the purpose of export**.

**Example**
Mr. Ashok Jhunjhunwala a non-resident has one shop in New York for selling Indian readymade garments and all these garments are purchased from India. In this case, there is no business connection. However, if assessee is carrying out any other activity in India, it will be considered to be business connection.

**Example**
If in the above case the assessee has manufacturing unit in India, it will be considered to be a business connection.

(ii) In the case of a non-resident, being a person engaged in the **business of running a news agency or of publishing newspapers, magazines or journals**, no income shall be deemed to accrue or arise in India to him from activities which are confined to the collection of news and views in India for transmission out of India.

(iii) In the case of a non-resident, being:

(a) an individual who is not a citizen of India or

(b) a firm which does not have any partner who is a citizen of India or who is resident in India or

(c) a company which does not have any shareholder who is a citizen of India or who is resident in India.

No income shall be deemed to accrue or arise in India to such individual, firm or company from **operations which are confined to the shooting of any cinematograph film in India**.

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The expression ‘business’ does not necessarily mean only trade or manufacture rather it will include profession, vocation and calling. In the context in which the expression ‘business connection’ is used in section 9(1), there is no warrant for giving a restricted meaning to it excluding ‘professional’ connection, from its scope.

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2. If any person is holding shares of any Indian company, any capital gain on transfer of such shares shall be considered to be income accruing/arising in India even if shares were sold outside India.

An asset or a capital asset being any share or interest in a company or entity registered or incorporated outside India shall be deemed to be situated in India, if the share or interest derives, directly or indirectly, its value substantially from the assets located in India. (the amendment is to overrule the judgement in Vodafone case).

3. Income which falls under the head “Salaries”, if it is earned in India. Salary income payable for the rest period or leave period which is preceded and succeeded by services rendered in India and forms part of the service contract of employment, shall be regarded as income earned in India.

4. Income chargeable under the head “Salaries” payable by the Government to a citizen of India for services outside India.

**Example**
Mr. Anil Prabhakar is citizen of India and is an IFS. He is posted in Indian embassy in USA, in this case, his salary income shall be accruing/arising in India. (However under section 10(7), allowances and perquisites to such person are exempt from tax.)

5. A dividend paid by an Indian company outside India.
6. Income by way of interest payable by—
   (a) the Government

   Example
   If Central Government has taken a loan from an agency in USA, equivalent to Indian `1,000 lakh @ 10%, in this case, interest of `100 lakhs paid by the Government to such agency shall be considered to be the income of such agency accruing/arising in India.

   (b) a person who is a resident, except where the interest is payable in respect of any moneys borrowed and used, for the purposes of a business or profession carried on by such person outside India or for the purposes of making or earning any income from any source outside India.

   Example
   ABC Ltd. an Indian company has taken a loan from an agency in USA and the amount was utilised in USA. In this case, interest income shall be accruing/arising in USA.

   (c) a person who is a non-resident, where the interest is payable in respect of any moneys borrowed and used, for the purposes of a business or profession carried on by such person in India.

   Example
   Z Ltd. a non-resident company has taken a loan from outside India and loan amount was utilised in India in house property. In this case, interest income shall be accruing/arising abroad.

7. Income by way of royalty payable by—
   (a) the Government or

   (b) a person who is a resident or non-resident, except where the royalty is payable in respect of any right etc. utilised for the purposes of making or earning any income from any source outside India.

8. Income by way of fees for technical services payable by—
   (a) the Government or

   (b) a person who is a resident or non-resident, except where the fees are payable in respect of services utilised outside India for the purposes of earning any income from any source outside India.

Fees for Technical Services means any consideration for the rendering of Managerial, Technical or Consultancy Services.

If any income is accruing and arising in India relating to royalty or technical fees etc., it will be taxable in India in case of non-resident even if the non-resident do not have any Territorial Nexus with India i.e. such non-resident do not have a residence or place of business or business connection in India and also the non-resident has not rendered services in India.
INCOME RECEIVED IN INDIA

All assessees are liable to tax in respect of the income received or deemed to be received by them in India during the previous year.

The receipt of income refers to only the first occasion when the recipient gets the money under his control. Therefore, when once an amount is received as income, remittance or transmission of that amount from one place or person to another does not constitute receipt of income in the hands of the subsequent recipient or at the place of subsequent receipt.

Example
Mr. Ravi Puliani has one house in USA and rent has been received directly in India. It will be considered to be income received in India and it is chargeable to tax in case of all the three status, but if Mr. Ravi Puliani has one bank account with Bank of America, New York and rent has been deposited in that account and subsequently the bank has transferred the amount to Mr. Ravi Puliani in India, it will be considered to be income received outside India, because income has already been received outside India and subsequently it was remitted to India.

Similarly, if Mr. Ravi Puliani has income from agriculture in Nepal and it was deposited in the branch of an Indian bank in Nepal, subsequently the amount was remitted in India, it will be considered to be income received outside India.

MEANING OF INCOME DEEMED TO BE RECEIVED IN INDIA

SECTION 7

Under section 7, the following shall be deemed to be received by the assessee during the previous year irrespective of whether he had actually received the same or not –

(i) The annual accretion in the previous year to the balance to the credit of an employee participating in a recognised provident fund (RPF). Thus, the contribution of the employer in excess of 12% of salary or interest credited in excess of 9.5% p.a. is deemed to be received by the assessee.

(ii) The taxable transferred balance from unrecognized to recognized provident fund (being the employer’s contribution and interest thereon).

(iii) The contribution made by the Central Government or any other employer in the previous year to the account of an employee under a pension scheme referred to under section 80CCD.

Illustration 17: Mrs. X is a citizen of India and is employed in ABC Ltd. in India and is getting salary of ₹50,000 p.m. and she was transferred out of India w.e.f 01.09.2013 and for this purpose she left India on 01.09.2013 for the first time and she visited India from 27.12.2013 to 07.01.2014 and her salary for the month of Dec’ 2013 was received in India. Employer and employee both have contributed @ 13% (each) of salary to the recognized provident fund and during the year interest of ₹50,000 was credited to the recognized provident fund @ 10% p.a.

Compute her total income and tax liability in India for assessment year 2014-15.

(b) Presume she was transferred w.e.f 01.11.2013 and she left India on 01.11.2013 for the first time.

Solution:
In this case, Mrs. X is covered in special category and her stay in India is less than 182 days hence she will be non-resident and her incomes taxable in India shall be
### Residential Status & Scope of Total Income

- **Income accruing/arising in India**: 2,50,000.00
  - 50,000 x 5
- **Income received in India**: 50,000.00
  - 50,000 x 1
- **Income deemed to be received in India**

#### Employer contribution

- **Employer contribution**: 6,000.00
  - (50,000 x 12) x 1% (13% - 12%)

#### Interest in excess of 9.5%

- **Interest in excess of 9.5%**: 50,000 /10% x 0.5% = 2,500

#### Interest on employer contribution

- **Interest on employer contribution**: 1,250.00
  - 2,500 /2
  - (Interest on employee contribution i.e. `1,250 shall be taxable under the head Other Sources)

#### Gross Salary

- **Gross Salary**: 3,07,250.00

#### Income under the head Salary

- **Income under the head Salary**: 3,07,250.00

#### Income under the head Other Sources

- **Income under the head Other Sources**: 1,250.00

#### Gross Total Income

- **Gross Total Income**: 3,08,500.00

#### Less: Deduction u/s 80C

- **Contribution to recognized provident fund**: 78,000.00
  - (50,000 x 12) x 13%

#### Total Income

- **Total Income**: 2,30,500.00

### Computation of Tax Liability

- **Tax on `2,30,500 at slab rate**: 3,050.00
- **Add: Education cess @ 2%**: 61.00
- **Add: SHEC @ 1%**: 30.50
- **Tax Liability**: 3,141.50
- **Rounded off u/s 288B**: 3,140.00

**Note:** No rebate is allowed under section 87A because assessee is a Non-resident.

### Solution (b):

In this case, Mrs. X is covered in special category and her stay in India is more than 182 days hence she will be ROR and her incomes taxable in India shall be

- **Income accruing/arising in India**: 3,50,000.00
  - 50,000 x 7
- **Income received in India**: 50,000.00
  - 50,000 x 1
- **Income accruing/arising abroad / received abroad**: 2,00,000.00
  - 50,000 x 4

#### Employer contribution

- **Employer contribution**: 6,000.00
  - (50,000 x 12) x 1% (13% - 12%)

#### Interest in excess of 9.5%

- **Interest in excess of 9.5%**: 50,000 /10% x 0.5% = 2,500

#### Interest on employer contribution

- **Interest on employer contribution**: 1,250.00
2,500 /2
(Interest on employee contribution i.e. `1,250
shall be taxable under the head Other Sources)

Gross Salary 6,07,250.00
Income under the head Salary 6,07,250.00
Income under the head Other Sources 1,250.00
Gross Total Income 6,08,500.00
Less: Deduction u/s 80C 78,000.00
Contribution to recognized provident fund
(50,000 x 12) x 13%
Total Income 5,30,500.00

Computation of Tax Liability
Tax on `5,30,500 at slab rate 36,100.00
Add: Education cess @ 2% 722.00
Add: SHEC @ 1% 361.00
Tax Liability 37,183.00
Rounded off u/s 288B 37,180.00

INCOME ACCRUING/ARISING ABROAD AND RECEIVED ABROAD

As per section 5, if any income is accruing/arising abroad and is also received abroad, such income shall be exempt in case of non-resident and in case of not ordinarily resident. But resident and ordinarily resident has to pay tax on such income in India.

If there is any income from a business which is outside India but is controlled from India, income shall be taxable in case of resident and ordinarily resident and also in case of not ordinarily resident but non-resident shall be exempt.

Similarly, if the income is from a profession which was set up in India, income shall be taxable in case of resident and ordinarily resident and also in case of not ordinarily resident but non-resident shall be exempt. Profession set up in India means that it was originally setup in India and subsequently there was an expansion outside India.

Any past untaxed profits shall not be considered to be the income of the current year in any status i.e. ROR, NOR, NR.

Example
Mr. Rohit Solanki had income of `3,00,000 in the year 2010-11 but he has not disclosed the income. It was detected in the previous year 2013-14. In this case, it will not be considered to be income of 2013-14 in any status, rather it will be considered to be income of the year 2010-11.

Illustration 18: Mr. Akash Tanwar has income asunder:

1. He has income from a business in Germany amounting to `3,00,000 and half of it was received in India.
2. He has interest income of `1,00,000 from UK Development Bond and entire interest income was credited to a bank account in UK. Subsequently, the amount was transferred in India.
3. He has a business in Bombay and entire income of `3,00,000 was received in UK.
4. He has one house property in Ghaziabad and income of `5,00,000 was received in UK.
5. He has received salary income of `5,00,000 (computed) in India and half of the services were rendered in UK and half in India.

(Presume all the above incomes are computed incomes)

Compute his income presuming that he is NOR, NR and ROR.

**Solution:**

<table>
<thead>
<tr>
<th></th>
<th>ROR</th>
<th>NOR</th>
<th>NR</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Income received in India</td>
<td>1,50,000</td>
<td>1,50,000</td>
<td>1,50,000</td>
</tr>
<tr>
<td>Income accruing/arising abroad and received abroad</td>
<td>1,50,000</td>
<td>xxxxx</td>
<td>xxxxx</td>
</tr>
<tr>
<td>2. Income accruing/arising abroad and received abroad</td>
<td>1,00,000</td>
<td>xxxxx</td>
<td>xxxxx</td>
</tr>
<tr>
<td>3. Income accruing/arising in India</td>
<td>3,00,000</td>
<td>3,00,000</td>
<td>3,00,000</td>
</tr>
<tr>
<td>4. Income accruing/arising in India</td>
<td>5,00,000</td>
<td>5,00,000</td>
<td>5,00,000</td>
</tr>
<tr>
<td>5. Income received in India</td>
<td>5,00,000</td>
<td>5,00,000</td>
<td>5,00,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>17,00,000</strong></td>
<td><strong>14,50,000</strong></td>
<td><strong>14,50,000</strong></td>
</tr>
</tbody>
</table>

**Illustration 19:** Mr. Nishant Khurana earns the following income during the financial year 2013-14:

1. Income from house property in London, received in India 60,000
2. Profits from business in Japan and managed from there (received in Japan) 9,00,000
3. Dividend from foreign company, received in India 30,000
4. Dividend from Indian company, received in England 50,000
5. Profits from business in Kenya, controlled from India, Profits received in Kenya 3,00,000
6. Profits from business in Delhi, managed from Japan 7,00,000
7. Capital gains on transfer of shares of Indian companies, sold in USA and gains were received there 2,00,000
8. Pension from former employer in India, received in Japan 50,000
9. Profits from business in Pakistan, deposited in bank there 20,000
10. Profit on sale of asset in India but received in London 8,000
11. Past untaxed profits of UK business of 2012-13 brought into India in 2013-14 90,000
12. Interest on Government securities accrued in India but received in Paris 80,000
13. Interest on USA Government securities, received in India 20,000
14. Salary earned in Bombay, but received in UK 60,000
15. Income from property in Paris, received there 1,00,000
(Presume all the above incomes are computed incomes)

Determine the gross total income of Mr. Nishant Khurana if he is (i) resident and ordinarily resident, resident but not ordinarily resident, non-resident in India during the financial year 2013-14.

**Solution:**

<table>
<thead>
<tr>
<th></th>
<th>ROR</th>
<th>NOR</th>
<th>NR</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Income received in India</td>
<td>60,000</td>
<td>60,000</td>
<td>60,000</td>
</tr>
<tr>
<td>(2) Income accruing/arising and received outside India</td>
<td>9,00,000</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>(3) Income received in India</td>
<td>30,000</td>
<td>30,000</td>
<td>30,000</td>
</tr>
<tr>
<td>(4) Income accruing in India but exempt under section 10(34)</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>(5) Income accruing/arising and received outside India, but</td>
<td>3,00,000</td>
<td>3,00,000</td>
<td>—</td>
</tr>
<tr>
<td>business controlled from India</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(6) Income accruing/arising in India</td>
<td>7,00,000</td>
<td>7,00,000</td>
<td>7,00,000</td>
</tr>
<tr>
<td>(7) Income accruing/arising in India</td>
<td>2,00,000</td>
<td>2,00,000</td>
<td>2,00,000</td>
</tr>
<tr>
<td>(8) Income accruing/arising in India</td>
<td>50,000</td>
<td>50,000</td>
<td>50,000</td>
</tr>
<tr>
<td>(9) Income accruing/arising and received outside India</td>
<td>20,000</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>(10) Income accruing/arising in India</td>
<td>8,000</td>
<td>8,000</td>
<td>8,000</td>
</tr>
<tr>
<td>(11) Past untaxed profits</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>(12) Income accruing/arising in India</td>
<td>80,000</td>
<td>80,000</td>
<td>80,000</td>
</tr>
<tr>
<td>(13) Income received in India</td>
<td>20,000</td>
<td>20,000</td>
<td>20,000</td>
</tr>
<tr>
<td>(14) Income accruing/arising in India</td>
<td>60,000</td>
<td>60,000</td>
<td>60,000</td>
</tr>
<tr>
<td>(15) Income accruing/arising and received outside India</td>
<td>1,00,000</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td><strong>Gross Total Income</strong></td>
<td><strong>25,28,000</strong></td>
<td><strong>15,08,000</strong></td>
<td><strong>12,08,000</strong></td>
</tr>
</tbody>
</table>

**Illustration 20:** Lensel Optics Pvt. Ltd., an Indian company has an income of `30 lakhs from a business in India. This company has a business income of `12 lakhs from outside India. Out of which 7 lakhs were received in India and balance outside India.


**Solution:**

- Income from business in India: 30,00,000
- Income from outside India: 12,00,000
- Income under the head Business/Profession: 42,00,000
- Gross Total Income: 42,00,000
- Less: Deductions u/s 80C to 80U: Nil
- Total Income: 42,00,000

**Computation of Tax Liability**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tax on `42,00,000 @ 30%</td>
<td>12,60,000</td>
</tr>
<tr>
<td>Add: Education cess @ 2%</td>
<td>25,200</td>
</tr>
<tr>
<td>Add: SHEC @ 1%</td>
<td>12,600</td>
</tr>
<tr>
<td>Tax Liability</td>
<td>12,97,800</td>
</tr>
</tbody>
</table>

**Note:** Indian company is always considered to be resident in India and its incomes even earned and received outside India shall be chargeable to tax in India.

**Illustration 21:** Cisco Systems partnership firm has an income of `3 lakhs in India and income accruing/arising abroad and also received abroad `23 lakhs. It consists of two partners. Mr. Tajender Singh
who is an active partner, is staying outside India throughout the year. Mr. Virender Singh is a dormant partner and is staying in India throughout the year.

Compute tax liability of the partnership firm in India for the assessment year 2014-15.

(b) Also compute tax liability of the firm if Mr. Virender Singh is also an active partner.

**Solution:**

(a) Partnership firm is non-resident

Income from business/profession in India: 3,00,000

Gross Total Income: 3,00,000

Less: Deduction u/s 80C to 80U: Nil

Total Income: 3,00,000

Tax @ 30% + Education cess @ 2% + SHEC @ 1%: 92,700

(b) Partnership firm is resident

Income from business/profession: 26,00,000

Gross Total Income: 26,00,000

Less: Deduction u/s 80C to 80U: Nil

Total Income: 26,00,000

Tax @ 30% + Education cess @ 2% + SHEC @ 1%: 8,03,400

**Illustration 22:** Ashish had following income during the previous year ended 31\textsuperscript{st} March, 2014:

1. Salary received in India for three months (being computed income): 25,000
2. Income from house property in India: 18,000
3. Interest on savings bank deposit in SBI, in India: 4,000
4. Amount brought into India out of the past-untaxed profits earned in Germany: 20,500
5. Income from business in Bangladesh, being controlled from India: 12,542
6. Dividends received in Belgium from French companies, out of which 2,500 were remitted to India: 23,150

You are required to compute his gross total income for the assessment year 2014-15, if he is a

(a) resident and ordinarily resident;
(b) not ordinarily resident; and
(c) non-resident.

Presume all the above income is computed income.

**Solution:**

<table>
<thead>
<tr>
<th>Income Description</th>
<th>ROR</th>
<th>NOR</th>
<th>NR</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Salary received in India</td>
<td>25,000</td>
<td>25,000</td>
<td>25,000</td>
</tr>
<tr>
<td>• Taxable on receipt basis</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(2) Income from house property in India</td>
<td>18,000</td>
<td>18,000</td>
<td>18,000</td>
</tr>
<tr>
<td>• Income accruing/arising in India</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(3) Interest on savings bank deposit in SBI, in India</td>
<td>4,000</td>
<td>4,000</td>
<td>4,000</td>
</tr>
</tbody>
</table>
Illustration 23: Hemant Kumar, a foreign citizen (not being a person of Indian origin) came to India for the first time on 2nd December, 2013 for a visit of 210 days. Hemant Kumar had the following income during the previous year ended 31st March, 2014:

1. Salary (computed) received in India for three months 1,00,000
2. Income from house property in London (received there) 2,75,200
3. Amount brought into India out of the past-untaxed profits earned in Germany 80,000
4. Income from agriculture in Sri Lanka, received and invested there 12,300
5. Income from business in Nepal, being controlled from India 35,000
6. Income from house property in USA received in USA (76,000 is used in Canada for meeting the educational expenses of Hemant’s daughter and 10,000 is later on remitted in India) 86,000

You are required to compute his total income for the assessment year 2014-15.

Solution:

Hemant Kumar is a foreign citizen. He was in India during the previous year 2013-14 for 120 (30 + 31 + 28 + 31) days. Thus, he does not satisfy the first condition of 182 days. The second condition is also not satisfied as Hemant Kumar came to India for first time during the previous year 2013-14.

Hemant Kumar is therefore non-resident in India. The total income of Hemant Kumar for the assessment year 2014-15 will be:

1. Salary (computed) received in India for three months
   - Taxable on receipt basis 1,00,000
2. Income from house property in London (received there)
   - Not taxable as income is accruing & arising outside India and is also received outside India —
3. Amount brought in India out of the past-untaxed-profits earned in Germany
   - Not taxable as it is not income —
4. Income from agriculture in Sri Lanka being invested there
   - Income accrued and received outside India —
5. Income from business in Nepal, being controlled from India
   - Not taxable in the case of non-resident —
(6) Income from house property in USA received in USA
(‘76,000 is used in Canada or meeting the educational expenses of Hemant’s daughter and
‘10,000 is later on received in India)
  • Income accrued and received outside India

Gross Total Income
Less: Deduction u/s 80C to 80U
Total Income

Illustration 24: Mr. Vineet Tyagi earns the following incomes during the financial year 2013-14.

(1) Profits from a business in Japan, controlled from India,
(half of the profits received in India)
40,000
(2) Income from property in Bombay, received in UK
70,000
(3) Income from a property in USA, received there but subsequently remitted to India
200,000
(4) Income from property in USA, received there (‘50,000 remitted in India)
80,000
(5) Salary received in India for services rendered in USA
50,000
(6) Income from profession in Paris, which was set up in India, received in Paris
80,000
(7) Interest from deposit with an Indian company, received in Japan
9,000
(8) Income from profession in Bombay received in Paris
30,000
(9) Profits of business in Iran, deposited in a bank there, business controlled from India
(out of ‘4,00,000, ‘1,00,000 is remitted in India)
4,00,000
(10) Interest on German development bonds, half of which is received in India
10,000
(11) Income from property in Canada, one-fifth is received in India
50,000
(Presume all the above incomes are computed income i.e. all the exemptions and deductions have already been allowed)

Determine the gross total income of Mr. Vineet Tyagi if he is (i) resident and ordinarily resident, (ii) resident but not ordinarily resident, (iii) non-resident in India during the financial year 2013-14.

Solution:

<table>
<thead>
<tr>
<th></th>
<th>ROR</th>
<th>NOR</th>
<th>NR</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Income accruing/arising outside India from a business controlled in India, half of the income received in India</td>
<td>40,000</td>
<td>40,000</td>
<td>20,000</td>
</tr>
<tr>
<td>(2) Income accruing/arising in India</td>
<td>70,000</td>
<td>70,000</td>
<td>70,000</td>
</tr>
<tr>
<td>(3) Income accruing/arising outside India and received outside India</td>
<td>200,000</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>(4) Income accruing/arising outside India and received outside India</td>
<td>80,000</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>(5) Income received in India</td>
<td>50,000</td>
<td>50,000</td>
<td>50,000</td>
</tr>
<tr>
<td>(6) Income accruing/arising and received outside India, but profession set up in India</td>
<td>80,000</td>
<td>80,000</td>
<td>—</td>
</tr>
</tbody>
</table>
### Illustration 25: Determine the taxability of the following incomes in the hands of a resident and ordinarily resident, resident but not ordinarily resident, and non-resident for the A.Y. 2014-15 –

<table>
<thead>
<tr>
<th>Particulars</th>
<th>Amount (())</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Interest on UK Development Bonds, 50% of interest received in India</td>
<td>10,000</td>
</tr>
<tr>
<td>(2) Income from a business in Chennai (50% is received in India)</td>
<td>20,000</td>
</tr>
<tr>
<td>(3) Profits on sale of shares of an Indian company received in London</td>
<td>20,000</td>
</tr>
<tr>
<td>(4) Dividend from British company received in London</td>
<td>5,000</td>
</tr>
<tr>
<td>(5) Profits on sale of plant at Germany 50% of profits are received in India</td>
<td>40,000</td>
</tr>
<tr>
<td>(6) Income earned from business in Germany which is controlled from Delhi (40,000 is received in India)</td>
<td>70,000</td>
</tr>
<tr>
<td>(7) Profits from a business in Delhi but managed entirely from London</td>
<td>15,000</td>
</tr>
<tr>
<td>(8) Income from property in London deposited in a Indian Bank at London, brought to India</td>
<td>50,000</td>
</tr>
<tr>
<td>(9) Interest for debentures in an Indian company received in London.</td>
<td>12,000</td>
</tr>
<tr>
<td>(10) Fees for technical services rendered in India but received in London</td>
<td>8,000</td>
</tr>
<tr>
<td>(11) Profits from a business in Bombay managed from London</td>
<td>26,000</td>
</tr>
<tr>
<td>(12) Pension for services rendered in India but received in Burma</td>
<td>4,000</td>
</tr>
<tr>
<td>(13) Income from property situated in Pakistan received there</td>
<td>16,000</td>
</tr>
<tr>
<td>(14) Past foreign untaxed income brought to India during the previous year</td>
<td>5,000</td>
</tr>
<tr>
<td>(15) Income from agricultural land in Nepal received there and then brought to India</td>
<td>18,000</td>
</tr>
<tr>
<td>(16) Income from profession in Kenya which was set up in India, received there but spent in India</td>
<td>5,000</td>
</tr>
<tr>
<td>(17) Gift received on the occasion of his wedding</td>
<td>20,000</td>
</tr>
<tr>
<td>(18) Interest on savings bank deposit in State Bank of India</td>
<td>10,000</td>
</tr>
<tr>
<td>(19) Income from a business in Russia, controlled from Russia</td>
<td>20,000</td>
</tr>
<tr>
<td>(20) Dividend from Reliance Petroleum Limited, an Indian Company</td>
<td>5,000</td>
</tr>
<tr>
<td>(21) Agricultural income from a land in Rajasthan</td>
<td>15,000</td>
</tr>
</tbody>
</table>

### Solution:

#### Computation of Gross Total Income for the A.Y. 2014-15

<table>
<thead>
<tr>
<th>Particulars</th>
<th>Resident and ordinarily resident</th>
<th>Resident but not ordinarily resident</th>
<th>Non resident</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Interest on UK Development Bonds, 50% of interest received in India</td>
<td>10,000</td>
<td>5,000</td>
<td>5,000</td>
</tr>
<tr>
<td>(2) Income from a business in Chennai (50% is received in India)</td>
<td>20,000</td>
<td>20,000</td>
<td>20,000</td>
</tr>
<tr>
<td>(3) Profits on sale of shares of an Indian company received in London</td>
<td>20,000</td>
<td>20,000</td>
<td>20,000</td>
</tr>
<tr>
<td>(4) Dividend from British company received in London</td>
<td>5,000</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>(5) Profits on sale of plant at Germany 50% of profits are received in India</td>
<td>40,000</td>
<td>20,000</td>
<td>20,000</td>
</tr>
<tr>
<td>(6) Income earned from business in Germany which is controlled from Delhi, out of which ₹40,000 is received in India</td>
<td>70,000</td>
<td>70,000</td>
<td>40,000</td>
</tr>
<tr>
<td>(7) Profits from a business in Delhi but managed entirely from London</td>
<td>15,000</td>
<td>15,000</td>
<td>15,000</td>
</tr>
<tr>
<td>(8) Income earned from business in Germany which is controlled from Delhi, out of which ₹40,000 is received in India</td>
<td>70,000</td>
<td>70,000</td>
<td>40,000</td>
</tr>
<tr>
<td>(9) Profits from a business in Delhi but managed entirely from London</td>
<td>15,000</td>
<td>15,000</td>
<td>15,000</td>
</tr>
<tr>
<td>(10) Profits from a business in Bombay managed from London</td>
<td>26,000</td>
<td>26,000</td>
<td>26,000</td>
</tr>
<tr>
<td>(11) Profits from a business in Bombay managed from London</td>
<td>26,000</td>
<td>26,000</td>
<td>26,000</td>
</tr>
<tr>
<td>(12) Income from property in London deposited in a Bank at London, later on remitted to India</td>
<td>50,000</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>(13) Income from property in London deposited in a Bank at London, later on remitted to India</td>
<td>50,000</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>(14) Income from property in London deposited in a Bank at London, later on remitted to India</td>
<td>50,000</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>(15) Income from property in London deposited in a Bank at London, later on remitted to India</td>
<td>50,000</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>(16) Income from property in London deposited in a Bank at London, later on remitted to India</td>
<td>50,000</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>(17) Income from property in London deposited in a Bank at London, later on remitted to India</td>
<td>50,000</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>(18) Income from property in London deposited in a Bank at London, later on remitted to India</td>
<td>50,000</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>(19) Income from property in London deposited in a Bank at London, later on remitted to India</td>
<td>50,000</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>(20) Income from property in London deposited in a Bank at London, later on remitted to India</td>
<td>50,000</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>(21) Income from property in London deposited in a Bank at London, later on remitted to India</td>
<td>50,000</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Gross Total Income</td>
<td>3,49,000</td>
<td>2,15,000</td>
<td>1,80,000</td>
</tr>
</tbody>
</table>
PRACTICE PROBLEMS
TOTAL PROBLEMS 24

Problem 1 TO 10
Determine residential status of Mr. Naresh Jindal for the assessment year 2014-15, who stays in India during various financial years asunder:

<table>
<thead>
<tr>
<th>Previous Years</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
<th>8</th>
<th>9</th>
<th>10</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013-14</td>
<td>65</td>
<td>183</td>
<td>181</td>
<td>69</td>
<td>300</td>
<td>70</td>
<td>72</td>
<td>95</td>
<td>180</td>
<td>93</td>
</tr>
<tr>
<td>2012-13</td>
<td>91</td>
<td>90</td>
<td>87</td>
<td>110</td>
<td>97</td>
<td>99</td>
<td>94</td>
<td>92</td>
<td>91</td>
<td>90</td>
</tr>
<tr>
<td>2011-12</td>
<td>190</td>
<td>78</td>
<td>98</td>
<td>91</td>
<td>103</td>
<td>104</td>
<td>101</td>
<td>100</td>
<td>99</td>
<td>80</td>
</tr>
<tr>
<td>2010-11</td>
<td>89</td>
<td>120</td>
<td>189</td>
<td>196</td>
<td>110</td>
<td>98</td>
<td>97</td>
<td>96</td>
<td>95</td>
<td>90</td>
</tr>
<tr>
<td>2009-10</td>
<td>87</td>
<td>91</td>
<td>92</td>
<td>93</td>
<td>94</td>
<td>95</td>
<td>94</td>
<td>93</td>
<td>92</td>
<td>100</td>
</tr>
<tr>
<td>2008-09</td>
<td>86</td>
<td>99</td>
<td>92</td>
<td>95</td>
<td>99</td>
<td>100</td>
<td>101</td>
<td>100</td>
<td>99</td>
<td>90</td>
</tr>
<tr>
<td>2007-08</td>
<td>84</td>
<td>66</td>
<td>93</td>
<td>94</td>
<td>366</td>
<td>210</td>
<td>209</td>
<td>208</td>
<td>207</td>
<td>80</td>
</tr>
<tr>
<td>2006-07</td>
<td>105</td>
<td>210</td>
<td>91</td>
<td>93</td>
<td>—</td>
<td>0</td>
<td>91</td>
<td>92</td>
<td>91</td>
<td>90</td>
</tr>
<tr>
<td>2005-06</td>
<td>110</td>
<td>110</td>
<td>92</td>
<td>92</td>
<td>362</td>
<td>300</td>
<td>200</td>
<td>100</td>
<td>—</td>
<td>100</td>
</tr>
<tr>
<td>2004-05</td>
<td>112</td>
<td>94</td>
<td>93</td>
<td>91</td>
<td>10</td>
<td>99</td>
<td>88</td>
<td>77</td>
<td>66</td>
<td>110</td>
</tr>
<tr>
<td>2003-04</td>
<td>100</td>
<td>96</td>
<td>91</td>
<td>90</td>
<td>310</td>
<td>100</td>
<td>99</td>
<td>92</td>
<td>94</td>
<td>120</td>
</tr>
<tr>
<td>2002-03</td>
<td>91</td>
<td>199</td>
<td>90</td>
<td>89</td>
<td>210</td>
<td>92</td>
<td>94</td>
<td>96</td>
<td>98</td>
<td>130</td>
</tr>
<tr>
<td>2001-02</td>
<td>94</td>
<td>81</td>
<td>89</td>
<td>8</td>
<td>92</td>
<td>80</td>
<td>70</td>
<td>60</td>
<td>50</td>
<td>100</td>
</tr>
<tr>
<td>2000-01</td>
<td>97</td>
<td>82</td>
<td>88</td>
<td>87</td>
<td>88</td>
<td>55</td>
<td>65</td>
<td>75</td>
<td>85</td>
<td>80</td>
</tr>
<tr>
<td>1999-00</td>
<td>99</td>
<td>83</td>
<td>87</td>
<td>86</td>
<td>84</td>
<td>40</td>
<td>50</td>
<td>60</td>
<td>70</td>
<td>60</td>
</tr>
</tbody>
</table>

Answer = (1) ROR; (2) ROR; (3) ROR; (4) ROR; (5) ROR; (6) NOR; (7) ROR; (8) ROR; (9) ROR; (10) NR

Problem 11.
Mr. Andrew, a citizen of USA, has come to India for the first time on 01.07.2009. The particulars of his arrival and departure are as given below:

<table>
<thead>
<tr>
<th>Date of arrival</th>
<th>Date of departure</th>
</tr>
</thead>
<tbody>
<tr>
<td>27.03.2010</td>
<td>21.07.2010</td>
</tr>
<tr>
<td>10.09.2010</td>
<td>01.03.2011</td>
</tr>
<tr>
<td>01.01.2012</td>
<td>23.09.2012</td>
</tr>
<tr>
<td>01.02.2013</td>
<td>01.07.2013</td>
</tr>
<tr>
<td>11.02.2014</td>
<td></td>
</tr>
</tbody>
</table>

Determine his residential status for various years.

Answer = 2009-10 – Non-Resident (NR)
2010-11 – Resident but not ordinarily resident (NOR)
2011-12 – Resident but not ordinarily resident (NOR)
2012-13 – Resident but not ordinarily resident (NOR)
2013-14 – Resident and ordinarily resident (ROR)

Problem 12.
Mr. Daniel, a citizen of U.K., has come to India for the first time on 01.07.2009. The particulars of his arrival and departure are as given below:
Residential Status & Scope of Total Income

<table>
<thead>
<tr>
<th>Date of arrival</th>
<th>Date of departure</th>
</tr>
</thead>
<tbody>
<tr>
<td>01.07.2009</td>
<td>07.09.2009</td>
</tr>
<tr>
<td>01.01.2010</td>
<td>08.03.2010</td>
</tr>
<tr>
<td>11.07.2010</td>
<td>20.09.2010</td>
</tr>
<tr>
<td>10.02.2011</td>
<td>09.05.2011</td>
</tr>
<tr>
<td>01.01.2012</td>
<td>20.05.2012</td>
</tr>
<tr>
<td>11.03.2013</td>
<td>21.06.2013</td>
</tr>
<tr>
<td>27.03.2014</td>
<td></td>
</tr>
</tbody>
</table>

Determine his residential status for various years.

**Answer** = 2009-10 – Non-Resident (NR)
2010-11 – Non-Resident (NR)
2011-12 – Non-Resident (NR)
2012-13 – Resident but not ordinarily resident (NOR)
2013-14 – Resident but not ordinarily resident (NOR)

**Problem 13.**
Mr. Manmohan Sharma goes out of India every year for 274 days.

Determine his residential status for the previous year 2013-14.

**Answer** = Resident but not ordinarily resident (NOR)

**Problem 14.**
Mr. Rishab Patil, a citizen of Japan, has come to India for the first time on 01.10.2013 for 200 days.

Determine his residential status for the assessment year 2014-15.

**Answer** = Resident but not ordinarily resident (NOR)

**Problem 15.**
Mr. Matthew, a citizen of U.K. came to India for the first time on 01.07.2003 in connection with his employment. He left India on 01.11.2012 for taking up a job in USA. He again came to India on 01.01.2014 on a visit and left India on 01.03.2014.

Determine his residential status for the assessment year 2014-15.

**Answer** = Resident and ordinarily resident (ROR)

**Problem 16.**
Mr. Vikas Bedi, a citizen of India, is employed in Soliton Technologies, an Indian company. His employer has transferred him to his branch in Japan. Mr. Vikas Bedi left India on 29.09.2013 for his new posting in Japan.

Prior to this, Mr. Vikas Bedi was posted outside India for 11 months in the previous year 2008-09 and for 10.5 months in the year 2004-05.

**Answer** = Resident and ordinarily resident (ROR)
Problem 17.
Mr. Sameer Khanna, a German citizen, came to India on 23.05.2012 and left India on 30.05.2013.


Answer = Assessment Year 2013-14: Resident but not ordinarily resident (NOR)
Assessment Year 2014-15: Non-Resident (NR)

Problem 18.
Dr. Reddy’s Labs is an Indian company and has borrowed funds from bank of America, New York for investing it in one of its projects in USA. In this case, interest paid by Dr. Reddy’s Labs to bank of America shall be accruing/arising __________.

Answer = Outside India

Problem 19.
Calculate taxable income of an individual on the basis of the following informations, for the assessment year 2014-15, if he is:

(a) Ordinarily Resident
(b) Not Ordinarily Resident; and
(c) Non-Resident

(i) Profit from business in Japan received in India. 10,000
(ii) Income from agriculture in Pakistan – it is all spent on the education of children there 5,000
(iii) Income accrued in India but received in England 10,000
(iv) Income from house property in Pakistan deposited in a bank there 2,000
(v) Profits of business in America deposited in a bank there. This business is controlled from India 50,000
(vi) Profits earned from business in Meerut 12,000
(vii) Past untaxed foreign income brought into India during the previous year 10,000

(Presume that all the incomes are computed incomes)

Answer: Taxable Income: Resident and ordinarily resident (ROR): `89,000;
Resident but not ordinarily resident (NOR): `82,000;
Non-Resident (NR): `32,000

Problem 20.
Mr. Abhishek earns the following income during the previous year 2013-14.

Compute his gross total income for assessment year 2014-15 if he is

(i) resident and ordinarily resident.
(ii) resident but not ordinarily resident.
(iii) non-resident.

1. Income from agricultural land in Bhutan received there and remitted to India later on 40,000
2. Dividend from foreign company, received in India 50,000
3. Pension for service rendered in India, but received in Paris 15,000
4. Past untaxed profits of 2012-13 brought into India in 2013-14 50,000
5. Profits from business in Paris, deposited in bank there 1,00,000
6. Profits from business in Canada, controlled from India, profits received there 1,75,000
7. Interest on saving bank deposit in Punjab National Bank, in India 20,000
8. Capital gain on sale of a house in Delhi, amount received in Paris 2,00,000

**Answer:**
- Resident and ordinarily resident (ROR): `6,00,000
- Resident but not ordinarily resident (NOR): `4,60,000
- Non-Resident (NR): `2,85,000

**Problem 21.**
Mr. Brij Mohan earns the following income during the previous year 2013-14.

Compute his Gross total income for assessment year 2014-15 if he is

(i) resident and ordinarily resident.

(ii) resident but not ordinarily resident.

(iii) non-resident.

1. Dividend from an Indian company, received in Japan 60,000
2. Profit on sale of machinery in India, but received in Japan 1,20,000
3. Profits from business in Bombay, managed from Japan 2,25,000
4. Profits from business in Japan, managed from there, received there 1,45,000
5. Income from house property in India 1,50,000
6. Income from property in Japan and received there 1,50,000
7. Income from agriculture in Japan being invested there 75,000
8. Fees for technical services rendered in India but received in Japan 65,000
9. Interest on Government securities accrued in India but received in Japan 80,000
10. Interest on Japan Government securities, received in India 40,000
(Presume that all the incomes are computed incomes)

**Answer:**
- Resident and ordinarily resident (ROR): `10,50,000
- Resident but not ordinarily resident (NOR): `6,80,000
- Non-Resident (NR): `6,80,000

**Problem 22.**
Mr. Ashish Bhatia earns the following incomes during the financial year 2013-14.

1. Profits from a business in Japan, controlled from India, half of the profits received in India `60,000
2. Income from agriculture in Nepal, brought to India 10,000
3. Income u/h house property in Bombay, received in UK 1,70,000
4. Income u/h house property in USA, received there but subsequently remitted to India 2,20,000
5. Income u/h house property in USA, received there (`50,000 remitted in India) 1,00,000
6. Salary received in India for services rendered in USA 60,000
7. Income from profession in Paris, which was set up in India, received in Paris 90,000
8. Interest from deposit with an Indian company, received in Japan 19,000
9. Income from profession in Bombay received in Paris 39,000
10. Profits of business in Iran, deposited in a bank there, business controlled from India (out of `4,80,000, `1,00,000 is remitted in India) 4,80,000
11. Interest on German development bonds, half of which is received in India 12,000
12. Income under the head house property in Canada, one-fifth is received in India 50,000

(Presume all the above incomes are computed income i.e. all the exemptions and deductions have already been allowed)

Determine the gross total income of Mr. Ashish Bhatia if he is

(i) resident and ordinarily resident,

(ii) resident but not ordinarily resident,

(iii) non-resident in India during the financial year 2013-14.

**Answer:**
- Resident and ordinarily resident (ROR): `13,10,000
- Resident but not ordinarily resident (NOR): `9,34,000
- Non-Resident (NR): `3,34,000

**Problem 23.**
Mr. X is a citizen of India and is employed in ABC Ltd and is getting a salary of `60,000 p.m. He purchased one building in India on 1st May, 2013 for `10,00,000 and its market value is `22,00,000 and value for the
purpose of charging stamp duty is `13,00,000. He purchased gold for `8,00,000 and its market value is `11,00,000. He was transferred out of India w.e.f. 1st Sept, 2013 and he left India on 1st Sept, 2013 and one of his friend gifted him one colour TV on this occasion, market value `1,00,000.

He has gone out of India in earlier years also.

<table>
<thead>
<tr>
<th>P.Y.</th>
<th>Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012-13</td>
<td>100</td>
</tr>
<tr>
<td>2011-12</td>
<td>200</td>
</tr>
</tbody>
</table>

He visited India from 01.02.2014 to 14.02.2014 and salary for January, 2014 was received in India. He has taken a loan from outside India on 01.01.2014 and amount was invested in shares of an Indian Company and received dividend of `30,000 outside India.

He has purchased one house property in USA in December 2013 and sold in March 2014 and there were short term capital gain of `6,00,000 and the amount was received in USA.


**Answer:** Tax Liability: `1,25,660

**Problem 24.**

Mrs. X is employed in ABC Ltd in India and she is an American citizen and is getting a salary of `2,00,000 p.m. She purchased shares of a foreign Company on 01.07.2013 and received dividend of `3,00,000 on 01.08.2013 in India and again dividend of `2,00,000 on 01.03.2014 in USA.

She received gift of one painting in India from her friend on 01.07.2013 and its market value is `49,000 and she also received gift in cash of `49,000 from the same friend and gift of immovable property with value for the purpose of charging stamp duty is `51,000 from the same friend.

She purchased UK Development bond and interest equivalent of `2,00,000 was received in USA.

She visited USA for 182 days during P.Y. 2013-14.

In the earlier year her stay in India was

<table>
<thead>
<tr>
<th>P.Y.</th>
<th>Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012-13</td>
<td>110</td>
</tr>
<tr>
<td>2011-12</td>
<td>120</td>
</tr>
<tr>
<td>2010-11</td>
<td>300</td>
</tr>
<tr>
<td>2009-10</td>
<td>182</td>
</tr>
<tr>
<td>2008-09</td>
<td>185</td>
</tr>
<tr>
<td>2007-08</td>
<td>200</td>
</tr>
<tr>
<td>2006-07</td>
<td>300</td>
</tr>
</tbody>
</table>

Compute her tax liability in India for the A.Y. 2014-15.

**Answer:** Tax Liability: `7,98,560
SOLUTIONS TO PRACTICE PROBLEMS

Solution 1:
2013-14   Resident
2012-13   Resident
2011-12   Resident
2010-11   Non-Resident
2009-10   Resident
2008-09   Resident
2007-08   Resident
2006-07   Resident
2005-06   Resident
2004-05   Resident
2003-04   Resident

Total stay in 7 years preceding the relevant previous year is 732 days.

Since the assessee is not able to comply with any of the conditions of section 6(6)(a), as listed below, he will be considered to be ROR.

1. He is non resident in India in at least nine out of ten previous years preceding that year.
   
   or

2. He has during the seven previous years preceding that year been in India for a period of 729 days or less.

Solution 2:
2013-14   Resident
2012-13   Resident
2011-12   Resident
2010-11   Resident
2009-10   Resident
2008-09   Resident
2007-08   Resident
2006-07   Resident
2005-06   Resident
2004-05   Resident
2003-04   Resident

Total stay in 7 years preceding the relevant previous year is 754 days.

Since the assessee is not able to comply with any of the conditions of section 6(6)(a), as listed below, he will be considered to be ROR.

1. He is non resident in India in at least nine out of ten previous years preceding that year.
or
2. He has **during the seven previous** years preceding that year been in India for a period of 729 days or less.

**Solution 3:**
2013-14   Resident
2012-13   Resident
2011-12   Resident
2010-11   Resident
2009-10   Resident
2008-09   Resident
2007-08   Resident
2006-07   Resident
2005-06   Non-Resident
2004-05   Non-Resident
2003-04   Non-Resident

Total stay in 7 years preceding the relevant previous year is 742 days.

Since the assessee is not able to comply with any of the conditions of section 6(6)(a), as listed below, he will be considered to be ROR.

1. He is **non resident in India** in at least **nine out of ten previous years** preceding that year.
   or
2. He has **during the seven previous** years preceding that year been in India for a period of 729 days or less.

**Solution 4:**
2013-14   Resident
2012-13   Resident
2011-12   Resident
2010-11   Resident
2009-10   Resident
2008-09   Resident
2007-08   Resident
2006-07   Non-Resident
2005-06   Non-Resident
2004-05   Non-Resident
2003-04   Non-Resident

Total stay in 7 years preceding the relevant previous year is 772 days.

Since the assessee is not able to comply with any of the conditions of section 6(6)(a), as listed below, he will be considered to be ROR.

1. He is **non resident in India** in at least **nine out of ten previous years** preceding that year.
   or
2. He has **during the seven previous** years preceding that year been in India for a period of 729 days or less.

**Solution 5:**
2013-14   Resident
2012-13   Resident
2011-12 Resident
2010-11 Resident
2009-10 Resident
2008-09 Resident
2007-08 Resident
2006-07 Non-Resident
2005-06 Resident
2004-05 Non-Resident
2003-04 Resident

Total stay in 7 years preceding the relevant previous year is 869 days.

Since the assessee is not able to comply with any of the conditions of section 6(6)(a), as listed below, he will be considered to be ROR.

1. He is non resident in India in at least nine out of ten previous years preceding that year.
   or
2. He has during the seven previous years preceding that year been in India for a period of 729 days or less.

**Solution 6:**
2013-14 Resident
2012-13 Resident
2011-12 Resident
2010-11 Resident
2009-10 Resident
2008-09 Resident
2007-08 Resident
2006-07 Non-Resident
2005-06 Resident
2004-05 Non-Resident
2003-04 Non-Resident

Total stay in 7 years preceding the relevant previous year is 706 days.

Since the assessee is able to comply with any of the conditions of section 6(6)(a), as listed below, he will be considered to be NOR.

1. He is non resident in India in at least nine out of ten previous years preceding that year.
   or
2. He has during the seven previous years preceding that year been in India for a period of 729 days or less.

**Solution 7:**
2013-14 Resident
2012-13 Resident
2011-12 Resident
2010-11 Resident
2009-10 Resident
2008-09 Resident
2007-08 Resident
2006-07 Resident
2005-06 Resident

Caultimates.com
2004-05  Non-Resident  
2003-04  Non-Resident

Total stay in 7 years preceding the relevant previous year is 787 days.

Since the assessee is not able to comply with any of the conditions of section 6(6)(a), as listed below, he will be considered to be ROR.

1. He is **non resident in India** in at least **nine out of ten previous years** preceding that year.  
or  
2. He has **during the seven previous** years preceding that year been in India for a period of 729 days or less.

**Solution 8:**  
2013-14  Resident  
2012-13  Resident  
2011-12  Resident  
2010-11  Resident  
2009-10  Resident  
2008-09  Resident  
2007-08  Resident  
2006-07  Resident  
2005-06  Non-Resident  
2004-05  Non-Resident  
2003-04  Non-Resident

Total stay in 7 years preceding the relevant previous year is 781 days.

Since the assessee is not able to comply with any of the conditions of section 6(6)(a), as listed below, he will be considered to be ROR.

1. He is **non resident in India** in at least **nine out of ten previous years** preceding that year.  
or  
2. He has **during the seven previous** years preceding that year been in India for a period of 729 days or less.

**Solution 9:**  
2013-14  Resident  
2012-13  Resident  
2011-12  Resident  
2010-11  Resident  
2009-10  Resident  
2008-09  Non-Resident  
2007-08  Resident  
2006-07  Non-Resident  
2005-06  Non-Resident  
2004-05  Non-Resident  
2003-04  Non-Resident

Total stay in 7 years preceding the relevant previous year is 774 days.

Since the assessee is not able to comply with any of the conditions of section 6(6)(a), as listed below, he will be considered to be ROR.
1. He is **non resident in India** in at least **nine out of ten previous years** preceding that year.

or

2. He has **during the seven previous** years preceding that year been in India for a period of 729 days or less.

**Solution 10:**
Mr. Naresh Jindal is in India for 60 days or more in 2013-14 but for less than 365 days in 4 years immediately preceding 2013-14, so he is non-resident in 2013-14.

**Solution 11:**
Stay of Mr. Andrew in various years is as given below.

**In P.Y. 2009-10**

Days of stay in India are 169, so Mr. Andrew is non-resident.

**In P.Y. 2010-11**

Days of stay in India are 285. So, he is resident and also he is non-resident in at least 9 years out of 10 years preceding the relevant previous year, hence he is NOR.

**In P.Y. 2011-12**
{January – 31, February – 29, March – 31}

Days of stay in India are 91. So, he is resident and also he is non-resident in at least 9 years out of 10 years preceding the relevant previous year, hence he is NOR.

**In P.Y. 2012-13**

Days of stay in India are 235. So, he is resident and also his stay during seven years preceding the relevant previous year is 729 days or less, hence he is NOR.

**In P.Y. 2013-14**
{April – 30, May – 31, June – 30, July – 1, February – 18, March – 31}

Days of stay in India are 141 and during the previous 4 years his stay is for 365 days or more so he is resident and also he is ROR because he is not able to fulfil any of the conditions of section 6(6)(a), i.e.

1. He is **non resident in India** in at least **nine out of ten previous years** preceding that year.

or

2. He has **during the seven previous** years preceding that year been in India for a period of 729 days or less.

Hence he is ROR.

**Solution 12:**
**In P.Y. 2009-10**
Days of stay in India are 136, so Mr. Daniel is non-resident.

**In P.Y. 2010-11**
{July – 21, August – 31, September – 20, February – 19, March – 31}

Days of stay in India are 122, so, he is non-resident.

**In P.Y. 2011-12**
{April – 30, May – 9, January – 31, February – 29, March – 31}

Days of stay in India are 130, so, he is non-resident.

**In P.Y. 2012-13**
{April – 30, May – 20, March – 21}

Days of stay in India are 71 and also he stays for 365 days or more during 4 years preceding the relevant previous year and also he is able to comply with at least one of the conditions of section 6(6)(a) as given below.

1. He is non resident in India in at least **nine out of ten previous years** preceding that year.
2. He has during the **seven previous** years preceding that year been in India for a period of 729 days or less.

Hence he is NOR.

**In P.Y. 2013-14**
{April – 30, May – 31, June – 21, March – 5}

Days of stay in India are 87 and during the previous 4 years his stay is more than 365 days. So he is resident but not ordinarily resident because he is able to fulfill at least one of the two condition given u/s 6(6)(a).

**Solution 13:**
Since he is out of India every year for 274 days so his days of stay in India are –

<table>
<thead>
<tr>
<th>Year</th>
<th>Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013-14</td>
<td>91</td>
</tr>
<tr>
<td>2012-13</td>
<td>91</td>
</tr>
<tr>
<td>2011-12</td>
<td>92</td>
</tr>
<tr>
<td>2010-11</td>
<td>91</td>
</tr>
<tr>
<td>2009-10</td>
<td>91</td>
</tr>
</tbody>
</table>

So his stay in India during the seven years immediately preceding the relevant previous year is less than 729 days, so he is resident but not ordinarily resident.

**Solution 14:**
Days of stay in India in P.Y. 2013-14 are 182.

So he is resident and also he will be able to comply with at least one of the conditions of section 6(6)(a) as
given below.

1. He is **non resident in India** in at least **nine out of ten previous years** preceding that year.

or

2. He has **during the seven previous** years preceding that year been in India for a period of 729 days or less.

Hence he is NOR.

**Solution 15:**

His days of stay in India are as under –

**In P.Y. 2003-04**  
275 days  

**In P.Y. 2004-05**  
365  

**In P.Y. 2005-06**  
365  

**In P.Y. 2006-07**  
365  

**In P.Y. 2007-08**  
366  

**In P.Y. 2008-09**  
365  

**In P.Y. 2009-10**  
365  

**In P.Y. 2010-11**  
365  

**In P.Y. 2011-12**  
366  

**In P.Y. 2012-13**  
215  

**In P.Y. 2013-14**  
60  
{January – 31, February – 28, March – 1}

He is resident in 2013-14 but he is not able to comply with any of the conditions of section 6(6)(a) hence he is resident and ordinarily resident.

**Solution 16:**

His days of stay in India during 2013-14 are 182.  

So Mr. Vikas Bedi is resident in previous year 2013-14 and also he is not able to comply with any of the conditions of section 6(6)(a) hence he will be considered to be ROR.

**Solution 17:**

His days of stay in India in year 2012-13 are 313.  
So he is resident and he is also able to comply with one of the condition of section 6(6)(a) hence he will be considered to be resident but not ordinarily resident.

His days of stay in India in 2013-14 are 60.
{April – 30 and May – 30}

So he is non–resident in the year 2013-14.

**Solution 18:**
It will be accruing arising abroad because if any loan has been taken by a person resident in India from outside India then interest income shall be accruing arising in India only if such resident has utilised the loan amount in India.

**Solution 19:**

<table>
<thead>
<tr>
<th>Particulars</th>
<th>ROR</th>
<th>NOR</th>
<th>NR</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) Income accruing/arising outside India but received in India</td>
<td>10,000</td>
<td>10,000</td>
<td>10,000</td>
</tr>
<tr>
<td>(ii) Income accruing/arising outside India and also received abroad.</td>
<td>5,000</td>
<td>-----</td>
<td>-----</td>
</tr>
<tr>
<td>(iii) Income accruing/arising in India</td>
<td>10,000</td>
<td>10,000</td>
<td>10,000</td>
</tr>
<tr>
<td>(iv) Income accruing/arising outside India and also received abroad.</td>
<td>2,000</td>
<td>-----</td>
<td>-----</td>
</tr>
<tr>
<td>(v) Income accruing/arising outside India and also received outside India but from a business controlled from India</td>
<td>50,000</td>
<td>50,000</td>
<td>-----</td>
</tr>
<tr>
<td>(vi) Income accruing/arising in India</td>
<td>12,000</td>
<td>12,000</td>
<td>12,000</td>
</tr>
<tr>
<td>(vii) Past profits</td>
<td>-----</td>
<td>-----</td>
<td>-----</td>
</tr>
<tr>
<td><strong>Taxable Income</strong></td>
<td>89,000</td>
<td>82,000</td>
<td>32,000</td>
</tr>
</tbody>
</table>

**Solution 20:**

<table>
<thead>
<tr>
<th>Particulars</th>
<th>ROR</th>
<th>NOR</th>
<th>NR</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Income accruing/arising outside India and received outside India</td>
<td>40,000</td>
<td>-----</td>
<td>-----</td>
</tr>
<tr>
<td>(2) Income received in India</td>
<td>50,000</td>
<td>50,000</td>
<td>50,000</td>
</tr>
<tr>
<td>(3) Income accruing/arising in India</td>
<td>15,000</td>
<td>15,000</td>
<td>15,000</td>
</tr>
<tr>
<td>(4) Past profits</td>
<td>-----</td>
<td>-----</td>
<td>-----</td>
</tr>
<tr>
<td>(5) Income accruing/arising and received outside India</td>
<td>1,00,000</td>
<td>-----</td>
<td>-----</td>
</tr>
<tr>
<td>(6) Income accruing/arising and received outside India, but business controlled from India</td>
<td>1,75,000</td>
<td>1,75,000</td>
<td>-----</td>
</tr>
<tr>
<td>(7) Income deemed to be accruing/ arising in India</td>
<td>20,000</td>
<td>20,000</td>
<td>20,000</td>
</tr>
<tr>
<td>(8) Income deemed to be accruing/ arising in India</td>
<td>2,00,000</td>
<td>2,00,000</td>
<td>2,00,000</td>
</tr>
<tr>
<td><strong>Gross Total Income</strong></td>
<td>6,00,000</td>
<td>4,60,000</td>
<td>2,85,000</td>
</tr>
</tbody>
</table>

**Solution 21:**

<table>
<thead>
<tr>
<th>Particulars</th>
<th>ROR</th>
<th>NOR</th>
<th>NR</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Income accruing/arising in India but exempt u/s 10(34)</td>
<td>-----</td>
<td>-----</td>
<td>-----</td>
</tr>
<tr>
<td>(2) Income accruing/ arising in India</td>
<td>1,20,000</td>
<td>1,20,000</td>
<td>1,20,000</td>
</tr>
<tr>
<td>(3) Income accruing/ arising in India</td>
<td>2,25,000</td>
<td>2,25,000</td>
<td>2,25,000</td>
</tr>
<tr>
<td>(4) Income accruing/ arising and received outside India</td>
<td>1,45,000</td>
<td>-----</td>
<td>-----</td>
</tr>
<tr>
<td>(5) Income accruing/ arising in India</td>
<td>1,50,000</td>
<td>1,50,000</td>
<td>1,50,000</td>
</tr>
<tr>
<td>(6) Income accruing/ arising outside India and received outside India</td>
<td>1,50,000</td>
<td>-----</td>
<td>-----</td>
</tr>
<tr>
<td>(7) Income accruing/ arising outside India and received outside India</td>
<td>75,000</td>
<td>-----</td>
<td>-----</td>
</tr>
</tbody>
</table>
Solution 22:

<table>
<thead>
<tr>
<th>Description</th>
<th>ROR</th>
<th>NOR</th>
<th>NR</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Income accruing/arising outside India from a business controlled in</td>
<td>60,000</td>
<td>60,000</td>
<td>30,000</td>
</tr>
<tr>
<td>India, half of the income received in India</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(2) Income accruing/arising outside India and received outside India</td>
<td>10,000</td>
<td>-----</td>
<td>-----</td>
</tr>
<tr>
<td>(3) Income accruing/arising in India</td>
<td>1,70,000</td>
<td>1,70,000</td>
<td>1,70,000</td>
</tr>
<tr>
<td>(4) Income accruing/arising outside India and received outside India</td>
<td>2,20,000</td>
<td>-----</td>
<td>-----</td>
</tr>
<tr>
<td>(5) Income accruing/arising outside India and received outside India</td>
<td>1,00,000</td>
<td>-----</td>
<td>-----</td>
</tr>
<tr>
<td>(6) Income received in India</td>
<td>60,000</td>
<td>60,000</td>
<td>60,000</td>
</tr>
<tr>
<td>(7) Income accruing/arising and received outside India, but profession</td>
<td>90,000</td>
<td>90,000</td>
<td>-----</td>
</tr>
<tr>
<td>set up in India</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(8) Income accruing/arising in India</td>
<td>19,000</td>
<td>19,000</td>
<td>19,000</td>
</tr>
<tr>
<td>(9) Income accruing/arising in India</td>
<td>39,000</td>
<td>39,000</td>
<td>39,000</td>
</tr>
<tr>
<td>(10) Income accruing/arising outside India and received outside India,</td>
<td>4,80,000</td>
<td>4,80,000</td>
<td>-----</td>
</tr>
<tr>
<td>but business controlled from India</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(11) Income accruing/arising outside India, half received outside India</td>
<td>12,000</td>
<td>6,000</td>
<td>6,000</td>
</tr>
<tr>
<td>and half in India</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(12) Income accruing/arising outside India, 4/5th received outside India</td>
<td>50,000</td>
<td>10,000</td>
<td>10,000</td>
</tr>
<tr>
<td>and 1/5th in India</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Gross Total Income</strong></td>
<td>13,10,000</td>
<td>9,34,000</td>
<td>3,34,000</td>
</tr>
</tbody>
</table>

Solution 23:
Since Mr. X is covered in special category and will be resident, if his stay in India in relevant previous year is 182 days or more, hence Mr. X is a non–resident as his stay in India is less than 182 days and his income taxable in India shall be

**Income under the head Salary**
Income accruing/arising in India 3,00,000.00
(60,000 x 5)
Income received in India 60,000.00
(60,000 x 1)
Gross Salary 3,60,000.00
Income under the head Salary 3,60,000.00

**Income under the head Other Sources**
Gift of gold (`11,00,000 – `8,00,000) 3,00,000.00
Gift of building (`13,00,000 – `10,00,000) 3,00,000.00
Income under the head Other Sources 6,00,000.00

Gross Total Income 9,60,000.00
Less: Deduction u/s 80C to 80U Nil
Total Income 9,60,000.00

**Computation of Tax Liability**
Tax on `9,60,000 at slab rate 1,22,000.00
Add: Education cess @ 2%  \hspace{1cm} 2,440.00  
Add: SHEC @ 1%  \hspace{1cm} 1,220.00  
Tax Liability  \hspace{1cm} 1,25,660.00  

**Note:** STCG is received in USA is not taxable in India as the assessee is a non-resident.

**Solution 24:**

In this case, Mrs. X stays in India for more than 182 days during the previous year 2013-14 and also she is not able to comply with any of the conditions of section 6(6)(a), she will be considered to be ROR.

Her incomes taxable in India shall be

<table>
<thead>
<tr>
<th>Income under the head Salary</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Income accruing/arising in India</td>
<td>24,00,000.00</td>
</tr>
<tr>
<td>(2,00,000 x 12)</td>
<td></td>
</tr>
<tr>
<td>Gross Salary</td>
<td>24,00,000.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Income under the head Other Sources</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Dividend from foreign company (Received in India)</td>
<td>3,00,000.00</td>
</tr>
<tr>
<td>Gift from friend (immovable property)</td>
<td>51,000.00</td>
</tr>
<tr>
<td>Dividend from foreign company (Received in USA)</td>
<td>2,00,000.00</td>
</tr>
<tr>
<td>Interest from UK Development bond (Received in USA)</td>
<td>2,00,000.00</td>
</tr>
<tr>
<td>Income under the head Other Sources</td>
<td>7,51,000.00</td>
</tr>
</tbody>
</table>

Gross Total Income  \hspace{1cm} 31,51,000.00  
Less: Deduction u/s 80C to 80U  \hspace{1cm} Nil  
Total Income  \hspace{1cm} 31,51,000.00  

**Computation of Tax Liability**

| Tax on `31,51,000 at slab rate | 7,75,300.00 |
| Add: Education cess @ 2% | 15,506.00 |
| Add: SHEC @ 1% | 7,753.00 |
| Tax Liability | 7,98,559.00 |
| Rounded off u/s 288B | 7,98,560.00 |
EXAMINATION QUESTIONS

PCC  MAY – 2012

Question 3  (4 Marks)
Discuss the correctness or otherwise of the statement – “Income deemed to accrue or arise in India to a non-
resident by way of interest, royalty and fees for technical services is to be taxed irrespective of territorial
nexus”.
Answer:
As per section 9, if any income is accruing and arising in India relating to royalty or technical fees etc., it
will be taxable in India in case of non-resident even if the non-resident do not have any Territorial Nexus
with India i.e. such non-resident do not have a residence or place of business or business connection in India
and also the non-resident has not rendered services in India. E.g. If Suzuki Incorporation of Japan a non-
resident company has provided technical know-how in India to Maruti Udyog Limited, an Indian company
in Gurgaon and has received `300,00,000 in this case, such income is deemed to be accruing/arising in India
and is taxable in India even if Suzuki Incorporation do not have any Territorial Nexus with India i.e. the
company do not have place of residence or place of business in India.

IPCC  NOV – 2011

Question 6  (4 Marks)
Brett Lee, an Australian cricket player visits India for 100 days in every financial year. This has been his
practice for the past 10 financial years. Find out his residential status for the assessment year 2014-2015.
Answer:
An individual is said to be resident in India in any previous year, if he complies with at least one of the
following conditions:-

(a) He is in India in that year for a period amounting in all to 182 days or more, or
(b) He is in India in that year for a period amounting in all to 60 days or more and also for 365 days or more
during four years preceding the relevant previous year.

Since, Brett Lee has complied with the second condition hence he is resident.

Further more, an individual shall be considered to be not ordinarily resident in India in case his stay in India
is 729 days or less during preceding seven years or he is non-resident in atleast 9 years during preceding 10
years.

Since stay of Brett Lee during preceding seven years is 700 days. Hence, he is NOR.

PCC  NOV – 2011

Question 5  (5 Marks)
Mr. David (Citizen of India) a Government employee serving in the Ministry of External Affairs left India
for the first time on 31.03.2013 due to his transfer to Indian High Commission in Canada. He did not visit
any time during previous year 2013-14. He has received the following income for the Previous Year 2013-
14.

(i) Salary  
5,00,000

(ii) Interest on fixed deposit from bank in India  
1,00,000

(iii) Income from agriculture in Pakistan  
2,00,000

(iv) Income from house property in Pakistan  
2,50,000
Compute his gross total income for Assessment Year 2014-15.

**Answer:**
Mr. David is a non-resident in the previous year 2013-14 as he doesn’t come to India during the year.

**Computation of Gross total income of Mr. David for A.Y. 2014-15**

**Income under the head Salary**
- Salary income \{Taxable as it is deemed to be earned in India u/s 9\} 5,00,000
- Income under the head Salary 5,00,000

**Income under the head Other Sources**
- Interest on FDR 1,00,000
- Income from agriculture in Pakistan (assumed to be received outside India) Nil
- Income from house property in Pakistan (assumed to be received outside India) Nil
- Income under the head Other Sources 1,00,000

**Income under the head House Property**
- Income from house property in Pakistan Nil
- Income under the head House Property 1,00,000

Gross Total Income 6,00,000

---

**Question 2** (4 Marks)
Miss Vivitha paid a sum of 5000 USD to Mr. Kulasekhara, a management consultant practicing in Colombo, specializing in project financing. The payment was made in Colombo. Mr. Kulasekhara is a non-resident. The consultancy related to a project in India with possible Ceylonese collaboration. Is this payment chargeable to tax in India in the hands of Mr. Kulasekhara, since the services were used in India?

**Answer:**
A non-resident is chargeable to tax in respect of income received outside India only if such income accrues or arises or is deemed to accrue or arise to him in India.

The income deemed to accrue or arise in India under section 9 comprises, *inter alia*, income by way of fees for technical services, which includes any consideration for rendering of any managerial, technical or consultancy services. Therefore, payment to a management consultant relating to project financing is covered within the scope of “fees for technical services”.

Income by way of fees for technical services, from services utilized in India would be deemed to accrue or arise in India in case of a non-resident and be included in his total income, whether or not such services were rendered in India.

In the instant case, since the services were utilized in India, the payment received by Mr. Kulasekhara, a non-resident, in Colombo is chargeable to tax in his hands in India, as it is deemed to accrue or arise in India. (*inter alia* means in addition to)

---

**Question 1** (5 Marks)
Mr. Ram an Indian citizen left India on 22.09.2013 for the first time to work as an officer of a company in Germany.

Determine the residential status of Ram for the assessment year 2014-15 and explain the conditions to be fulfilled for the same under the Income-tax Act, 1961. (Modified)
Under section 6(1), an individual is said to be resident in India in any previous year if he satisfies any one of the following conditions –

(i) He has been in India during the previous year for a total period of 182 days or more, or
(ii) 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 at least 60 days in the previous year.

In the case of Indian citizens leaving India for employment, the period of stay during the previous year must be 182 days instead of 60 days given in (ii) above.

During the previous year 2013-14, Mr. Ram, an Indian citizen, was in India for 175 days only (i.e. 30 + 31 + 30 + 31 + 31 + 22 days). Thereafter, he left India for employment purposes. Since he does not satisfy the minimum criteria of 182 days, he is a non-resident for the A.Y. 2014-15.

### Question 3

From the following particulars of Income furnished by Mr. Anirudh pertaining to the year ended 31.03.2014, compute the total income for the assessment year 2014-15, if he is:

(i) Resident and ordinary resident;
(ii) Resident but not ordinary resident;
(iii) Non-resident:

<table>
<thead>
<tr>
<th>Particulars</th>
<th>Amount ()</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Profit on sale of shares in Indian Company received in Germany</td>
<td>15,000</td>
</tr>
<tr>
<td>(b) Dividend from a Japanese Company received in Japan</td>
<td>10,000</td>
</tr>
<tr>
<td>(c) Income from business in London deposited in a bank in London,</td>
<td>75,000</td>
</tr>
<tr>
<td>later on remitted to India through approved banking channels</td>
<td></td>
</tr>
<tr>
<td>(d) Dividend from RP Ltd., an Indian Company</td>
<td>6,000</td>
</tr>
<tr>
<td>(e) Agricultural income from lands in Gujarat</td>
<td>25,000</td>
</tr>
</tbody>
</table>

**Computation of Total Income of Mr. Anirudh for the A.Y. 2014-15**

<table>
<thead>
<tr>
<th>Particulars</th>
<th>Resident &amp; ordinarily resident</th>
<th>Resident but not ordinarily resident</th>
<th>Non-Resident</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Profit on sale of shares of an Indian company, received in Germany</td>
<td>15,000</td>
<td>15,000</td>
<td>15,000</td>
</tr>
<tr>
<td>b) Dividend from a Japanese company, received in Japan</td>
<td>10,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c) Income from business in London deposited in a bank in London</td>
<td>75,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d) Dividend from RP Ltd., an Indian Company [See Note (i) below]</td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td>e) Agricultural income from land in Gujarat [See Note (ii) below]</td>
<td>-</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Question 1
Answer the following with reasons having regard to the provisions of the Income-Tax Act, 1961 for the Assessment Year 2014-15:

(i) State the Scope of total income in the case of an individual, whose residential status is ‘non-resident’ with reference to section 5(2) of the Act.

(ii) Mr. X a citizen of India received salary from the Government of India for the services rendered outside India. Is the salary income chargeable to tax?

Answer.
(i) The scope of total income of a non-resident as per section 5(2) includes following incomes:

(i) any income which is received or is deemed to be received in India during the relevant previous year by or on behalf of such person; or

(ii) any income which accrues or arises or is deemed to accrue or arise to him in India during the relevant previous year.

(ii) As per Section 9, salaries payable by the Government to a citizen of India for services rendered outside India is deemed to accrue or arise in India. Hence, salary received by Mr. X, a citizen of India, from the Government of India for services rendered outside India is chargeable to tax under the head ‘Salaries’.

Question 4
Determine the taxability of income of US based company Heli Ltd., in India on entering following transactions during the financial year 2013-14:

(i) `5 lacs received from an Indian domestic company for providing technical know how in India.

(ii) `6 lacs from an Indian firm for conducting the feasibility study for the new project in Finland.

(iii) `4 lacs from a non-resident for use of patent for a business in India.

(iv) `8 lacs from a non-resident Indian for use of know how for a business in Singapore.

(v) `10 lacs for supply of manuals and designs for the business to be established in Singapore.

Explain the rate of tax applicable on taxable income for US based company, Heli Ltd., in India. (Modified)

Answer.
A non resident is chargeable to tax in India in respect of following incomes:

(i) Income received or deemed to be received in India.
(ii) Income accruing or arising or deemed to accrue or arise in India.

In view of the above provisions, taxability of income is determined in the following manner:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Transaction details</th>
<th>Amount ()</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i)</td>
<td>Amount received from an Indian domestic company for providing technical know how in India is taxable in India</td>
<td>5 Lacs</td>
</tr>
<tr>
<td>(ii)</td>
<td>Conducting the feasibility study for the new project in Finland for the Indian firm is not taxable in India as it is for the business outside India.</td>
<td>Nil</td>
</tr>
<tr>
<td>(iii)</td>
<td>Money received from a non resident for use of patent for a business in India is taxable in India</td>
<td>4 Lacs</td>
</tr>
<tr>
<td>(iv)</td>
<td>Money received from a non resident Indian for use of know-how for a business in Singapore is for the business outside India, therefore not taxable in India.</td>
<td>Nil</td>
</tr>
<tr>
<td>(v)</td>
<td>Payment received for supply of manuals and designs for the business to be established in Singapore is not taxable in India.</td>
<td>Nil</td>
</tr>
</tbody>
</table>

**Total Income in India**

9 Lacs

The basic normal rate applicable for the US based company who is a foreign company is 40% In case the taxable income is more than 1 crore but upto `10 crore in the previous year, the surcharge @ 2% is applicable. The education cess, Secondary and Higher education cess is payable @ 3%.

**PCC JUNE – 2009**

**Question 1**

(2 MARKS)

State with reason, whether the following statements are True or False:

Mr. X, Karta of HUF, claims that the HUF is non-resident as the business of HUF is transacted from UK and all the policy decisions are taken there.

**Answer.**

True, A HUF is considered to be a non-resident where the control and management of its affairs are situated wholly outside India. In the given case, since all the policy decisions of HUF are taken from UK, the HUF is a non-resident.

**PE-II NOV – 2009**

**Question 1**

(10 Marks)

Mr. Rakesh and Mr. Anish are brothers and they earned the following incomes during the financial year 2013-14. Mr. Rakesh settled in U.K. in the year 1975 and Mr. Anish settled in Surat. Compute the gross total income for the Assessment Year 2014-15.

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Particulars</th>
<th>Mr. Rakesh</th>
<th>Mr. Anish</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Interest on U.K. development bonds, 50% of interest received in India</td>
<td>25,000</td>
<td>20,000</td>
</tr>
<tr>
<td>2.</td>
<td>Dividend from British Company received in London</td>
<td>8,000</td>
<td>10,000</td>
</tr>
<tr>
<td>3.</td>
<td>Profit from a business in Mumbai, but managed directly from London</td>
<td>10,000</td>
<td>12,000</td>
</tr>
<tr>
<td>4.</td>
<td>Profit on sale of shares of an Indian company received in India</td>
<td>50,000</td>
<td>80,000</td>
</tr>
</tbody>
</table>
Residential Status & Scope of Total Income

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Particulars</th>
<th>Mr. Rakesh Non-Resident</th>
<th>Mr. Anish ROR</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Interest on U.K. Development Bonds</td>
<td>12,500</td>
<td>20,000</td>
</tr>
<tr>
<td>2.</td>
<td>Dividend from British Company received in London</td>
<td>-</td>
<td>10,000</td>
</tr>
<tr>
<td>3.</td>
<td>Profit from a business in Mumbai but managed directly from London</td>
<td>10,000</td>
<td>12,000</td>
</tr>
<tr>
<td>4.</td>
<td>Profit on sale of shares of an Indian company received in India</td>
<td>50,000</td>
<td>80,000</td>
</tr>
<tr>
<td>5.</td>
<td>Income from a business in Delhi</td>
<td>20,000</td>
<td>20,000</td>
</tr>
<tr>
<td>6.</td>
<td>Fees for technical services rendered in India but received in London</td>
<td>1,00,000</td>
<td>-</td>
</tr>
<tr>
<td>7.</td>
<td>Interest on fixed deposit in SBI Bangalore</td>
<td>5,000</td>
<td>15,000</td>
</tr>
<tr>
<td>8.</td>
<td>Agricultural income from a land situated in Rajasthan [(Exempt u/s.10(1)]</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>9.</td>
<td>Income under the head House Property at Bangalore</td>
<td>50,400</td>
<td>33,600</td>
</tr>
</tbody>
</table>

Gross Total Income

2,47,900 1,90,600

Notes:
1. Dividend received from British company in London, by a non-resident assessee is not taxable income, while the same received by an ROR assessee is taxable and is not exempt under section 10(34) of Income Tax Act, 1961.

2. Agricultural income from a land situated in the State of Rajasthan, is exempted under section 10(1) of Income tax Act, 1961 in case of both non-resident and resident assessee.

PE-II MAY – 2008

Question 3 (1 Marks)
Choose the correct answer with reference to the provisions of the Income-tax Act, 1961:

Income accruing in Japan and received there is taxable in India in the case of –

(a) Resident and ordinarily resident only
(b) Both resident and ordinarily resident and resident but not ordinarily resident
PCC  MAY – 2007

Question 1  (2 Marks)
State with reasons, whether the following statements are true or false, with regard to the provisions of the Income-tax Act, 1961:

Only individuals and HUFs can be resident, but not ordinarily resident in India; firms can be either a resident or non-resident.

Answer.
True: A person is said to be “not-ordinarily resident” in India if he satisfies either of the conditions given in sub-section (6) of section 6. This sub-section relates to only individuals and Hindu Undivided Families. Therefore, only individuals and Hindu undivided families can be resident, but not ordinarily resident in India. All other classes of assesses can be either a resident or non-resident for the purpose of income-tax. A firm can, therefore, either be a resident or non-resident.

PE-II  MAY – 2006

Question 2  (4 Marks)
Mr. A, left for USA on 01.05.2013. He has not visited India thereafter. Mr. A borrows money from his friend Mr. B, who left India one week before Mr. A’s departure, to the extent of `10 lakhs and buys shares in X Ltd., an Indian company. Discuss the taxability of the interest charged @10% in B’s hands where the same has been received in New York.

Answer:
Stay of Mr. A and Mr. B during the previous year 2013-14 is less than 60 days hence both of them are non-residents as per section 6(1).

As per section 9, if any non-resident has taken loan from outside India and the loan was utilised in India in any source other than business or profession, interest received by the person who has given the loan shall not be considered to be accruing/arising in India and is not taxable in India. In the given case, loan amount was invested in the shares of an Indian company hence interest received by Mr. B shall not be considered to be income accruing/arising in India.

PE-II  NOV – 2002

Question 3  (3 Marks)
In the year 2013-2014 (Previous year), a sailor has remained on ship for a private company owning ocean going ships as follows:

1. Outside the territorial waters of India for 183 days.
2. Inside the territorial waters of India for 182 days.

Is he considered to be resident or not for the Assessment Year 2014-15 (Previous Year 2013-2014). Comment.

Answer:
An individual is treated as a resident in India in any previous year if he fulfills atleast one of the following two conditions laid down in section 6(1):

(a) He is in India for a period or periods amounting to 182 days or more in that year; or
(b) In the preceding four years, he has been India for 365 days or more, and has been in India for 60 days or more in that year.
In the given case, period of stay in India is 182 days. Therefore, the sailor is treated as a resident in India for the assessment year.

**PE-II MAY – 1998**

**Question 2**

Mr. Nixon, an American citizen, is appointed by a multi-national company to its branch in New Delhi in 2010. Mr. Nixon has never been to India before this appointment. He arrives in Bombay on 15th April, 2010 and joins the New Delhi office on 20th April, 2010. His wife and children join him in India on 20th October, 2010. The company allotted him a leased residence for purposes of his stay. This residence is occupied by him from the beginning of October, 2010.

On 10th February, 2011, he is transferred by his employer, on deputation basis, to be the Regional Chief of his employer’s operations in South East Asia having headquarters in Hongkong. He leaves New Delhi on 11th February and arrives in Hongkong on 12th February, 2011. Mr. Nixon leaves behind his wife and children in India till 14th August, 2012, when they leave along with him for Hongkong. Mr. Nixon had come to India earlier on 15th June, 2012, on two months’ leave. The members of the family occupied the residence till date of departure to Hongkong.

At the end of the period of deputation, Mr. Nixon is reposted to India and joins the New Delhi office of his employer as Chief of Indian operations on 2nd February, 2014.

In what residential status Mr. Nixon will be assessable, for the various years, to income tax in India?

**Answer:**

The period of stay of Mr. Nixon for various years is given below:

<table>
<thead>
<tr>
<th>P.Y.</th>
<th>A.Y.</th>
<th>Period of stay</th>
<th>Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010-11/</td>
<td>2011-12</td>
<td>303</td>
<td></td>
</tr>
<tr>
<td>2011-12/</td>
<td>2012-13</td>
<td>Nil</td>
<td></td>
</tr>
<tr>
<td>2012-13/</td>
<td>2013-14</td>
<td>61</td>
<td></td>
</tr>
<tr>
<td>(June – 16, July – 31, August – 14)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2013-14/</td>
<td>2014-15</td>
<td>58</td>
<td></td>
</tr>
<tr>
<td>(February – 27, March – 31)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Under section 6(1) of the Act, an individual is said to be resident in India in any previous year if he satisfies one of the following basic conditions:

(i) is in India in the previous year for a period of 182 days or more;
(ii) is in India for a period of 60 days or more in the previous year and 365 days or more during the four years preceding the previous year.

A person will be considered to be ‘not ordinarily resident’ if he satisfies any of the following two conditions viz;

(i) he has been a non resident in India in 9 out of 10 previous years preceding the relevant previous year; or
(ii) he has been in India for a period of 729 days or less in 7 previous years preceding the relevant previous year.

Maintenance of a residence in India or the stay of the wife and children in India are not relevant for determining the residential status of Mr. Nixon.

In the above background, Mr. Nixon’s case will be decided as under:

(i) **P.Y. 2010-11/A.Y. 2011-12**: has been in India for 303 days. He will be a resident under the basic conditions. Since his stay in seven years preceding the relevant previous year is Nil i.e. 729 days or less, hence he will be NOR

(ii) **P.Y. 2011-12/A.Y. 2012-13**: has not been in India at all; though his wife and children continue to reside in New Delhi, he will be a non-resident for this year.

(iii) **P.Y. 2012-13/A.Y. 2013-14**: has been in India for 61 days. He satisfies one limit of the basic condition but having been in India for a period amounting to 303 days only in the four previous years preceding this year and not 365 days, he will be non-resident for this year.

(iv) **P.Y. 2013-14/A.Y. 2014-15**: has been in India for 58 days, he will be non-resident.
EXERCISES

1. If Anirudh has stayed in India in the P.Y. 2013-14 for 181 days, and he is non-resident in 9 out of 10 years immediately preceding the current previous year and he has stayed in India for 365 days in all in the 4 years immediately preceding the current previous year and 420 days in all in the 7 years immediately preceding the current previous year, his residential status for the A.Y.2014-15 would be –
   a) Resident and ordinarily resident
   b) Resident but not ordinarily resident
   c) Non-resident

2. Raman was employed in Hindustan Lever Ltd. He received a salary at ` 40,000 p.m. from 01.04.2013 to 27.09.2013. He resigned and left for Dubai for the first time on 01.10.2013 and got salary of rupee equivalent of `80,000 p.m. from 01.10.2013 to 31.03.2014. His salary for October to December 2013 was credited in his Dubai bank account and the salary for January to March 2014 was credited in his Bombay account directly. He is liable to tax in respect of –
   a) Income received in India from Hindustan Lever Ltd;
   b) Income received in India and in Dubai;
   c) Income received in India from Hindustan Lever Ltd and income directly credited in India;

3. A company, other than an Indian company, would be a resident in India for the P.Y.2013-14 if, during that year, its control and management is situated –
   a) wholly in India
   b) partly in India
   c) wholly or partly in India.

4. Income accruing in London and received there is taxable in India in the case of -
   a) resident and ordinarily resident only
   b) both resident and ordinarily resident and resident but not ordinarily resident
   c) both resident and non-resident

5. When is an individual said to be “Resident and ordinarily resident” under the Income-tax Act, 1961?

6. Define royalty as per section 9 of the Income-tax Act, 1961?

7. Write short notes on -
   a) Business connection
   b) Income deemed to accrue or arise in India.

8. Discuss the provisions relating to determination of residential status of individuals.

9. When are the following income deemed to accrue or arise in India?
   a) Interest
   b) Fees for technical services.

10. Discuss the correctness or otherwise of the statement – “Income deemed to accrue or arise in India to a non-resident by way of interest, royalty and fees for technical services is to be taxed irrespective of territorial nexus.”

11. Explain the term “Business Connection” under section 9(1).

Answers
1. b; 2. b; 3. a; 4. a.