

Chapter-2 :- Residential Status & Total Scope of Income

In this chapter we discuss ki Hum Jo Income Earn kr rhe hai, whether such income will be "Taxable in India" or NOT. Such income will be "Taxable in India" or NOT depend on "Residential status" of such person and "Source of Income" for that P.Y. In earlier Chapter we discuss how to compute "Tax Payable" by Person.

In this Chapter we discuss following Point

- ① Residential status
- ② Source of Income (i.e. Indian Income / Foreign Income)
- ③ Income Taxable in India or NOT.

General Point regarding this Chapter

- ① Residential status or Residency are different
- ② A person can have different residential status in different year.
- ③ A person can have different residential status in different country.
- ④ Residential status is determined for each category of person separately.
- ⑤ Residential status is always determined for P.Y. Bcoz we have to determine the total income of the P.Y.

Residential Status KYA HOTA HAI? In simple word, Bole TOH PERSON KHA UC RESIDENT Income kr rha hai. Residential status Person to Person VARY Krta hai.

Different Category of Residential Status



Conclusion:- ① An Individual/HUF can have following Residential status

- Resident and ordinary resident in India.
- Resident but not ordinary resident in India.
- Non Resident in India

② Other than can have following Residential status

- Resident in India
- Non Resident in India.

(A) Residential Status for Individual:- Depend on how many day's stay in India during the relevant P.Y. For determination of Residential status for Individual we first find out such Individual **Resident in India or Not**. Then after we find out that such Individual **Ordinary Resident or not Ordinary resident**. Common following to be consider while determination of residential status -

- 24 Hrs shall be treated as ONE Day.
- If Exact No of Hrs not available then the day entering into India and day of leaving India, both should be counted in India.
- The purpose of stay is not relevant.
- Continuous stay is not required.

Whether Individual Resident or Not? An individual is a resident in India if

① such individual satisfies any one of the following two conditions:
 such individual stay in India for a period of at least 182 days in a R.P.Y

OR
 ② such individual stay in India for at least 60 days in a R.P.Y AND has been in India for at least 365 days during four immediately preceding previous years from R.P.Y

In these three exceptional cases the second condition is not relevant. (i.e. an individual is resident only if his/her stay in India during the R.P.Y. is at least 182 days)

- An Indian citizen who moved outside India for employment purpose.
- An Indian citizen being a member of Indian ship and the ship moved outside India.
- An Indian citizen or a person of Indian origin who normally resides outside India, come India for visit purpose.

Person of Indian Origin:-

A person shall be deemed to be of Indian Origin if :-

→ He; or

→ Either of his parents; or

→ His grand-parents (whether maternal or paternal) was born in undivided India.

Example:-

Year	Situation I	Situation II	Situation III	Situation IV	Situation V
2015-16	300	—	100	365	200
2016-17	200	—	100		300
2017-18	100	—	100		100
2018-19	150	—	100		200
2019-20	190	190	100	100	50

Whether Individual is ordinary resident in India or Not ordinary Resident in India

A resident individual shall be termed as **ordinary resident in India** if he follows Two **Additional Condition** must be satisfied, otherwise he shall be **Not ordinary resident in India**.

Add Cond ⁿ	✓	✓	✗	✗
Add Cond ⁿ	✓	✗	✓	✗
Status	Ordinary resident	Not ordinary resident	Not ordinary resident	Not ordinary resident

He was resident in India for at least 7 years out of 10 years immediately preceding the R.Y.

(a)

AND

He stay in India for at least 730 days during 7 years immediately preceding the R.Y.

(b)

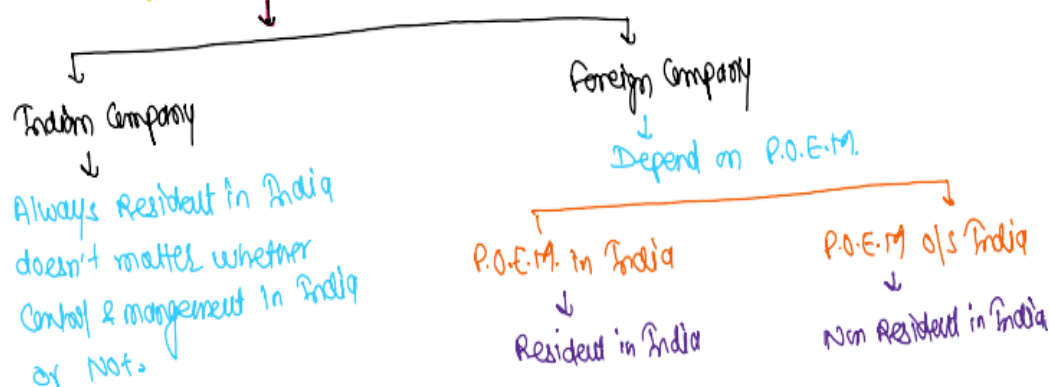
Year	I	II	III	IV	V	VI	VII	VIII
2009-10	365	0	0	100	200	365	140	100
2010-11	365	0	0	80	300	365	365	100
2011-12	365	0	0	100	100	18	365	100
2012-13	365	0	0	140	100	18	365	100
2013-14	365	0	0	70	365	17	365	100
2014-15	365	0	0	160	365	15	365	100
2015-16	365	0	365	90	365	16	30	100
2016-17	365	0	365	150	365	70	80	100
2017-18	365	0	365	200	365	14	60	100
2018-19	365	0	365	200	365	10	40	100
2019-20	365	182	180	160	50	188	180	100
Answer								

(B) Residential status for HUF :- An HUF shall be termed as **Resident in India** depend on **Control & Management**. A resident of HUF shall be termed as **ordinary resident in India** if 'KARTA' of HUF satisfies both **Additional Condition**.

Control & mgt	Status
Wholly in India	Resident in India
Partly in India & Partly outside India	Resident in India
Wholly outside India	Non Resident in India

For determination of ordinary or not ordinary same parameter of Individual applicable.

(C) Residential status of a Company



(D) Other than D/HUF Company → Depend on Control & Management

Control & mgt	Status
Wholly in India	Resident in India
Partly in India & Partly Outside India	Resident in India
Wholly outside India	Non Resident in India

② Source of Income :- source of Income Hume Ye BTAYEGA KI HUM INCOME KHA SE EARN KR RHE HAI. HUM INCOME YA TO INDIA SE EARN KR RHE HONGE YA FOR INCOME OUTSIDE INDIA SE EARN KR RHE HONGE. ES TARIKE SE HUM BOL SKTE HAI KI INCOME YA TO INDIAN INCOME HOGI YA FOR FOREIGN INCOME.

INDIAN INCOME

Following income Consider as Indian Income

- Income received in India. (no matter where it is earned)
- Income earned/Accrue/Aries in India. (no matter where it is received)
- Deemed to be Received in India.
- Deemed to be Accrued in India

- Property Income
- Business Connection Income

NRI → Dependental Agent

- Contract
- Stock of goods
- Order

FOREIGN INCOME

Other than India Income called as Foreign Income.

- Employer Contribution to R.P.F In excess of 12% of Salary
- Interest credited to R.P.F in Excess of 8.5%
- T. D. S. in Hand of Payee
- Cash Credit, Un Explained Investment Un Explained Money.

- Salary Income (Indian Resident + Govt of India + working in India)
- Dividend Paid by Indian Co
- Int / Royalty / Technical fee
Payee Condition

Govt of India	No Condition
Resident in India	Amount not used in India for earning Income
N.R.I	Amount used in India for earning Income

③ Scope of Income / Incidence of Tax / INCOME PR TAX KHA PAY KRDA HAI ?

JESA KI HUM PHLE HI DISCUSS KR CHUKE HAI INCOME KI TAXABILITY "Residential status" AND "Source of Income" SE PTA CHLTA HAI.

For Individual / HUF

Particular	ROR	RBNOR	NR
Indian Income	Taxable in India	Taxable in India	Taxable in India
Foreign Income	Taxable in India	In following two cases Income Taxable in India. <ul style="list-style-type: none"> • Business: - if business controlled & managed wholly or partly in India. • Profession: - if profession set up in India. 	NOT Taxable in India

Other than I/HUF

Particular	R	NR
Indian Income	Taxable in India	Taxable in India
Foreign Income	Taxable in India	NOT Taxable in India

Illustration 1: Different situations are covered in the table given below –

Nature of Income	Reasons	Conclusion – Is it taxable in India for the assessment year 2019-20		
		Resident and ordinarily resident	Resident but not ordinarily resident	Non Resident
1. Rental income of Rs.36,000 is received in India on May 10, 2018 (it may accrued outside India or in India)	It is Indian income, Indian income is always taxable	Yes	Yes	Yes
2. Interest income of Rs. 46,000 accrues in India on March 31, 2019 (it may accrued outside India or in India)	It is Indian income, Indian income is always taxable	Yes	Yes	Yes
3. Income of Rs. 56,000 is deemed to be received in India on April 20, 2018(it may accrued outside India or in India)	It is Indian income, Indian income is always taxable	Yes	Yes	Yes
4. Income of Rs. 66,000 is deemed accrue or arise in India during the previous year 2018-19(it may accrued outside India or in India)	It is Indian income, Indian income is always taxable	Yes	Yes	Yes

<p>5. Business income/ professional income of Rs. 76,000 is received and accrued outside India during the previous year 2018-19 (business is controlled from outside India or profession is set up outside India)</p>	<p>It is foreign income. It is taxable in the case of resident and ordinarily resident taxpayer. It is not taxable in the case of a non-resident. Since it is business/profession income and business is controlled from outside India or profession is set up outside India, it is not taxable in the case of resident but not ordinarily resident taxpayer.</p>	<p>Yes</p>	<p>No</p>	<p>No</p>
<p>6. In situation 5, suppose business is controlled from India or profession is set up in India</p>	<p>It is foreign income. Since it is business/ professional; income and the business is controlled from India or profession is set up in India, it is taxable in all cases except non- resident.</p>	<p>Yes</p>	<p>Yes</p>	<p>No</p>
<p>7. Rental income or salary income or interest income of Rs. 86,000 is received outside India in the previous year 2018-19 and at the same time it accrues or arises outside India</p>	<p>It is foreign income. It is taxable in the case of resident and ordinarily resident taxpayer. It is not taxable in the case of non-resident. Since it is foreign income which is neither business income, it is not taxable in the case of resident but not ordinarily resident</p>	<p>Yes</p>	<p>No</p>	<p>No</p>
<p>8. Gift of Rs. 2 lakh received outside India by an individual on November 6, 2018 from a friend.</p>	<p>It is foreign income. It is taxable in the case of resident and ordinarily resident taxpayer. It is not taxable in the case of non-resident. Since it is foreign income which is neither business income, it is not taxable in the case of resident but not ordinarily resident</p>	<p>Yes</p>	<p>No</p>	<p>No</p>
<p>9. Gift of Rs. 1 lakh received in Delhi by an individual on November 30, 2018 from a friend.</p>	<p>It is Indian income, Indian income is always taxable</p>	<p>Yes</p>	<p>Yes</p>	<p>Yes</p>
<p>10. Income of Rs. 96,000 earned and received outside India in 2003-04 but later on remitted to India in 2018-19.</p>	<p>This income pertains to the previous year 2003-04. It cannot be taxed at the time of remittance in 2018-19</p>	<p>No</p>	<p>No</p>	<p>No</p>