

Residential Status

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Part - I

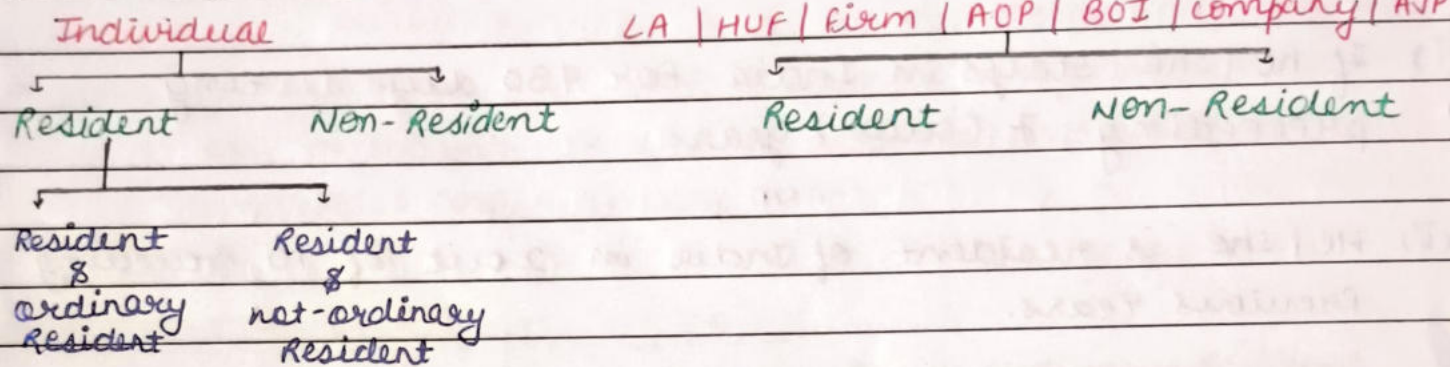
Part - II

Section - 6

Section - 5

Determination of
residential status

Scope of total Income



Conditions for being a resident of India :-

(i) If individual was in India for a period of 182 days or more in previous year.

OR

(ii) Stayed in India for 60 days or more in previous year

AND

Stayed in India for 365 days or more in exceeding 4 (four) previous years.

→ If individual fulfills any one of the above conditions he/she will become resident of India

→ Days of leaving India or arriving India will also be included.

Example :- Mr. X came India on 27/7/2023 and left
on 10/12/2023.

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$$\rightarrow 5 + 31 + 30 + 31 + 30 + 10$$

$$= 137$$

[Non-Resident]

Additional conditions for checking if individual is Resident & ordinary resident and Resident & non-ordinary Resident.

(i) If he/she stays in India for 730 days during preceeding 7 (seven) years

AND

(ii) He/she is resident of India in 2 out of 10 Preceeding Previous Years.

If assessee fulfills both additional conditions then he/she will be Resident & ordinary Resident otherwise Resident & non ordinary Resident.

Exceptions of 2nd Basic Conditions :-

Indian Citizen

Left India

↓
Employment / Business

↓
Crew Member of ship

↓
certificate of Discharge (COD)

Join

13/12/2022

Off

24/02/2023

Total stay xxx

COD (xxx)

actual stay xxx

Indian citizen or person of India origin who came to India for visit purpose

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upto Indian Income

1500000

Basic condition

(182 days in P/Y)

Indian Income exceeds

1500000

(i) 120 days or more

(ii) 365 days in 4 (four) P/Y

Here, Person of Indian origin means any individual or his parents or grand parents were born in undivided India (before 1947).

Deemed Resident U/S 6(1A)

↳ always Resident & not ordinary Resident

(i) Indian citizen

+

(ii) Indian Income is above 1500000 in Previous Year

+

(iii) Not liable to pay tax in any other country.

Following individual are always considered as Resident & not ordinary Resident [RNOR]

(i) Deemed Resident

OR

(ii) Indian citizen or person of Indian origin visit India and Indian income exceeds 15 lakhs

AND

(iii) Stay in India is more than 120 days in Previous year and 365 day or more in 4 (four) Preceding Previous year.

Resident status of HUF

↓
Resident

If control & Management of business affairs is wholly or partly from India.

↓
Non-Resident

If control & Management of business affairs is wholly from outside India.

Resident
&
Ordinary
Resident
↓

If karta fulfills both additional conditions

Resident
&
not ordinary
Resident
↓

If karta doesn't fulfill any both additional conditions

Residential status for Firm | AOP | BOI | LA | ATP

↓
Resident

If control & Management of Business affairs are wholly or Partly from India.

↓
Non-Resident

If control & management of Business affairs is wholly from outside of India.

Residential Status of a Company

↓
Indian

↓
Always Resident

↓
foreign

Resident if place of effective management is in India.

PART - II
Section - 5
Scope Of Total Income

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Nature of Income	ROR	RNOR	NR
	Sec 5(1)	Sec 5(1)	Sec 5(2)
* Income Received or deemed to received in India [Indian Income]	✓	✓	✓
* Income accrues / arise or deemed to accrue / arise in India [Indian Income]	✓	✓	✓
* Income accrue or arise and received outside India [Foreign Income]			
→ Business or Profession controlled / or settled in India	✓	✓	×
→ Business or profession controlled / outside India	✓	×	×

Note → (a) Past untaxed foreign Income is not taxable is exempted for all. [ROR | RNOR | NR]

(b) Remittance (₹ भेजना) is not Income so it is not taxable in Hands of Recipient.

Deemed to be received or accrued

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- Contribution made to RPF (Recognised Provident fund) beyond 12% p.a. employer

- Interest credited to employ beyond 9.5% p.a.

- Contribution to pension fund U/s 80 CCD

- Transfer from Unrecognised Provident fund (URPF) to RPF.

- Income from Business connections in India

- Salary earned in India

- Salary from government to Indian citizen services rendered outside India.

- Dividend from Indian Company

- Income from interest payable by specific person

- Income from Royalty

- Income from technical services

- Income from ^(rent) Property/Asset situated in India

- Income from transfer of capital asset situated in India

- Gift by resident to Non Resident