

## Chapter 2: Residential Status

### Illustration 01 [PYQ May 2015]

Ms. Bindu, a non-resident, residing in New York since 1991, came back to India on 19-02-2023 for permanent settlement in India. Explain the residential status of Ms. Bindu for the Assessment Year 2025-26. In accordance with the various provision of Indian Income tax Act.

### Solution

Ms. Bindu would be said to be resident in India:

1. She stays for 182 days or more during previous year, or
2. 365 days or more during 4 P.Y. immediately preceding relevant P. Y. and has been in India for at least 60 days in the previous year.

Since in the P.Y. 2024-25, she is in India for a period of 182 days or more. Hence, she is resident in India.

She will be called ordinarily resident if she is

1. Resident in India in 2 out of 10 P.Y. She is resident in 2023-24 only.
2. Stayed for 730 days or more in 7 P.Y. preceding relevant P.Y.

P.Y.	No. of days of stay in India
2023-24	366
2022-23	41
	407

She does not satisfy both the conditions, therefore she is resident and not ordinarily resident.

### Illustration 02 [PYQ May 2016]

How is the residential status of a company determined for the purposes of Income-tax Act, 1961, for the assessment year 2025-26?

### Solution

Rules to determine residential status of companies

A person being a company shall be said to be resident in India in any previous year if;

1. It is an Indian company, or
2. Its place of effective management at any time in that year, is in India

Note:

1. A company cannot be “ordinarily” or “not ordinarily resident”.
2. Place of effective management to mean the place where key management and commercial decisions that are necessary for the conduct of the entity’s business as a whole, are, in substance made.

### Illustration 03 [PYQ Jan 2021]

“income deemed to accrue or arise in India to a non resident by Way of interest, royalty and fee for technical services is to be taxed in India irrespective of territorial nexus.”  
Examine the correctness or otherwise of the given statement.

## CA Jasmeet Singh Arora

### Solution

Income by way of interest, royalty or fees for technical services which is deemed to accrue or arise in India by virtue of clauses (v), (vi) and (vii) of section 9(1) shall be included in the total income of the non-resident, whether or not -

- (i) the non-resident has a residence or place of business or business connection in India; or
- (ii) the non-resident has rendered services in India.

In effect, the income by way of fees for technical services, interest or royalty, 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.

Therefore, the given statement that 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, is correct.

### Illustration 04 [PYQ Nov 2014]

Mrs. Geetha and Mrs. Leena are sisters, and they earned the following income during the Financial Year 2024-25. Mrs. Geetha is settled in Malaysia since 1985 and visits India for a month every year. Mrs. Leena is settled in Indore since her marriage in 1993. Compute the total income of Mrs. Geetha and Mrs. Leena for the assessment year 2025-26:

Sl. No.	Particulars	Mrs. Geetha ₹	Mrs. Leena ₹
(i)	Income from Profession in Malaysia, (set up in India) received there	15,000	-
(ii)	Profit from business in Delhi, but managed directly from Malaysia	40,000	-
(iii)	Rent (computed) from property in Malaysia deposited in a Bank at Malaysia, later on remitted to India through approved banking channels.	1,20,000	
(iv)	Dividend from PQR Ltd. an Indian Company	5,000	9,000
(v)	Dividend from a Malaysian company received in Malaysia	15,000	8,000
(vi)	Cash gift received from a friend on Mrs. Leena's 50 <sup>th</sup> birthday	-	51,000
(vii)	Agricultural income from land in Maharashtra	7,500	4,000
(viii)	Past foreign untaxed income brought to India	5,000	-
(ix)	Fees for technical services rendered in India received in Malaysia	25,000	-
(x)	Income from a business in Pune (Mrs. Geetha receives 50% of the income in India)	12,000	15,000
(xi)	Interest on debentures in an Indian company (Mrs. Geetha received the same in Malaysia)	18,500	14,000
(xii)	Short-term capital gain on sale of shares of an Indian company	15,000	25,500
(xiii)	Interest on savings account with SBI	12,000	8,000

## CA Jasmeet Singh Arora

(xiv)	Life insurance premium paid to LIC	-	30,000
-------	------------------------------------	---	--------

### Solution

The residential status of Mrs. Geetha and Mrs. Leena has to be determined on the basis of the number of days of their stay in India. Since Mrs. Geetha is settled in Malaysia since 1985, she would be a non-resident for A.Y. 2025-26. Her visit to India for a month every year would not change her residential status. However, Mrs. Leena would be resident and ordinarily resident for A.Y. 2025-26, since she is settled in India permanently since 1993.

Based on their residential status, the total income of Mrs, Geetha and Mrs. Leena would be determined as follows:

#### Computation of total income of Mrs. Geetha & Mrs. Leena for the A. Y. 2025-26

S. No.	Particulars	Mrs. Geetha (Non- Resident) (₹)	Mrs. Leena (Resident) (₹)
1.	Income from profession in Malaysia (set up in India) received there (Note 1)	—	—
2.	Profit from business in Delhi, but managed directly from Malaysia (Note 1)	40,000	—
3.	Rent (computed) from property in Malaysia deposited in a Bank at Malaysia, later on remitted to India through approved banking channels (Note 1)		
4.	Dividend from PQR Ltd. an Indian Company	5,000	9,000
5.	Dividend from Malaysian Company received in Malaysia (Note 1)	—	8,000
6.	Cash gift received from a friend on Mrs. Leena's 50 <sup>th</sup> birthday	—	51,000
	Note: As per Section 56(2)(vii), cash gifts received from a non-relative would be taxable, if the amount exceeds ₹50,000 in aggregate during the previous year.		
7.	Agricultural income from land in Maharashtra [Exempt under section 10(1), both in the hands of non-resident and resident].	—	—
8.	Past foreign untaxed income brought to India [Not taxable, since it does not represent income of the P. Y. 2024-25]	—	—
9.	Fees for technical services rendered in India, but received in Malaysia (Note 1)	25,000	—
10.	Income from a business in Pune (Mrs. Geetha receives 50% of the income in India) (Note 2)	12,000	15,000
11.	Interest on debentures in an Indian company (Mrs. Geetha received the same in Malaysia) (Note 2)	18,500	14,000

## CA Jasmeet Singh Arora

12.	Short-term capital gain on sale of shares of an Indian company (Note 2)	15,000	25,500
13.	Interest on savings account with SBI (Note 2)	12,000	8,000
	Gross Total income	1,27,500	1,30,500

Less: Deductions under Chapter VIA			
- Section 80C [Life insurance premium paid] [Assuming that premium paid is within the specified percentage (10%/20%, as the case may be) of capital sum assured]		—	30,000
- Section 80TTA (In case of an individual, interest up to ₹ 10,000 from savings account with, inter alia, a bank is allowable as deduction under section 80TTA)		10,000	8,000
Total Income		1,17,500	92,500

### Notes:

- As per Section 5(1), global income is taxable, in case of a resident. However, as per Section 5(2), only the following incomes are chargeable to tax, in case of a non-resident:
  - Income received or deemed to be received in India; and
  - Income accruing or arising or deemed to accrue or arise in India. Therefore, income from profession in Malaysia, rent from property in Malaysia and dividend from Malaysian company received in Malaysia by Mrs. Geetha, a non-resident, would not be taxable in India, since both the accrual and receipt are outside India.  
However, profit from business in Delhi would be taxable in India in the hands of Mrs. Geetha, even though it is managed directly from Malaysia. Further, by virtue of Section 9(1)(vii), fees for technical services rendered in India would also be taxable in the hands of Mrs. Geetha, since it is deemed to accrue or arise in India.
- The income referred to in S. No. 10, 11, 12 and 13 are taxable in the hands of both Mrs. Geetha and Mrs. Leena due to their accrual/deemed accrual in India, even though a part of income from business in Pune and the entire interest on debentures in Indian company is received by Mrs. Geetha outside India.

### Illustration 05 [PYQ May 2015]

Explain with reasons whether the following transactions attract income-tax in India in the hands of recipients?

- Salary paid to Mr. David, a citizen of India ₹ 15,00,000 by the Central Government for the services rendered in Canada.
- Legal charges of ₹ 7,50,000 paid to Mr. Johnson, a lawyer of London, who visited India to represent a case at the Supreme Court.
- Royalty paid to Rajeev, a non-resident by Mr. Mukesh, a resident for a business carried on in Sri Lanka.
- Interest received of ₹ 1,00,000, on money borrowed from France, by Ms. Dyana, a non-resident for the business at Bangalore.

## CA Jasmeet Singh Arora

### Solution

- (a) Taxable in India, as it is deemed to accrue in India.
- (b) Taxable in India, as it is accrued in India.
- (c) Not Taxable - Royalty Paid by a resident to a non-resident in respect of business carried on outside India would not be taxable in the hands of the non-residents.
- (d) Taxable in India, as income is received in India.

### Illustration 06 [PYQ Nov 2016]

Mr. Rajnesh, a citizen of India, serving in the Ministry of Finance in India and transferred to High Commission of Australia on 15<sup>th</sup> March 2023. He did not come to India during the financial year 2024-25. His income during the financial year 2023-24 is given here under:

Particulars	₹
Salary from Govt, of India	7,20,000
Foreign Allowances from Govt, of India	6,00,000
Rent from a house situated at London, received in London	3,60,000
Interest accrued on National Saving Certificate during the year 2024-25	45,000

Compute The Gross Total Income of Mr. Rajnesh for the Assessment year 2025-26.

### Solution

As per Section 6(1), Mr. Rajnesh is a non-resident for the A.Y. 2025-26, since he was not present in India at any time during the previous year 2024-25.

As per Section 5(2), a non-resident is chargeable to tax in India only in respect of following incomes:

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

#### Computation of Gross Total Income of Mr. Rajnesh for A.Y. 2025-26

Particulars	₹
Salaries	
Salary from Government of India	7,20,000
(Income chargeable under the head 'Salaries' payable by the Government to a citizen of India for services rendered outside India is deemed to accrue or arise in India under section 9(1)(iii). Hence, such income is taxable in the hands of Mr. Rajnesh, a citizen of India, even though he is a non-resident)	
Foreign Allowance from Government of India	Nil
[Any allowances or perquisites paid or allowed as such outside India by the Government to a citizen of India for rendering service outside India is exempt under section 10(7)].	
Less: Standard Deduction	50,000
Income from Salary	6,70,000
Income from House Property	
Rent from a house situated at London, received in London	Nil
(Income from property situated outside India would not be taxable in India in the hands of a non-resident, since it is neither accruing or arising in India nor is it deemed to accrue or arise in India nor is it received in India)	
Income from Other Sources	

## CA Jasmeet Singh Arora

Interest accrued on National Savings Certificate is taxable	45,000
Gross Total Income	7,15,000

**Note:** It is assumed that Mr. Rajnesh follows mercantile system of accounting. Otherwise, it would be taxable only in the year, of receipt, in which case his total income for A.Y. 2025-26 would be ₹ 7,20,000.

### Illustration 07 [PYQ May 2017]

During the last four years preceding the financial year 2024-25, Mr. Damodhar, a citizen of India, was present in India for 430 days. During the last seven previous years preceding the previous year 2024-25, he was present in India for 830 days. Mr. Damodhar is a member of crew of a Dubai bound Indian ship, carrying passengers in the international waters, which left Kochi port in Kerala, on 12<sup>th</sup> August, 2024. Following details are made available to you for the previous year 2024-25:

Particulars	Date
Date entered into the Continuous Discharge Certificate in respect of joining the ship by Mr. Damodhar	12 <sup>th</sup> August, 2024
Date entered into the Continuous Discharge Certificate in respect of signing off the ship by Mr. Damodhar	21 <sup>st</sup> January, 2025

In May, 2024 he had gone out of India to Singapore and Malaysia on a private tour for a continuous period of 29 days.

You are required to determine the residential status of Mr. Damodhar for the previous year 2024-25.

### Solution

Mr. Damodhar leaves India during the previous year as member of crew of an Indian Ship.

He shall be resident only if he stayed for more than 182 days during PY.

Stay in India in PY 2024-25

April	30
May	2
June	30
July	31
August	11
January	10
February	28
March	31
	173

Mr. Damodhar is Non-resident in India, since he is in India for a period of 173 days only.

### Illustration 08 [PYQ May 2017]

A Korean Company Damjung Ltd. entered into the following transactions during the financial year 2024-25:

- Received ₹ 20 lakhs from a non-resident for use of patent for a business in India.
- Received ₹ 15 lakhs from a non-resident Indian for use of know-how for a business in Sri Lanka and this amount was received in Japan. [Assume that the above amount is converted/stated in Indian Rupees]

## CA Jasmeet Singh Arora

- (c) Received ₹ 7 lakhs from RR Co. Ltd., an Indian company for providing technical know-how in India.
- (d) Received ₹ 5 lakhs from R & Co. Mumbai for conducting the feasibility study for a new project in Nepal and the payment was made in Nepal.

Explain briefly, whether the above receipts are chargeable to tax in- India.

### Solution

- (a) ₹ 20 lakhs for use of patent in India — Taxable in India.
- (b) ₹ 15 lakhs for know-how used in Sri Lanka, money received in Japan — Not taxable in India.
- (c) ₹ 7 lakhs for know-how in India — Taxable in India.
- (d) ₹ 5 lakhs from R & Co. Mumbai — Not Taxable in India.

### Illustration 09 [PYQ Nov 2017]

DAISY Ltd., a foreign company, incorporated in USA and engaged in the manufacturing and distribution of diamonds, set up a branch office in India in June 2024. The branch office was required to purchase uncut and unassorted diamonds from the dealers of Mumbai and export them to USA. During the Previous Year 2024-25, profit from such export amounted to ₹ 75 lakhs.

Out of 20 shareholders of DAISY Ltd., 12 shareholders are non-resident in India. All the major decisions were taken through Board Meetings held at USA.

- (i) Determine the residential status of DAISY Ltd. for the Assessment Year 2024-25.
- (ii) Discuss the tax treatment of profit from export business.

### Solution

- (i) As per Section 6(3), a foreign company would be resident in India in the P.Y.2024-25, if its place of effective management (POEM), in that year, is in India. “Place of Effective Management” means the place where key management and commercial decisions that are necessary for the conduct of business of an entity as a whole are, in substance, made. In this case, since all major decisions were taken through Board Meetings held at the USA, the place of effective management of Daisy Ltd., a foreign company incorporated in the USA, is outside India. Hence, Daisy Ltd. is a non-resident for the P. Y.2024-25 (A.Y. 2025-26)
- (ii) As per Section 5(2), in case of a non-resident, income which, inter alia, is deemed to accrue or arise to him in India is taxable in India. As per Explanation 1 (b) to Section 9(1)(i), in case of a non-resident, no income shall be deemed to accrue or arise in India to him through or from operations which are confined to the purchase of goods in India for the purpose of export. Accordingly, profit of ₹ 75 lakhs from export of uncut and unassorted diamonds purchased from dealers of Mumbai by the branch office of Daisy Ltd. in India would not be deemed to accrue or arise in India in the hands of Daisy Ltd, being a non- resident. Hence, the same would not be taxable in India in the hands of Daisy Ltd.

### Illustration 10 [PYQ May 2018]

Compute the Gross Total Income in the hands of an individual, if he is

## CA Jasmeet Singh Arora

(a) a resident and ordinary resident; and

(b) a non-resident for the A.Y. 2025-26.

S. No.	Particulars	Amount (₹)
(i)	Interest from German Derivatives Bonds (1/3 received in India)	21,000
(ii)	Income from agriculture land situated in Malaysia, remitted to India	51,000
(iii)	Income earned from business in Dubai, controlled from India (₹ 20,000 received in India)	75,000
(iv)	Profit from business in Mumbai, controlled from Australia	1,75,000
(v)	Interest received from Mr. Ashok (NRI) on loan provided to him for business in India	35,000
(vi)	Dividend from Brown Ltd., an Indian Co.	30,000
(vii)	Profit from business in Canada controlled from Mumbai (60% of profits deposited in a bank in Canada and 40% remitted to India)	60,000
(viii)	Amount received from an NRI for the use of know-how for his business in Singapore	8,00,000
(ix)	Dividend received from foreign company in India	25,000
(x)	Past years untaxed foreign income brought to India	50,000

### Solution

#### Computation of Total Income for the Assessment Year 2025-26

Particulars	Case 1	Case 2
	ROR	NR
1. Interest from german derivatives bonds (1/3 <sup>rd</sup> received in India)	21,000	7,000
2. Income from agriculture land situated in Malaysia, remitted to India	51,000	—
3. Income earned from business in Dubai, controlled in India (₹ 20,000 received in India)	75,000	20,000
4. Profit from business in Mumbai, controlled from Australia	1,75,000	1,75,000
5. Interest received from Mr. Ashok (NRI) on loan provided to him for business in India	35,000	35,000
6. Dividend from Brown Ltd. an Indian co.	30,000	30,000
7. Profit from business in Canada controlled from Mumbai (Assuming received in Canada and remitted to India)	60,000	
8. Amount received from an NRI for the use of know-how for his business in Singapore	8,00,000	—
9. Dividend received from foreign co. in India	25,000	25,000
10. Past years untaxed foreign income brought to India	—	—
Gross Total Income	12,72,000	2,92,000

Note: In case of a resident and ordinarily resident, global income is taxable as per Section 5(1). However, in case of a non-resident, only the following incomes are chargeable to tax as per Section 5(2):

## CA Jasmeet Singh Arora

- (i) Income received or deemed to be received in India; and
- (ii) Income accruing or arising or deemed to accrue or arise in India. Therefore, income from German derivative bonds, income from agriculture land in Malaysia, income earned from business in Dubai and profit from business in Canada would be fully taxable in the hands of the resident and ordinarily resident, even though such income accrues or arises outside India, since global income is taxable in case of a resident and ordinarily resident. However, in case of a non-resident, such income would be taxable only to the extent it is received in India. Subsequent remittance to India, would however, not attract taxability of such income in India in the hands of the non-resident.

### Illustration 11 [PYQ Nov 2018]

Following incomes are derived by Mr. Krishna Kumar during the year ended 31-3-2025:

Pension received from the US Government	3,20,000
Agricultural income from lands in Malaysia	2,70,000
Rent received from let out property in Colombo, Sri Lanka	4,20,000

Discuss the taxability of the above items where the assessee is

- (i) Resident,
- (ii) Non-resident.

### Solution

#### Taxability of terns in the hands of Mr. Krishna Kumar

	Item of income	Amount ₹	If Mr. Krishna Kumar is resident	If Mr. Krishna Kumar is non-resident
(i)	Pension received from the US Government	3,20,000	Taxable, since global income is taxable in case of a resident.	Not taxable, since the income has accrued and arisen outside India and assuming that the same is also received outside India.
(ii)	Agricultural income from lands in Malaysia	2,70,000	Taxable, since global income is taxable in case of a resident. Only agricultural income from lands in India is exempt and not lands outside India.	Not taxable, since the income has accrued and arisen outside India and assuming that the same is also received outside India.
(iii)	Rent received from let-out property in Colombo, Sri Lanka	4,20,000	Taxable, since global income is taxable in case of a resident. 30 % deduction from net annual value is allowed.	Not taxable, since the income has accrued and arisen outside India and assuming that the same is also received outside India.

## CA Jasmeet Singh Arora

### Illustration 12 [PYQ May 2019]

The following are the incomes of Shri Subhash Chandra, a citizen of India for the previous year 2024-25:

- (i) Income from business in India ₹ 2,00,000. The business is controlled from London and ₹ 60,000 were remitted to London.
- (ii) Profits from business earned in Japan ₹ 70,000 of which ₹ 20,000 were received in India. This business is controlled from India.
- (iii) Untaxed income of ₹ 1,30,000 for the year 2020-21 of a business in England which was brought in India on 3<sup>rd</sup> March, 2025.
- (iv) Royalty of ₹ 4,00,000 received from Shri Ramesh, a resident for technical service provided to run a business outside India.
- (v) Agricultural income of ₹ 90,000 in Bhutan.
- (vi) Income of ₹ 73,000 from house property in Dubai, which was deposited in bank at Dubai.

Compute Gross total income of Shri Shubhash Chandra for the A.Y. 2025-26, if he is-

1. A Resident and Ordinary Resident, and
2. A Resident and Not Ordinarily Resident

### Solution

#### Computation of Gross Total Income of Shri Subhash Chandra for the A.Y. 2025-26

	Particulars	ROR (₹)	RNOR (₹)
(i)	Income from business in India, controlled from London [Taxable both in the hands ROR and RNOR, since income accrues/arises from business in India, irrespective of the fact that business is controlled from London]	2,00,000	2,00,000
(ii)	Profits earned from business in Japan [Profits from business in Japan is taxable in the hands of ROR, since global income is taxable in the hands of ROR. Moreover, entire profit of ₹ 70,000 would be taxable in the hands of RNOR, even if only ₹ 20,000 is received in India, since the business in Japan is controlled from India]	70,000	70,000
(iii)	Untaxed income for the year 2020-21 of a business in England which was brought in India during the P.Y. 2024-25 [Not taxable either in the hands of ROR or RNOR, since such income is not related to the P.Y. 2024-25]	Nil	Nil
(iv)	Royalty received from a resident for technical service provided to run a business outside India [Taxable in the hands of ROR, since global income is taxable in the hands of ROR. Not taxable in the hands RNOR, since royalty income is not deemed to accrue or arise in India as such income is paid by a resident for technical services used to run a business outside India.]	4,00,000	Nil

(V)	Agricultural Income in Bhutan' [Since agricultural income accrues/arises outside India, it is taxable only in the hands of ROR. No exemption is available in respect of agricultural income earned outside India]	90,000	Nil
(Vi)	income from house property in Dubai, which was deposited in a Bank at Dubai Since income accrues/arises outside India and is also received outside India, it is taxable 73,000 only in the hands of ROR Less: Deduction u/s 24@30% 21,900 [See Note below for alternative treatment]	51,100	Nil
	<b>Gross Total Income</b>	<b>8,11,100</b>	<b>2,70,000</b>

Note: In the above solution, income of ₹ 73,000 from house property in Dubai is presumed to be the rent received, since the said amount is stated to be the amount deposited in bank. Accordingly, deduction @30% of the said amount has been provided to compute the “Income from house property”, where Shri Subhash Chandra is a ROR.

### Illustration 13 [PYQ Nov 2020]

Mr. Thomas, a non-resident and citizen of Japan entered into following transactions during the previous year ended 31.03.2025.

Examine the tax implications in the hands of Mr. Thomas for the Assessment Year 2025-26 as per Income Tax Act, 1961. (Give brief reasoning)

- Interest received from Mr. Marshal, a non-resident outside India (The borrowed fund is used by Mr. Marshal for investing in Indian company's debt fund for earning interest).
- Received ₹ 10 lakhs in Japan from a business enterprise in India for granting license for computer software (not hardware specific).
- He is also engaged in the business of running news agency and earned income of ₹ 10 lakhs from collection of news and views in India for transmission outside India.
- He entered into an agreement with SKK & Co., a partnership firm for transfer of technical documents and design and for providing services relating thereto, to set up a Denim Jeans manufacturing plant, in Surat (India). He charged ₹10 lakhs for these services from SKK & Co.

### Solution

Tax implication in the hand of Mr. Thomas who is non-resident in India.

Tax implication in the hands of Mr. Thomas is given below:

- Interest received outside India by a person from a non-resident is taxable in India by virtue of Section 9(1)(v)(b) only if interest is payable by the payer of interest in respect of money borrowed which is used for the purpose of carrying on any business or profession by such person in India. In this case payer of interest is Mr. Marshal and borrowed fund is used by Mr. Marshal for earning interest income. Consequently such interest is not taxable in the hands of recipient Mr. Thomas.
- License fees of computer software: License fee is a royalty under Section 9(1)(vi). Royalty received by a non-resident from a resident is taxable in India in all cases except when royalty pertains to business or profession carried on by payer of the

## CA Jasmeet Singh Arora

royalty outside India or earning any income outside India. In this case since payer of royalty is an Indian business enterprise. Consequently, it is chargeable to tax.

- **Collection of news and views in India:** As per explanation 1(c) to Section 9(1)(i) no income shall be deemed to accrue or arise in India through or from activities which are confined to the collection of news and views in India. This rule is applicable if the recipient is non-resident and he is in the business of running news agency. Nothing is taxable in the hands of Mr. Thomas.
- **Technical Documents:** By virtue of Section 9(1)(vii)(b) technical fees received by a non-resident from a resident is taxable in India in all cases except when such fees pertain to business/profession (carried on by payer of fees) outside India or such fees are for the purpose of making/earning any income (by the payer of technical fees) outside India. Therefore ₹ 10 Lacs is taxable in the hands of Mr. Thomas.

### Illustration 14 [PYQ Jan 2021]

Rajesh was employed in Axis Ltd., Mumbai. He received a salary of ₹ 45,000 p.m. from 1.04.2024 to 20.09.2024. He resigned and left for Dubai for the first time on 28.09.2024 and got monthly salary of rupee equivalent of ₹ 90,000 from 1.10.2024 to 31.03.2025. His salary for October to December was credited in his Mumbai bank account directly and the salary for January to March 2025 was credited in his Dubai bank account. The cost of his air tickets to Dubai costing ₹ 1,50,000 was funded by her sister staying in London. The cost of his initial stay at Dubai costing ₹ 40,000 was funded by one of his friends staying in Delhi.

He further received interest of ₹ 10,500 on his fixed deposits and ₹ 7,500 on his savings a/c with his Mumbai bank. He also paid LIC Premiums of ₹ 15,000 for self, ₹ 10,000 for spouse and ₹ 25,000 for dependent mother aged 71 years.

Compute taxable income of Mr. Rajesh for the Assessment Year 2025-26.

### Solution

In case of an Indian citizen leaving India for employment during the relevant previous year, the period of their stay during that previous year for being treated as a resident of India must be 182 days or more.

During the previous year 2024-25, Mr. Rajesh, an Indian citizen, was in India for 181 days only (i.e., 30 + 31 + 30 + 31 + 31 + 28 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. 2025-26.

A non-resident is chargeable to tax in respect of income received or deemed to be received in India and income which accrues or arises or is deemed to accrue or arise to him in India. Hence, salary for January to March 2024, which was credited in his Dubai bank account for services rendered in Dubai, would not be taxable in the hands of Mr. Rajesh.

### Computation of taxable income of Mr. Rajesh for A.Y. 2025-26

Particulars		Amount (₹)
Salary		
Salary from 1.4.2024 to 20.9.2024 [45,000 × 5 + 45,000 × 20/30]	2,55,000	
Salary from 1.10.2024 to 31.12.2024 [90,000 × 3]	2,70,000	

## CA Jasmeet Singh Arora

Gross Salary		5,25,000
Less: Standard deduction u/s 16(ia)		50,000
Net Salary		4,75,000
Income from Other Sources		
Interest on fixed deposits	10,500	
Interest on Savings account	7,500	18,000
Gross Total Income		4,93,000
Less: Deduction under Chapter VI-A		
- Deduction under section 80C		25,000
LIC premium for self and spouse [LIC premium for mother is not allowed for deduction]		
- Deduction under section 80TTA		7,500
[Interest on savings account with Mumbai bank]		
Total Income		4,60,500

## Working Notes:

1. Cost of his air tickets to Dubai costing ₹ 1,50,000 funded by his sister is not taxable under section 56(2)(x) in the hands of Mr. Rajesh, since “sister” is a relative.
2. Cost of initial stay at Dubai costing ₹ 40,000 funded by his friend is also not taxable under section 56(2)(x), since the amount does not exceed ₹ 50,000.

## Illustration 15 [PYQ Jan 2021]

Discuss the taxability of the following transactions giving reasons, in the light of relevant provisions, for your conclusion.

Attempt the following:

Mr. Pratham, a non-resident in India, received a sum of ₹ 1,14,000 from Mr. Rakesh, a resident and ordinarily resident in India. The amount was paid to Pratham on account of transfer of right to use the manufacturing process developed by Pratham. The manufacturing process was developed by Mr. Pratham in Singapore and Mr. Rakesh uses such process for his business carried on by him in Dubai.

## Solution

Consideration for transfer of right to use the manufacturing process falls within the definition of royalty. Income by way royalty payable by Mr. Rakesh, a resident and ordinarily resident, is not deemed to accrue or arise in India in the hands of Mr. Pratham as per section 9(1)(vi)(b), since royalty is payable in respect of right used for the purposes of a business carried on by Mr. Rakesh outside India i.e., in Dubai.

## Illustration 16 [PYQ May 2021]

Mrs. Rohini, aged 62 years, was born and brought up in New Delhi. She got married in Russia in 1996 and settled there since then. Since her marriage, she visits India for 60 days each year during her summer break. The following are the details of her income for the previous year ended 31.03.2025:

S No.	Particulars	Amount (in ₹)
1.	Pension received from Russian Government	65,000
2.	Long-term capital gain on sale of land at New Delhi (computed)	3,00,000

## CA Jasmeet Singh Arora

3.	Short-term capital gain on sale of shares of Indian listed companies in respect of which STT was paid both at the time of acquisition as well as at the time of sale (computed)	60,000
4.	Premium paid to Russian Life Insurance Corporation at Russia	75,000
5.	Rent received (equivalent to Annual Value) in respect of house property in New Delhi	90,000

You are required to ascertain the residential status of Mrs. Rohini and compute her total income in India for Assessment Year 2025-26.

### Solution

An Indian citizen or a person of Indian origin who, being outside India, comes on a visit to India (and whose total income, other than from foreign sources, does not exceed ₹ 15,00,000) would be resident in India only if he or she stays in India for a period of 182 days or more during the previous year.

Since Mrs. Rohini is a person of Indian origin who comes on a visit to India only for 60 days in the P.Y.2024-25 and her income other than from foreign sources does not exceed ₹15,00,000, she is non-resident for the A. Y. 2025-26.

A non-resident is chargeable to tax in respect of income received or deemed to be received in India and income which accrues or arises or is deemed to accrue or arise to her in India.

### Computation of total income and tax liability of Mrs. Rohini for A.Y. 2025-26

Particulars	Amount	
Salaries		
Pension received from Russian Government [Not taxable, since it neither accrues or arises in India nor is it received in India]		Nil
Income from House property		
Annual Value [Rental Income from house property in New Delhi is taxable, since it is deemed to accrue or arise in India, as it accrues or arises from a property situated in India]	90,000	
Less: Deduction u/s 24(a) @ 30%	27,000	63,000
Capital Gains		
Long-term capital gains on sale of land at New Delhi [Taxable, since it is deemed to accrue or arise in India as it is arising from transfer of land situated in India]		3,00,000
Short-term capital gains on sale of shares of Indian listed companies in respect of which STT was paid [Taxable, since it is deemed to accrue or arise in India, as such income arises on transfer of shares of Indian listed companies]		60,000
Gross Total Income -		4,23,000
Less: Deduction under Chapter VI-A		
Deduction under section 80C		63,000
- Life insurance premium of ₹ 75,000 [Premium paid to Russian Life Insurance Corporation allowable as deduction. However, the same has to be restricted to gross total income excluding LTCG and STCG, as		

Chapter VI-A deductions are not allowable against such income chargeable to tax u/s 112 and 111 A, respectively]	
Total Income	3,60,000

**Illustration 17 [PYQ Dec 2021]**

Examine the tax implications of the following transactions for the assessment year 2025-26: (Give brief reason)

- (i) Government of India has appointed Mr. Rahul as an ambassador in Japan. He received salary of ₹ 7,50,000 and allowances of ₹ 2,40,000 during the previous year 2024-25 for rendering his services in Japan. He is an Indian citizen having status of non-resident in India for the previous year 2024-25.
- (ii) Ms. Juhi, a non-resident in India is engaged in operations which are confined to purchase of goods in India for the purpose of export. She has earned ₹ 2,50,000 during the previous year 2024-25.
- (iii) Mr. Naveen, a non-resident in India, has earned ₹ 3,00,000 as royalty for a patent right made available to Mr. Rakesh who is also, a non-resident. Mr. Rakesh has utilized patent rights for development of a product in India and 50% royalty is received in India and 50% outside India.
- (iv) Mr. James, a NRI, borrowed ₹ 10,00,000 on 01.04.2024 from Mr. Akash who is also non-resident and invested such money in the shares of an Indian Company. Mr. Akash has received interest @ 12% per annum.

**Solution**

- (i) As per section 9(1)(iii), salaries (including, inter alia, allowances) payable by the Government to a citizen of India for services rendered outside India shall be deemed to accrue or arise in India.  
Thus, salary received from Government by Mr. Rahul, being a non-resident of ₹ 7,50,000 for rendering services in Japan would be taxable in his hands, after allowing standard deduction of ₹ 50,000. However, any allowance or perquisites paid or allowed outside India by the Government to a citizen of India for rendering services outside India will be fully exempt u/s 10(7). Hence, ₹ 2,40,000, being the allowance would be exempt.
- (ii) In the case of a non-resident, no income shall be deemed to accrue or arise in India to him through or from operations which are confined to the purchase of goods in India for the purpose of export.  
Thus, income of ₹ 2,50,000 arising in the hands of Ms. Juhi would not be taxable in her hands in India, since her operations are confined to purchase of goods in India for the purpose of export.
- (iii) Royalty payable by a non-resident would be deemed to accrue or arise in India in the hands of the recipient only when such royalty is payable in respect of any right, property or information used for the purposes of a business or profession carried on by such non-resident in India or earning any income from any source in India.  
In the present case, since Mr. Rakesh, a non-resident, paid the royalty of ₹ 3,00,000 for a patent right used for development of a product in India, the same would be taxable in India in the hands of the recipient, Mr. Naveen, a non-resident, irrespective of the fact that only 50% of the royalty is received in India.

## CA Jasmeet Singh Arora

- (iv) Interest payable by a non-resident on the money borrowed for any purpose other than a business or profession in India, would not be deemed to accrue or arise in India.

In the present case, since Mr. James, a non-resident borrowed the money for investment in shares of an Indian company, the interest on such borrowing of ₹ 1,20,000 (₹ 10,00,000 x 12%) payable to Mr. Akash, a non-resident would not be deemed to accrue or arise to him in India. Hence, the same would not be taxable in India in the hands of Mr. Akash.

### Illustration 18 [PYQ May 2022]

Mrs. Shruti is an Indian citizen, is currently in employment with an overseas company located in UAE. During the previous year 2024-25, she comes to India for 157 days. She is in India for 200 days, 100 days, 76 days and 45 days in the financial years 2020-21, 2021-22, 2022-23 and 2023-24 respectively. Her annual income for the previous year 2024-25 is as follows:

Particulars	Amount (₹)
Income from salary earned and received in UAE	2,00,000
Income earned and received from a house property situated in UAE	5,00,000
Income deemed to be accrued and arise in India	5,00,000
Income from retail business (accrued and received outside India, controlled from India)	10,00,000
Income accrued and arise in India	3,00,000
Life insurance premium paid by cheque in India	.1,50,000

Determine the residential status of Mrs. Shruti for the assessment year 2025-26. (Support your Answer with computation)

### Solution

Mrs. Shruti is an Indian citizen in employment in UAE. She comes on a visit to India during the P.Y. 2024-25 for 157 days.

Her stay in India in the four immediately preceding previous years is as follows:

P.Y.	No. of days
P.Y.2020-21	200
P.Y.2021-22	100
P.Y.2022-23	76
P.Y.2023-24	45
Total	421

### Computation of Total Income of Mrs. Shruti (excluding income from foreign sources)

Particulars	₹
Income from salary earned and received in UAE (income from a foreign source, hence, to be excluded)	-
Income earned and received from a house property situated in UAE (income from a foreign source, hence, to be excluded)	-
Income deemed to accrue or arise in India	5,00,000
Income from retail business (to be included since the business is controlled from India, even though such income accrues and is received outside India)	10,00,000

## CA Jasmeet Singh Arora

Income accrued and arising in India	3,00,000
	18,00,000
Less: Deduction u/s 80C (LIC premium paid by cheque in India) - Assuming other conditions are fulfilled	1,50,000
Total income (excluding income from foreign sources)	16,50,000

Mrs. Shruti, an Indian citizen visiting India in the P.Y.2024-25, would be a resident in India for A.Y.2025-26, if she satisfies either of the following conditions:

- |      |  |
|------|--|
| (i)  | She is in India for 182 days or more during the P.Y.2024-25 or   |
| (ii) | She is in India for a period of 120 days or more during the P.Y.2024-25 and her stay in India in the four immediately preceding previous years is 365 days or more. [This condition will apply to her since she comes on a visit to India during the previous year 2024-25 and her total income (excluding income from foreign sources) is ₹ 16.50 lakhs, which exceeds the threshold of ₹ 15 lakhs] |

This first condition is not satisfied since she is in India only for 157 days during the P.Y.2024-25.

The second condition is satisfied, since she has stayed in India for 157 days during the P.Y.2024-25 and 421 days in the four immediately preceding previous years. Since she has become resident in India for A.Y.2025-26 by satisfying this condition, by default, she would be treated as resident but not ordinarily resident.

**Conclusion:** Mrs. Shruti's residential status for A.Y.2025-26 is resident but not ordinarily resident.

**Note:** The provisions of section 6(1 A) deeming an Indian citizen to be a resident but not ordinarily resident, irrespective of the period of her stay in India in the relevant previous year, if she is not liable to tax in any other country would not apply to Shruti, since she is a resident as per the provisions of section 6(1).

### Illustration 19 [PYQ Nov 2022]

Mr. Sarthak, an individual and Indian citizen living abroad (Dubai), a tax haven, since year 2005 and never came to India for a single day since then, earned the following incomes during previous year 2024-25:

	Particulars	Amount (In ₹)
(i)	Income accrued and arised in Dubai not taxable in Dubai (being tax haven)	20,00,000
(ii)	Income accrued and arised in India	5,00,000
(iii)	Income deemed to accrue and arise in India	8,00,000
(iv)	Income arising in Dubai from a profession set up in India	10,00,000

- (i) Determine the residential status of Mr. Sarthak and taxable income for the previous year 2024-25 (assuming no other income arised during the previous year).
- (ii) What would be your answer if income arising in Dubai from a profession set up in India is ₹ 2 lakhs instead of ₹ 10 lakhs ?
- (iii) What would be your answer, if Mr. Sarthak born in Dubai and his parents were born in India ?

### Solution

## CA Jasmeet Singh Arora

- (i) Mr. Sarthak is an Indian citizen living in Dubai since 2005 who never came to India for a single day since then, he would not be a resident in India for the P. Y. 2024-25 on the basis of number of days of his stay in India as per section 6(1). However, since he is an Indian citizen:

- having total income (excluding income from foreign sources) of ₹ 23 lakhs, which exceeds the threshold of ₹ 15 lakhs during the previous year; and
- not liable to tax in Dubai,

he would be deemed resident in India for the P.Y. 2023-24 by virtue of section 6(1 A). A deemed resident is always a resident but not ordinarily resident in India (RNOR).

S. No.	Computation of Total Income for A.Y. 2025-26	
	Particulars	₹
(i)	Income accrued and arisen in Dubai (not taxable in case of an RNOR)	
(ii)	Income accrued and arisen in India (taxable)	5,00,000
(iii)	Income deemed to accrue or arise in India (taxable)	8,00,000
(iv)	Income arising in Dubai from a profession set up in India would be taxable in case of RNOR	10,00,000
	Total income	23,00,000

- (ii) If income arising in Dubai from a profession set up in India is ₹ 2 lakhs instead of ₹ 10 lakhs, his total income (excluding income from foreign sources) would be only ₹ 15 lakhs. Since the same does not exceed the threshold limit of ₹ 15 lakhs, he would not be deemed resident. Accordingly, he would be non-resident in India for the P.Y. 2024-25 and hence, his total income would be only ₹ 13 lakhs (aggregate of (ii) and (iii) above i.e., ₹ 5 lakhs + ₹ 8 lakhs).
- (iii) If Mr. Sarthak is born in Dubai and his parents were born in India, he would not be an Indian citizen, but he may qualify as person of Indian origin. In such case, the provisions relating to deemed resident would not apply to him. Accordingly, he would be non-resident in India during the P.Y. 2024-25 and his total income would be 13 lakhs.
- Note: In sub-part III., it is inferred that he is not a citizen of India since he is not born in India. It is assumed that he has not applied for citizenship by fulfilling the other specified eligibility conditions.

### Illustration 20 [PYQ May 2023]

- (i) Mr. Jai Chand (an Indian citizen) left India for employment in country X on 5<sup>th</sup> June, 2014. He regularly visited India and stayed for 60 days in every previous year since then. However, in the financial year 2024-25, he did not come to India at all. He owns a commercial building in Delhi which is let out. He has also set up a retail store in India which is controlled by his brother from India. He provides the following information to you regarding his income for the financial year 2024-25: Income from commercial building in Delhi - ₹ 12,00,000 (computed as per the provisions of the Act). Income from the retail store - ₹ 4,50,000 (computed as per the provisions of the Act).

## CA Jasmeet Singh Arora

Country X does not tax any individual on their income as there is no personal income-tax regime there.

Determine the residential status of Mr. Jai Chand for the Assessment year 2025-26.

Will your answer change if he is a citizen of Country X?

- (ii) Mr. Prashant (aged 35 years) is an Australian citizen who is settled in Australia and visits India for 125 days in every financial year since past 11 years. During the F.Y. 2024-25, he visited India for a total period of 200 days. The purpose of his visit was to meet his family members who are settled in India and also for managing his business in Sri Lanka through his office in Chennai, India.

During the P.Y.2024-25, he has the following incomes:

(A) Income from business in Australia controlled from Australia - ₹ 20,00,000

(B) Income from business in Sri Lanka controlled from Chennai - ₹ 16,00,000

(C) Short-term capital gains on sale of shares of an Indian company received in Australia - ₹ 50,000. The shares were sold online from Australia.

(D) income from agricultural land in Australia, received there and then brought to India - ₹ 2,00,000

Find out the residential status of Mr. Prashant and compute his total income for Assessment Year 2025-26.

### Solution

- (i) **Determination of residential status of Mr. Jai Chand for A.Y. 2025-26**

Since Mr. Jai Chand, an Indian citizen employed in Country X, did not come to India at all during the P.Y. 2024-25, he would not be a resident for A.Y. 2025-26 as per section 6(1).

However, since he is an Indian citizen

— having total income (excluding income from foreign sources) of ₹ 16,50,000 [₹ 12,00,000, being income from commercial building in India + ₹ 4,50,000, being Income from retail store in India], which exceeds the threshold of ₹ 15 lakhs during the previous year; and

— not liable to tax in Country X,

He would be deemed resident in India for the P.Y. 2024-25.

A deemed resident is always a resident but not ordinarily resident in India (RNOR).

Yes, in case Mr. Jai Chand is a citizen of Country X, he would be non-resident in India for the P.Y. 2024-25, since the provisions of deemed resident are applicable only to an Indian citizen.

- (ii) **Determination of Residential Status of Mr. Prashant**

Mr. Prashant is an Australian citizen who comes on a visit to India for 125 days in every financial year since the past 12 years. During the P.Y. 2024 -25, he visited India for 200 days. Since he stayed in India for 182 days or more during the P.Y. 2024-25, he would be resident in India for the A.Y. 2025-26.

An individual is said to be “Resident and ordinarily resident [ROR]” in India in any previous year, if he satisfies both the following conditions:

— He is a resident in at least 2 out of 10 previous years preceding the relevant previous year; and

— His stay in India in the last 7 years preceding the relevant previous year is 730 days or more [Refer Note 1 below for alternate presentation]

First condition

Residential status for P.Y.2023-24 (A.Y.2024-25) - Resident, since he has stayed in India for > 60 days (125 days) in the said P.Y. and  $\geq 365$  days (500 days, being 125 days x 4) in the four immediately preceding PYs.

Residential status for P. Y.2022 -23 (A. Y.2023-24) - Resident, since he has stayed in India for > 60 days (125 days) in the said P.Y. and  $\geq 365$  days (500 days, being 125 days x 4) in the four immediately preceding PYs.

Therefore, he satisfies the first condition of being resident in India in at least 2 out of 10 previous years preceding the relevant P.Y.

Second condition

Stay in India in 7 immediately preceding PYs = 7 x 125 days = 875 days > 730 days

Since both the conditions are satisfied, he is Resident and Ordinarily Resident (ROR).

In case of ROR, global income would be taxable in India. Accordingly, his total income for A.Y. 2025-26 would as follows:

#### Computation of Total Income of Mr. Prashant for A.Y.2025-26

	Particulars	₹
(i)	Income from business in Australia	20,00,000
(ii)	Income from business in Sri Lanka	16,00,000
(iii)	Short-term capital gains on sale of shares of an Indian company	50,000
(iv)	Income from Agricultural land [would not be exempt, since it is not from an agricultural land in India]	2,00,000
	Total income	38,50,000

Notes 1:

Alternative manner of determination of whether Mr. Prashant is ROR/ RNOR-

“An individual is said to be “Resident but not ordinarily resident [RNOR]” in India in any previous year, if he satisfies any one of the following conditions.

— He is a non-resident in at least 9 out of 10 previous years preceding the relevant previous year; or

— His stay in India in the last 7 years preceding the relevant previous year in 729 days or less.

Mr. Prashant does not satisfy either of the above conditions on account of being resident in more than 1 year out of 10 years and stay in India for 875 days in the 7 years preceding the P.Y.2024-25. Hence, he is a Resident and Ordinarily Resident in the P.Y.2024-25.

Note 2:

In the absence of information relating to whether Mr. Prashant is a person of Indian origin, the above solution has been worked out assuming that Mr. Prashant is not a person of Indian origin.

However, alternate assumption that Mr. Prashant is a person of Indian origin is also possible since the purpose of his visit was to meet his family members who are settled in India. Accordingly, if it is assumed that he is a person of Indian origin, then, for determining whether he is resident in P.Y.2022 -23 and P.Y.2023-24, information relating

## CA Jasmeet Singh Arora

to his total income (excluding income from foreign sources) for the said P.Y.s is required for ascertaining whether the condition of 120 days in the relevant P.Y. + 365 days in the 4 immediately preceding P.Ys would be attracted in his case. This information is not given in the question. Accordingly, assumptions would have to be made relating to the applicability of this condition.

It may be noted that the condition of 120 days in the P.Y. + 365 days in the four immediately preceding PYs for a PIO whose total income (other than income from foreign sources) exceed ₹ 15 lakhs for determination of residential status came into effect only from A. Y.2023-24. Therefore, in the previous years prior to that, he would be non-resident irrespective of his total income since the number of days of his stay < 182 days each year.

In case if it is assumed that his total income (other than income from foreign sources) for the P.Y.2022-23 and P.Y.2023-24 > ₹ 15 lakhs, he would be ROR since he would be resident in 2 out of 10 years immediately preceding the current P.Y. and he stayed for 730 days or more in 7 previous years immediately preceding current P.Y.. In such case, his total income would be same as determined in the above solution.

in case if it assumed that he is a PIO whose total income (other than income from foreign sources) for the P.Y.2022-23 and P.Y.2023-24 ≤ ₹15 lakhs, he would be non-resident for P.Y.2022 -23 and P.Y.2023-24, since his stay in India is for less than 182 days in those years. In such a case, for P.Y.2024-25, he would be RNOR, since he would be non-resident in all the 10 years immediately preceding the current P.Y.

### Computation of Total Income of Mr. Prashant for A.Y.2025-26

	Particulars	₹
(i)	Income from business in Australia controlled from Australia (not taxable in case of RNOR, since it accrues and arises outside India)	—
(ii)	Income from business in Sri Lanka (taxable since it is controlled from India)	16,00,000
(iii)	Short-term capital gains on sale of shares of an Indian company (taxable, irrespective of residential status)	50,000
(iv)	Income from agricultural land in Australia [would not be taxable in case of RNOR since it accrues and arises outside India]	—
<b>Total Income</b>		<b>16,50,000</b>

### Illustration 21 [RTP Jan 2025]

Mr. Akshay (aged 59 years), an Indian citizen, travelled frequently out of India for his business trip as well as for his outings. He left India from Delhi airport on 20th April 2024 and returned on 15th October 2024. He has been in India for less than 700 days during the 7 years immediately preceding the previous year. Determine his residential status and his total income for the assessment year 2025-26 from the following information:

- (1) Long term capital gain on sale of shares of Shama India Ltd., a listed Indian company, amounting to ₹ 1,12,000. The sale proceeds were credited to his bank account in UK.
- (2) Dividend amounting to ₹ 40,000 (gross) received from RIL Ltd., an Indian company. He had borrowed money from Mr. Abhay, a non-resident Indian, for the above-

## CA Jasmeet Singh Arora

mentioned investment on 2<sup>nd</sup> April, 2024. Interest on the borrowed money for the P.Y. 2024-25 amounted to ₹ 10,000.

(3) Interest on post office saving bank account amounting to ₹ 9,500.

Mr. Akshay has shifted out of the default tax regime and wants to pay tax under normal provisions of the Act.

### Solution

#### Determination of residential status

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 for at least 60 days in the previous year and has been in India during the 4 years immediately preceding the relevant previous year for a total period of 365 days or more.

If the individual satisfies any one of the conditions mentioned above, he is a resident. If both the above conditions are not satisfied, the individual is a non-resident.

Mr. Akshay, an Indian citizen, has satisfied the first basic conditions for being a resident, since he was in India for 188 days (20+17+30+31+31+28+31) during the previous year 2024-25. Hence, he is a resident in India for A.Y.2025-26.

An individual would be resident but not ordinarily resident if he satisfies either one of the following conditions:

- (i) He has been non-resident in India in any 9 out of 10 previous years preceding the relevant previous year, or
- (ii) He has, during the 7 years immediately preceding the relevant previous year, been in India for a period of 729 days or less.

Since Mr. Akshay has been in India for less than 700 days during the 7 years immediately preceding the previous year, he would be a resident but not ordinarily resident for A.Y. 2025-26

#### Computation of total income of Mr. Akshay for A.Y.2025-26

	Particulars	Amount (₹)
(1)	Long-term capital gain on sale of shares of an Indian listed company is chargeable to tax in the hands of Mr. Akshay, since it has accrued and arisen in India even though the sale proceeds were credited to bank account in UK.	1,12,000
(2)	Dividend received from an India company taxable in the hands of the Akshay as Income from other sources since the income has accrued or arisen in India	40,000
	Less: Interest expenditure restricted to 20% of dividend	<u>8,000</u>
		32,000
(3)	Interest on post office saving bank account is taxable in the hands of Mr. Akshay as Income from other sources, since it has accrued and arisen in India and is also received in India.	9,500
	Less: Exemption under section 10(15)	<u>3,500</u>
		6,000
	<b>Gross Total Income</b>	<b>1,50,000</b>
	<b>Less: Deduction under section 80TTA</b>	<b>6,000</b>

## CA Jasmeet Singh Arora

Total Income	1,44,000
--------------	----------

### Illustration 22 [RTP Sep 2024]

Mrs. Sarika, an Indian citizen, is in employment with an overseas company located in UAE. She is not liable to tax in UAE. During the P.Y. 2024-25, she comes to India for 121 days. She was in India for 50 days, 100 days, 76 days and 145 days in the financial years 2020-21, 2021-22, 2022-23 and 2023-24, respectively. Her annual income for the previous year 2024-25 is as follows:

	Particulars	Amount (₹)
(i)	Salary accrued or arisen in UAE	15,00,000
(ii)	Income accrued and arisen in India	2,00,000
(iii)	Income deemed to be accrued and arisen in India	7,00,000
(iv)	Income arising and received in UAE, from a business set up in India	5,00,000
(v)	Life Insurance premium paid by cheque in India	1,00,000

Mrs. Sarika has opted out of the default tax regime under section 115BAC. From the information given above,

- You are required to determine the residential status and total income of Mrs. Sarika for the A.Y. 2025-26.
- What would be your answer if income arising and received in UAE, from a business set up in India is ₹ 10,00,000 instead of ₹ 5,00,000?
- In continuation to point (ii), what would be your answer if Mrs. Sarika comes to India in P.Y. 2023-24 for 45 days instead of 145 days?

### Solution

- Mrs. Sarika is an Indian citizen and in employment in UAE. She comes on a visit to India during the P.Y. 2024-25 for 121 days. Her stay in India in the four immediately preceding previous years i.e., in P.Y. 2020-21 to P.Y. 2023-24 is 371 days (50 + 100 + 76 + 145 days).  
Her total income, other than the income from foreign sources, during the P.Y. 2024-25 would be –

Particulars	Amount (₹)
Salary accrued or arisen in UAE (income from a foreign source, hence, to be excluded)	-
Income accrued and arisen in India	2,00,000
Income deemed to be accrued and arisen in India	7,00,000
Income arising in UAE, from a business set up in India (to be included since the business is controlled from India, even though such income accrues and is received outside India)	5,00,000
	14,00,000
	1,00,000
Less: Deduction u/s 80C (LIC premium paid by cheque in India)	
Total income (excluding income from foreign sources)	13,00,000

Mrs. Sarika, an Indian citizen, having total income other than income from foreign sources not exceeding ₹ 15 lakhs and visiting India during the P.Y 2024-25, would be a

## CA Jasmeet Singh Arora

resident in India for the A.Y.2025-26, if she has stayed in India for 182 days or more during the P.Y. 2024-25.

Since she has stayed only for 121 days in India during the P.Y. 2024-25, she is a non-resident for the A.Y. 2025-26. Her total income during the P.Y. 2024-25 would be –

Particulars	Amount (₹)
Salary accrued or arisen in UAE (income from a foreign source, hence, to be excluded)	-
Income accrued and arisen in India	2,00,000
Income deemed to be accrued and arisen in India	7,00,000

Income arising in UAE, from a business set up in India (not taxable)	-
Gross Total Income	9,00,000
Less: Deduction u/s 80C (LIC premium paid by cheque in India)	1,00,000
Total income	8,00,000

- (ii) If Income arising and received in UAE, from a business set up in India is ₹ 10,00,000 instead of ₹ 5,00,000, her total income, other than the income from foreign sources, during the P.Y. 2024-25 would have been ₹ 18 lakhs. In such a case, Mrs. Sarika, an Indian citizen, having total income other than income from foreign sources exceeding ₹ 15 lakhs and visiting India during the P.Y. 2024-25, can be a resident in India for A.Y.2025-26, if she has been in India for 120 days or more but less than 182 days in the P.Y. 2024-25 and during the 4 years immediately preceding the P.Y. 2024-25 for a total period of 365 days or more. Since she has stayed in India for 121 days during the P.Y. 2024-25 and her stay in India in the four immediately preceding previous years is 371 days, she would be a resident in India for A.Y. 2025-26 and by default, she would be treated as resident but not ordinarily resident. In such case, income arising and received in UAE, from a business set up in India would also form part of total income of Mrs. Sarika and her total income during the P.Y. 2024-25 would be ₹ 18 lakhs [₹ 8,00,000 (computed in (i) above) plus ₹ 10,00,000].
- (iii) If Mrs. Sarika comes to India in P.Y. 2023-24 for 45 days instead of 145 days, she would not be a resident in India for the P.Y. 2024-25 as per section 6(1) since her stay in India in the four immediately preceding previous years would be less than 365 days. However, since she is an Indian citizen having total income (excluding income from foreign sources) of ₹ 18 lakhs, which exceeds the threshold of ₹ 15 lakhs during the previous year; and not liable to tax in UAE, she would be a deemed resident in India for the P.Y. 2024-25 by virtue of section 6(1A). A deemed resident is always a resident but not ordinarily resident. In such case, her total income during the P.Y. 2024-25 would be same i.e., ₹ 18 lakhs as computed in point (ii) above.

### Illustration 23 [RTP May 2024]

Ms. Rita, an Indian citizen and an MBA from Howard University, was employed in AFL LLP of Country A since June, 2016. She came to India on 15.11.2024 and joined as CEO of Autofit Ltd. Ms. Rita was in India before she left for overseas education in May, 2012 and

## CA Jasmeet Singh Arora

was subsequently employed outside India and never visited India thereafter. There is no income-tax in Country A. She has earned interest income of ₹ 2,40,000 (net) in Country A and salary income from AFL LLP of ₹ 15 lakhs up to the date of her return to India in the financial year 2024 -25.

Salary income (computed) of Ms. Rita from Autofit Ltd. up to 31.03.2025 is ₹ 13,50,000 and she earned dividend of ₹ 3,00,000 from shares of an Indian company.

What would be the residential status of Ms. Rita and her total income for the A.Y. 2025-26?

### Solution

Determination of residential status of Ms. Rita for the A.Y. 2025 -26

As per section 6(1), in order to be a resident of India in the P.Y.2024 -25, Ms. Rita should satisfy either of the following two conditions -

- (1) Her stay in India should be for a period of 182 days or more in the P.Y.2024-25; or
- (2) Her stay in India should be for a period of 60 days or more in the P.Y.2024-25 and for a period of 365 days or more in the four immediately preceding previous years.

Ms. Rita's stay in India in the P.Y.2024-25 is 137 days (i.e., 16 days + 31 days +31 days + 28 days + 31 days). She left India in May, 2012 and never visited India thereafter. Her stay in India in the four immediately preceding previous years would be Nil.

Therefore, she does not satisfy either condition (1) or condition (2) for being a resident. As per section 6(1A), an individual who is a citizen of India would be deemed to be a resident of India if his total income, other than income from foreign sources, exceed ₹ 15 lakh during the relevant previous year and he is not liable to tax in any other country by reason of his domicile or residence or any other criteria of similar nature.

Ms. Rita's total income, other than income from foreign sources, would be ₹ 16,50,000 for A.Y.2025-26 as shown below –

Particulars	₹
Salary income from Autofit Ltd. [Computed] [Accrues or arises in India]	13,50,000
Dividend from shares of an Indian company [Accrues or arises in India]	3,00,000
	16,50,000

Since Ms. Rita is a citizen of India who is not liable to pay income-tax in Country A and her total income, other than income from foreign sources, exceed ₹ 15 lakhs, she would be deemed resident in India under section 6(1A) for A.Y.2025-26. A deemed resident is, by default, a resident but not ordinarily resident.

In case of a resident but not ordinarily resident, income accrues or arises, deemed to accrue or arise and received or deemed to be received in India, is taxable. In addition, Income which accrues or arises outside India would also be taxable if it is derived from a business controlled in or a profession set up in India.

### Ms. Rita's total income for A.Y. 2025-26

Particulars	₹
Salary income from AFL LLP [Not taxable since it accrues or arises outside India]	-
Salary income from Autofit Ltd. [Computed]	13,50,000
Interest income in Country A [Not taxable since it accrues or arises outside India]	-

## CA Jasmeet Singh Arora

Dividend from shares of an Indian company	3,00,000
Total Income	16,50,000

### Illustration 24 [PYQ May 2024]

Mr. Tilak aged 35 years, furnishes the following information regarding his income for the assessment year 2025-26. Compute the total income if he is:

- (1) Resident and Ordinarily Resident.
  - (2) Resident but Not Ordinarily Resident (Ignore the provisions of Section 115BAC).
- (a) Remuneration of ₹ 50,000 for service rendered in Malaysia, credited to his bank account in Malaysia and immediately remitted to his bank account in India.
  - (b) Profits from a business in England controlled from Bombay ₹ 3,00,000 (out of which ₹ 25,000 is received in India).
  - (c) Amount brought to India out of past untaxed profits earned in Singapore ₹ 1,00,000.
  - (d) Capital gain on sale of land in India but received in Malaysia ₹ 2,00,000.
  - (e) Income from agriculture land at Nepal of ₹ 18,000, received there and then brought to India.
  - (f) He paid ₹ 50,000 towards principal payment of loan taken for construction of his self-occupied house in India.
  - (g) Interest on saving bank deposit in State Bank of India of ₹ 12,000.

### Solution

#### Computation of total income of Mr. Tilak for the A.Y. 2025-26 (if he is Resident and Ordinarily Resident - ROR)

	Particulars	₹
(a)	Remuneration for services rendered in Malaysia Global income is taxable in case of a ROR. <i>[Note – Alternatively, remuneration for services rendered in Malaysia can be taxable as “Salaries”. In such case standard deduction of ₹ 50,000 would be reduced.]</i>	50,000
(b)	Profit from business in England controlled from Bombay Global income is taxable in case of a ROR.	3,00,000
(c)	Past untaxed profits earned in Singapore and brought to India in current year	Nil
(d)	Capital gain on sale of land in India but received in Malaysia Deemed to accrue or arises in India, since the property is situated in India.	2,00,000
(e)	Income from agricultural land in Nepal, received there Global income is taxable in case of a ROR	18,000
(f)	Interest on saving bank deposit in SBI Taxable since it is deemed to accrue or arises in India.	12,000
	Gross Total Income	5,80,000
	Less: Deduction under Chapter VI-A	
	Deduction under section 80C - For repayment of housing loan	50,000

## CA Jasmeet Singh Arora

	Deduction under section 80TTA - Interest on savings bank account subject to a maximum of ₹ 10,000	10,000
	<b>Total Income</b>	<b>5,20,000</b>

### Computation of total income of Mr. Tilak for the A.Y. 2025-26 (if he is Resident but Not Ordinarily Resident - RNOR)

	Particulars	₹
(a)	Remuneration for services rendered in Malaysia In case of RNOR, remuneration would not be taxable in India since neither services are rendered in India nor remuneration received in India.	Nil
(b)	Profit from business in England controlled from Bombay In case of RNOR, whole profits of ₹ 3,00,000 from business in England is taxable since business is controlled from India.	3,00,000

(c)	Past untaxed profits earned in Singapore and brought to India in current year	Nil
(d)	Capital gain on sale of land in India but received in Malaysia Deemed to accrue or arises in India, since the property is situated in India.	2,00,000
(e)	Income from agricultural land in Nepal, received there In case of RNOR, it would not be taxable in India, since neither it is deemed to accrue or arise in India nor received in India.	Nil
(f)	Interest on saving bank deposit in SBI Taxable since it is deemed to accrue or arises in India.	12,000
	<b>Gross Total Income</b>	<b>5,12,000</b>
	<b>Less: Deduction under Chapter VI-A</b>	
	Deduction under section 80C - For repayment of housing loan	50,000
	Deduction under section 80TTA - Interest on savings bank account subject to a maximum of ₹ 10,000	10,000
	<b>Total Income</b>	<b>4,52,000</b>

### Illustration 25 [PYQ Sep 2024]

Mr. Madan, a citizen of India and the Karta of an HUF, is employed in M/s. PCS Pvt. Ltd. He is drawing monthly salary of ₹ 65,500 in India. On June 1, 2024 he purchased one residential house property in Mumbai for ₹ 18,00,000 in his individual capacity. The market value of the property is ₹ 32,00,000 and value for the purpose of charging stamp duty is ₹ 23,00,000. On August 31st, 2024 he was transferred to the branch office of M/s. PCS Pvt. Ltd. in U.S.A. and he left India on September 1st, 2024. The overseas branch paid him a salary of \$ 2,500 per month in USA. He managed business of HUF from USA when he was not in India.

He had also gone out of India for 99 days and 201 days in previous years 2023-24 and 2022-23, respectively. He had never gone out of India prior to that.

He visited India from January 1, 2025 to January 15, 2025 for training on a project and received 15 days salary in India as per his Indian monthly salary before being transferred.

## CA Jasmeet Singh Arora

Mr. Rajeev, one of his friends, gifted him a sculpture in India on August 10, 2024. The market value is ₹ 45,100.

Determine the residential status of Mr. Madan and his HUF and compute gross total income of Mr. Madan for the assessment year 2025-26 assuming he opted out of the default tax regime. The value of one USD (\$) may be taken as ₹ 70.

### Solution

#### Residential Status of Mr. Madan

Mr. Madan, an Indian citizen who left India on 1st September 2024 for the purpose of employment to USA, would be non-resident in India, since he stayed in India for 169 days (30+31+30+31+31+1+15) only during the P.Y. 2024-25 which is less than 182 days.

#### Residential Status of HUF

Since Mr. Madan is managing the HUF for part of the year from India, control and management of its affairs is situated partly in India.

Hence, the HUF would be resident in India for the P.Y. 2024-25.

A HUF is said to be “Resident and ordinarily resident” in India during the previous year 2024-25, if Karta (Mr. Madan, in this case) satisfies both the following conditions:

- He is a resident in at least 2 out of 10 previous years preceding the relevant previous year; and
- His stay in India in the last 7 years preceding the relevant previous year is 730 days or more.

Mr. Madan has satisfied both the above conditions as he had never gone out of India except for 99 days and 201 days in the P.Y. 2023-24 and P.Y. 2022-23, respectively, the HUF would be ROR in India.

#### Computation of Gross Total Income of Mr. Madan for the A.Y. 2025-26

	Amount in ₹
Income under the head “Salaries”	
Salary earned in India: [₹ 65,500 x 5 + ₹ 65,500 x 15/31]	3,59,194
Salary paid in USA: [Not taxable as Mr. Madan is a non- resident and such income does not accrue or arise or received in India]	Nil
Less: Standard Deduction	50,000
Income from other sources	3,09,194
Difference between the consideration of ₹ 18 lakhs and stamp duty value of ₹ 23 lakhs of the residential property acquired [Taxable, since the difference of ₹ 5 lakhs exceed ₹ 1,80,000, being the higher of 10% of the consideration and ₹ 50,000]	5,00,000
Sculpture received as gift from Rajeev, his friend in India [Not taxable as the value does not exceed ₹ 50,000]	Nil
Gross Total Income	8,09,914

#### Illustration 26 [RTP Nov 2023]

Miss Asha is an Indian citizen. She is a lawyer by profession. She started her consultancy profession in India in 2019 with the name “New way associates”. In May 2023, she got married to Mr. Ram, an American citizen. Mr. Ram came to India for the first time on 1st May 2022 when he joined an MNC in India. He got a promotion and was transferred to Dubai. He left for Dubai on 1st October, 2023. Mrs. Asha accompanied him to Dubai. She

## CA Jasmeet Singh Arora

started providing consultancy there. Both of them came to India for 3 months from June to August in 2024 to spend time with Asha's family. Following incomes were earned by Mr. Ram and Mrs. Asha during the P.Y. 2024 -25.

	<b>Income of Mr. Ram</b>	<b>₹</b>
1	Salary from company in Dubai (not liable to tax in Dubai)	13,00,000
2	Long term capital gain on sale of shares of an Indian company	2,50,000
3	Income from house property in Delhi (computed)	4,60,000
4	Dividend from shares of an Indian company	65,000

	<b>Income of Mrs. Asha</b>	<b>₹</b>
1	Profit from consultancy profession in Dubai which was set up in India (not liable to tax in Dubai)	12,00,000
2	Profit from consultancy profession in India	3,00,000
3	Long term capital gain on sale of shares of British company, credited to her Dubai bank account	60,000
4	Short term capital loss on sale of listed shares of an Indian company	(42,000)

Determine the residential status of Mr. Ram and Mrs. Asha and their total income for the A.Y. 2025-26 ignoring the provisions of section 115BAC.

### Solution

#### Determination of residential status of Mr. Ram

Mr. Ram is an American citizen who comes on a visit to India during the P.Y. 2024-25 for 3 months. He has been in India from 1st May 2022 to 1st October 2023. Since Mr. Ram has been in India for a period of more than 60 days (i.e., 92 days) during the P.Y. 2024-25 and for a period of more than 365 days (i.e., 519 days) during the 4 immediately preceding previous years, he satisfies one of the basic conditions and he is a resident for the A.Y. 2025-26.

Since his period of stay in India during the preceding 7 previous years is less than 730 days (i.e., 519 days), he is a resident but not-ordinarily resident in India during the A.Y. 2025-26.

Since Mr. Ram is a resident but not-ordinarily resident, income which accrues or arises in India, deemed to accrue or arises in India, received in India, deemed to be received in India and income derived from business controlled in or a profession set up in India is chargeable to tax in India in his hands.

#### Computation of total Income of Mr. Ram for the A.Y. 2024-25

	<b>Particulars of income</b>	<b>(₹)</b>
1	Salary from company in Dubai [Not taxable, since it accrues and arises outside India]	-
2	Long term capital gain on sale of shares of an Indian company [Taxable, since it accrues and arises in India]	2,50,000
3	Income from house property in Delhi [Taxable, since it accrues and arises in India]	4,60,000
4	Dividend from shares of an Indian company [Taxable, since it accrues and arises in India]	65,000

	7,75,000
--	----------

### Determination of residential status of Mrs. Asha

Mrs. Asha is an Indian citizen who comes on a visit to India during the P.Y. 2024 -25 for 3 months i.e., 92 days. Since she does not satisfy any of the basic conditions of staying in India for 182 days or 120 days during the P.Y. 2024-25, she is not a resident in India as per section 6(1).

Mrs. Asha would be a deemed resident under section 6(1A) if her total income other than the income from foreign sources exceeds ₹ 15 lakhs during the P.Y. 2024-25 as she is an Indian citizen and is not liable to tax in Dubai.

### Computation of total Income other than the income from foreign sources of Mrs. Asha

Particulars of income		(₹)
1	Profit from consultancy profession in Dubai which was set up in India [Includible]	12,00,000
2	Profit from consultancy profession in India [Includible]	3,00,000
3	Long term capital gain on sale of shares of British company [Not includible, since it is a foreign source income]	-
4	Short term capital loss on sale of listed shares of an Indian company [It accrues and arises in India. However, short term capital loss is not allowed to be set off from business or profession income, hence, not includible]	-
		15,00,000

Since, total income other than the income from foreign sources of Mrs. Asha does not exceed ₹ 15 lakhs, she would not be a deemed resident. Hence, Mrs. Asha is a non-resident during the A.Y. 2025-26.

Since Mrs. Asha is a non-resident, income which accrues or arises in India, deemed to accrue or arises in India, received in India and deemed to be received in India is chargeable to tax in India in her hands.

Particulars of income		(₹)
1	Profit from consultancy profession in Dubai which was set up in India [Not taxable]	-
2	Profit from consultancy profession in India [Taxable, since it accrues and arises in India]	3,00,000
3	Long term capital gain on sale of shares of British company [Not taxable, since it accrues and arises outside India]	-
4	Short term capital loss on sale of listed shares of an Indian company [Since, it accrues and arises in India, it is allowed to be carry forward to A.Y. 2025-26]	-
		3,00,000

### Illustration 27 [RTP May 2023]

Mrs. Roma, an Indian Citizen, is a government employee working for the Indian Government. She submits the following information for the previous year ending 31.03.2025:

Particulars	₹
-------------	---

1	Salary income received in Malaysia for services rendered there	2,00,000
2	Profit from business carried on in Orissa	80,000
3	Loss from business carried on in Baroda	(20,000)
4	Profit from business carried on in Paris (income is earned and received in Sydney and business is controlled from Paris)	42,000
5	Loss from business carried on in Canada (though profits are not received in India, business is controlled from Dehradun)	(46,000)
6	Unabsorbed depreciation of business in Canada	16,000
7	Profit from Indonesia business (controlled from Delhi) and 60% of profit deposited in a bank in Indonesia and 40% received in India	70,000
8	Rent from house property situated in Canada and received in Canada	1,92,000

Determine the gross total income of Roma for the A.Y. 2025-26 ignoring the provisions of section 115BAC on the assumption that she is:

- (1) Resident but not ordinarily resident in India
- (2) Non-resident in India

### Solution

#### Computation of gross total Income of Mrs. Roma for the A.Y. 2025-26

Particulars of income		R-NOR (₹)	NR (₹)
1	Salary income received in Malaysia for services rendered there (Note 1)	2,00,000	2,00,000
	Less: Standard deduction under section 16(ia)	50,000	50,000
		1,50,000	1,50,000
2	Profit from business carried on in Orissa [Since it accrues or arises in India]	80,000	80,000
3	Loss from business carried on in Baroda [Since it accrues or arises in India]	(20,000)	(20,000)
4	Profit from business carried on in Paris (income is earned and received in Sydney and business is controlled from Paris) [Since it accrues or arises outside India]	Nil	Nil
5	Loss from business carried on in Canada (business is controlled from Dehradun)	(46,000)	Nil
6	Unabsorbed depreciation of business in Canada	(16,000)	Nil
7	Profit from Indonesia business (business is controlled from Delhi)	70,000	28,000
8	Rent from property situated in Canada and received in Canada	Nil	Nil
Gross Total Income		2,18,000	2,38,000

Note 1 - Income from "Salaries" payable by the Government to a citizen of India for services rendered outside India is deemed to accrue or arise in India as per section 9(1)(iii). Standard deduction under section 16(ia) is allowable, irrespective of residential status.

Note 2 - In case of a non-resident, only income received or deemed to be received in India and income accruing or arising or deemed to accrue or arise in India is chargeable to tax. However, in case of a resident but not ordinarily resident, income derived from a

## CA Jasmeet Singh Arora

business controlled in or profession set up in India is also taxable even though it accrues or arises outside India.

Therefore, income referred to in S. No. 1, 2 and 3 are taxable in the hands of Mrs. Roma in both cases if she is a resident but not ordinarily resident or if she is a non-resident. Loss from business carried on in Canada, unabsorbed depreciation of business in Canada and Profit from Indonesia business would be fully chargeable to tax in India if she is a resident but not ordinarily resident as it derived from a business controlled in India. However, Profit from Indonesia business is taxable in case of non-resident to the extent of such profits received in India.

### Illustration 28 [RTP Nov 2022]

Mr. Dhanush, an Indian citizen aged 35 years, worked in ABC Ltd. in Mumbai. He got a job offer from XYZ Inc., USA on 01.06.2023. He left India for the first time on 31.07.2023 and joined XYZ Inc. on 08.08.2023. During the P.Y. 2024-25, Mr. Dhanush visited India from 25.05.2024 to 22.09.2024. He has received the following income for the previous year 2024-25 –

Particulars	₹
Salary from XYZ Inc., USA received in USA	7,00,000
Dividend from Indian companies	5,50,000
Agricultural income from land situated in Punjab	55,000
Rent received/receivable from house property in Lucknow	4,00,000
Profits from a profession in USA, which was set up in India, received there	6,00,000

Determine the residential status of Mr. Dhanush and compute his total income for the A.Y. 2025-26

### Solution

As per section 6(1), an Indian citizen or a person of Indian origin who, being outside India, comes on a visit to India would be resident in India if he or she stays in India for a period of 182 days or more during the relevant previous year in case such person has total income, other than the income from foreign sources, not exceeding ₹ 15 lakhs. However, if such person has total income, other than the income from foreign sources, exceeding ₹ 15 lakhs, he would also be a resident if he has been in India for at least 120 days during the relevant previous year and has been in India during the 4 years immediately preceding the previous year for a total period of 365 days or more. In such a case, he would be resident but not ordinarily resident in India.

Income from foreign sources means income which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India) and which is not deemed to accrue or arise in India.

In this case, total income, other than the income from foreign sources, of Mr. Dhanush for P.Y. 2024-25 would be

Particulars	Amount
Salary from XYZ Inc., USA received in USA (Not included in total income, since it is income from foreign source)	-
Dividend from Indian companies (Included in total income, since deemed to accrue or arise in India)	5,50,000
Agricultural income from land situated in Punjab [Exempt u/s 10(1)]	-

## CA Jasmeet Singh Arora

Rent received/receivable from house property in Lucknow (Included in total income, since deemed to accrue or arise in India)	4,00,000	
Less: 30% of ₹ 4 lakhs	1,20,000	2,80,000
Profits from a profession in USA, which was set up in India, received there		6,00,000
Total income, other than the income from foreign sources		14,30,000

Since, Mr. Dhanush is an Indian citizen who comes on a visit to India only for 121 days in the P.Y. 2024-25 and his total income, other than income from foreign sources does not exceed ₹ 15 lakhs, he would be non-resident for the A.Y. 2025-26.

A non-resident is chargeable to tax in respect of income received or deemed to receive in India and income which accrues or arises or is deemed to accrue or arise to him in India. Accordingly, his total income would be as follow –

Particulars		Amount
Salary from XYZ Inc., USA received in USA (Not taxable, since it neither accrues or arises in India nor is it received in India)		-
Dividend from Indian companies (Taxable, since deemed to accrue or arise in India)		5,50,000
Agricultural income from land situated in Punjab [Exempt u/s 10(1)]		-
Rent received/receivable from house property in Lucknow (Taxable, since it is deemed to accrue or arise in India)	4,00,000	
Less: 30% of ₹ 4 lakhs	1,20,000	2,80,000
Profits from a profession in USA, which was set up in India, received there		-
Gross Total Income/ Total income		8,30,000

### Illustration 29 [MTP Jan 2025]

Mrs. Riya, aged 62 years, was born and brought up in New Delhi. She got married in Russia in 1996 and settled there since then. Since her marriage, she visits India for 60 days each year during her summer break. The following are the details of her income for the previous year ended 31.03.2025:

S. No.	Particulars	Amount (in ₹)
1.	Pension received from Russian Government	65,000
2.	Long-term capital gain on sale of land at New Delhi (computed)	3,00,000
3.	Short-term capital gain on sale of shares of Indian listed companies in respect of which STT was paid both at the time of acquisition as well as at the time of sale (computed)	60,000
4.	Premium paid for self to Russian Life Insurance Corporation at Russia	75,000
5.	Rent received (equivalent to Annual Value) in respect of house property in New Delhi	90,000

You are required to ascertain the residential status of Mrs. Riya and compute her total income in India for Assessment Year 2025-26 under default tax regime.

### Solution

## CA Jasmeet Singh Arora

An Indian citizen or a person of Indian origin who, being outside India, comes on a visit to India (and whose total income, other than from foreign sources, does not exceed ₹ 15,00,000) would be resident in India only if he or she stays in India for a period of 182 days or more during the previous year. Even if his total income, other than from foreign sources, exceeds ₹ 15,00,000, he would be resident in India if stays in India for 120 days or more during the relevant previous year and 365 days or more during the 4 previous years immediately preceding the relevant previous year.

Since Mrs. Riya is a person of Indian origin who comes on a visit to India only for 60 days in the P.Y.2024-25, she is non-resident for the A.Y. 2025-26.

A non-resident is chargeable to tax in respect of income received or deemed to be received in India and income which accrues or arises or is deemed to accrue or arise to her in India. Accordingly, her total income and tax liability would be determined in the following manner:

### Computation of total income and tax liability of Mrs. Riya for A.Y. 2025-26

Particulars		Amt (₹)
Salaries		Nil
Pension received from Russian Government [Not taxable, since it neither accrues or arises in India nor it is received in India]		
Income from House Property		
Annual Value [Rental Income from house property in New Delhi is taxable, since it is deemed to accrue or arise in India, as it accrues or arises from a property situated in India]	90,000	

Less: Deduction u/s 24(a) @ 30%	27,000	63,000
Capital Gains		
Long-term capital gains on sale of land at New Delhi [Taxable, since it is deemed to accrue or arise in India as it is arising from transfer of land situated in India]		3,00,000
Short-term capital gains on sale of shares of Indian listed companies in respect of which STT was paid [Taxable, since it is deemed to accrue or arise in India, as such income arises on transfer of shares of Indian listed companies]		60,000
Gross Total Income		4,23,000
Less: Deduction under Chapter VI-A		
Deduction under section 80C [Not available under default tax regime]		Nil
Total Income		4,23,000

### Illustration 30 [MTP May 2024]

Mr. Akash, an Indian citizen aged 45 years, worked in XYZ Ltd. in Delhi. He got a job offer from ABC Inc., California on 01.06.2023. He left India for the first time on 31.07.2023 and joined ABC Inc. on 08.08.2023. During the P.Y. 2024-25, Mr. Akash visited India from 25.05.2024 to 22.09.2024. He has received the following income for the previous year 2024-25:

Particulars	₹
Salary from ABC Inc., California received in California (Computed)	7,00,000

## CA Jasmeet Singh Arora

Dividend from Indian companies	5,00,000
Agricultural income from land situated in Nepal, received in Nepal	4,00,000
Rent received/receivable from house property in Delhi	5,50,000
Profits from a profession in California, which was set up in India, received there	6,00,000

Determine the residential status of Mr. Akash and compute his total income for the A.Y. 2025-26.

### Solution

As per section 6(1), an Indian citizen or a person of Indian origin who, being outside India, comes on a visit to India would be resident in India if he or she stays in India for a period of 182 days or more during the relevant previous year in case such person has total income, other than the income from foreign sources, not exceeding ₹ 15 lakhs. However, if such person has total income, other than the income from foreign sources, exceeding ₹ 15 lakhs, he would also be a resident if he has been in India for at least 120 days during the relevant previous year and has been in India during the 4 years immediately preceding the previous year for a total period of 365 days or more. In such a case, he would be resident but not ordinarily resident in India.

Income from foreign sources means income which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India) and which is not deemed to accrue or arise in India.

In this case, total income, other than the income from foreign sources, of Mr. Akash for P.Y. 2024-25 would be

Particulars	Amount (₹)
Salary from ABC Inc., California received in California (Computed) (Not included in total income, since it is income from foreign source)	-
Dividend from Indian companies (Included in total income, since it is deemed to accrue or arise in India)	5,00,000
Agricultural income from land situated in Nepal (Not included in total income, since it is accrued or arisen outside India and received outside India)	-
Rent received/receivable from house property in Delhi (Included in total income, since it is deemed to accrue or arise in India)	5,50,000
Less: 30% of ₹ 5.50 lakhs	1,65,000
Profits from a profession in California, which was set up in India, received there	6,00,000
<b>Total income, other than the income from foreign sources</b>	<b>14,85,000</b>

Since, Mr. Akash is an Indian citizen who comes on a visit to India only for 121 days in the P.Y. 2024-25 and his total income, other than income from foreign sources does not exceed ₹ 15 lakhs, he would be non-resident for the A.Y. 2025-26.

A non-resident is chargeable to tax in respect of income received or deemed to receive in India and income which accrues or arises or is deemed to accrue or arise to him in India. Accordingly, his total income would be as follow –

Particulars	Amount (₹)
-------------	------------

## CA Jasmeet Singh Arora

Salary from ABC Inc., California received in California (Computed) (Not taxable, since it neither accrues or arises in India nor is it received in India)		-
Dividend from Indian companies (Taxable, since deemed to accrue or arise in India)		5,00,000
Agricultural income from land situated in Nepal (Not taxable, since it neither accrues or arises in India nor is it received in India)		-
Rent received/receivable from house property in Delhi (Taxable, since it is deemed to accrue or arise in India)	5,50,000	
Less: 30% of ₹ 5.50 lakhs	1,65,000	3,85,000
Profits from a profession in California, which was set up in India, received there		-
<b>Gross Total Income/ Total income</b>		<b>8,85,000</b>

**Illustration 31 [MTP May 2022]**

Mr. Sushant furnished the following particulars of his income for the year ended 31.3.2023.

	Particulars	₹
(a)	Income earned from business in Dubai which is controlled from Delhi (₹ 65,000 is received in India)	80,000
(b)	Pension for services rendered in India but received in Dubai (computed)	24,000
(c)	Dividend from an Oil Company, a Dubai based company, received in Dubai	15,000
(d)	Rent from property in Dubai, deposited in a bank in Dubai and later on, remitted to India through approved banking channels	70,000
(e)	Dividend from Sunset Ltd., an Indian company, received in Dubai	78,000
(f)	Interest on money borrowed by Mr. Dipish, a non-resident, for the purpose of investment in shares of ABC Ltd., an Indian company	55,000
(g)	Agricultural income from a land in Bhutan, received in India	25,000

Compute his gross total income for the assessment year 2025-26, if he is:

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

**Solution****Computation of gross total income of Mr. Sushant for the A.Y. 2025-26**

	Particulars	ROR	RNOR	NR
(a)	Income earned from business in Dubai which is controlled from Delhi, out of which ₹ 65,000 is received in India	80,000	80,000	65,000
(b)	Pension for services rendered in India but received in Dubai (computed)	24,000	24,000	24,000
(c)	Dividend received in Dubai from an Oil company, a Dubai based company	15,000	-	-

## CA Jasmeet Singh Arora

(d)	Rent from property in Dubai, deposited in a bank in Dubai	49,000	-	-
(e)	Dividend from Sunset Ltd., an Indian Company	78,000	78,000	78,000
(f)	Interest on money borrowed by Mr. Dipish, a non-resident, for the purpose of investment in shares of ABC Ltd., an Indian company	55,000	-	-
(g)	Agricultural income from a land in Bhutan, received in India (Taxable)	25,000	25,000	25,000
<b>Gross Total Income</b>		<b>3,26,000</b>	<b>2,07,000</b>	<b>1,92,000</b>

## Notes:

- (a) As per section 5(1), global income is taxable in case of a resident. However, as per section 5(2), in case of a non-resident, only the following incomes are chargeable to tax in India:
1. Income received or deemed to be received in India; and
  2. Income accruing or arising or deemed to accrue or arise in India.
- Further, the income which accrues or arise outside India would be chargeable to tax in case of resident but not ordinarily resident in India, only if such income is derived from a business controlled in India
- Accordingly, the entire income earned from business in Dubai which is controlled from Delhi would be chargeable to tax in the hands of Mr. Sushant if he is a resident in India or resident but not ordinarily resident. However, if he is non-resident then only that part of income which is received in India would be taxable in his hands.
- (b) Agricultural income from a land in Bhutan, received in India is taxable in all cases.
- (c) Pension for services rendered in India but received in Dubai and dividend from Sunset Ltd., an Indian company would be taxable in all cases, since it has accrued or arisen in India.
- (d) Dividend from a Dubai based company, received in Dubai and interest on money borrowed by Mr. Dipish, a non-resident, for the purpose of investment in shares of ABC Ltd., an Indian company, would be taxable in the hands of Mr. Sushant, only if he is resident and ordinarily resident in India. If he is a resident but not ordinarily resident or a non-resident, the same would not be taxable in his hands in India since it has neither accrued nor arisen in India nor is it received in India.
- (e) Likewise, rental income from property in Dubai would also be taxable only if he is resident in India. It has been assumed that the rental income is the gross annual value of the property. Therefore, deduction @30% under section 24, has been provided and the net income so computed is taken into account for determining the gross total income of a resident and ordinarily resident.

	₹
Rent received (assumed as gross annual value)	70,000
Less: Deduction under section 24 (30% of ₹ 70,000)	21,000
Income from house property	49,000

## Illustration 32 [MTP Nov 2023]

## CA Jasmeet Singh Arora

Examine the tax implications of the following transactions for the assessment year 2025-26: (Give brief reason)

- (a) Government of India has appointed Mr. Anand as an ambassador in Japan. He received salary of ₹ 7,50,000 and allowances of ₹ 2,40,000 during the previous year 2024-25 for rendering his services in Japan. He is an Indian citizen having status of non-resident in India for the previous year 2024-25.
- (b) Ms. Kajal, a non-resident in India is engaged in operations which are confined to purchase of goods in India for the purpose of export. She has earned ₹ 2,50,000 during the previous year 2024-25.
- (c) Mr. Vikas, a non-resident in India, has earned ₹ 3,00,000 as royalty for a patent right made available to Mr. Raj who is also a non-resident. Mr. Raj has utilized patent rights for development of a product in India and 50% royalty is received in India and 50% outside India.
- (d) Mr. Jai, a NRI, borrowed ₹ 10,00,000 on 01.04.2024 from Mr. Aryan who is also a non-resident and invested such money in the shares of an Indian Company. Mr. Aryan has received interest @ 12% per annum.

### Solution

- (a) As per section 9(1)(iii), salaries (including, inter alia, allowances) payable by the Government to a citizen of India for services rendered outside India shall be deemed to accrue or arise in India.  
Thus, salary received from Government by Mr. Anand, being a non-resident of ₹ 7,50,000 for rendering services in Japan would be taxable in his hands, after allowing standard deduction of ₹ 50,000 under normal provisions of the Act. However, any allowance or perquisites paid or allowed outside India by the Government to a citizen of India for rendering services outside India will be fully exempt u/s 10(7). Hence, ₹ 2,40,000, being the allowance would be exempt.
- (b) In the case of a non-resident, no income shall be deemed to accrue or arise in India to him through or from operations which are confined to the purchase of goods in India for the purpose of export.  
Thus, income of ₹ 2,50,000 arising in the hands of Ms. Kajal would not be taxable in her hands in India, since her operations are confined to purchase of goods in India for the purpose of export.
- (c) Royalty payable by a non-resident would be deemed to accrue or arise in India in the hands of the recipient only when such royalty is payable in respect of any right, property or information used for the purposes of a business or profession carried on by such non-resident in India or earning any income from any source in India.  
In the present case, since Mr. Raj, a non-resident, paid the royalty of ₹ 3,00,000 for a patent right used for development of a product in India, the same would be taxable in India in the hands of the recipient, Mr. Vikas, a non-resident, irrespective of the fact that only 50% of the royalty is received in India.
- (d) Interest payable by a non-resident on the money borrowed for any purpose other than a business or profession in India, would not be deemed to accrue or arise in India.  
In the present case, since Mr. Jai, a non-resident borrowed the money for investment in shares of an Indian company, the interest on such borrowing of ₹

## CA Jasmeet Singh Arora

1,20,000 (₹ 10,00,000 x 12%) payable to Mr. Aryan, a non-resident would not be deemed to accrue or arise to him in India. Hence, the same would not be taxable in India in the hands of Mr. Aryan.

### Illustration 33 [PYQ May 2025]

State with reasons whether income chargeable to tax in India for the A.Y. 2025-26 in the hands of recipients in following independent situations:

1. Mr. Mahesh received dividend of ₹ 7 lakhs declared and paid by a foreign company outside India. Such dividend has been declared in respect of shares which derive their value substantially from assets situated in India. He is resident and not ordinarily resident in India.
2. Mr. Shivansh is a non-resident in India and residing in China has deposited ₹ 16 lakhs with M/s ABC Ltd., an Indian company, on 01-09-2024. He has received interest @ 12% per annum in China during the previous year 2024-25.
3. Mr. Ramesh received royalty of ₹ 8,25,000 in consideration of providing patent rights to Mr. Sunil. Mr. Sunil has developed a new product in India by utilizing the patent rights. 30% of the royalty was received in India and 70% was received outside India. Mr. Ramesh and Sunil both have status of non-resident in India.

### Solution

1. Dividend received by Mr. Mahesh from a foreign company outside India would not be deemed to accrue or arise in India even if shares of such company derive their value substantially from assets situated in India. Hence, such dividend of ₹ 7 lakhs would not be taxable in the hands of Mr. Mahesh.
2. Interest on deposits with M/s ABC Ltd., an Indian Company, would be deemed to accrue or arise in India in the hands of Mr. Shivansh, being a non-resident since source of income is in India. Thus, interest income of ₹ 1,12,000 (₹ 16 lakhs x 12% x 7/12) would be taxable in his hands.

Royalty received by Mr. Ramesh, a non-resident from Mr. Sunil, another non-resident would be deemed to accrue or arise in India, since such royalty is paid for patent rights used for a new product developed in India. Thus, ₹ 8,25,000 would be taxable in the hands of Mr. Ramesh irrespective of the facts that only 30% such amount is received in India.

### Illustration 34 [RTP Jan 2026]

Ms. Aanchal, an Indian Citizen, is a government employee working for the Indian Government. She submits the following information for the previous year ending on 31.03.2025:

		₹
1	Salary income received in Malaysia for services rendered there	2,00,000
2	Profits from business carried on in Chennai	80,000
3	Loss from business carried on in Vadodara	(20,000)
4	Loss from business carried on in USA (though profits are not received in India, business is controlled from Rishikesh)	(46,000)
5	Unabsorbed depreciation of business in USA	(16,000)
6	Profits from business in Bali (controlled from Delhi) and 60% of profit deposited in a bank in Bali and 40% received in India	70,000

## CA Jasmeet Singh Arora

7	Rent from house property situated in USA and received in USA	1,92,000
---	--	----------

Determine the gross total income of Ms. Aanchal for the A.Y. 2025-26 assuming that she has opted out from the provisions of section 115BAC on the assumption that she is:

1. Resident but not ordinarily resident in India
2. Non-resident in India

### Solution

#### Computation of GTI of Ms. Aanchal for A.Y. 2025-26 under normal provisions of the Act

Particulars of income		R-NOR	NR
1	Salary income received in Malaysia for services rendered there (Note 1) Less: Standard deduction	2,00,000 50,000	2,00,000 50,000
2	Profits from business carried on in Chennai [Since it accrues or arises in India]	1,50,000 80,000	1,50,000 80,000
3	Loss from business carried on in Vadodara [Since it accrues or arises in India]	(20,000)	(20,000)
4	Loss from business carried on in USA (business is controlled from Rishikesh)	(46,000)	Nil
5	Unabsorbed depreciation of business in USA	(16,000)	Nil
6	Profit from business in Bali (business is controlled from Delhi and only 40% is received in India)	70,000	28,000
7	Rent from property situated in USA and received in USA	Nil	Nil
Gross Total Income		2,18,000	2,38,000

### Illustration 35 [PYQ Sep 2025]

Swetha, a citizen of India, is a chartered accountant. She is a working partner in Swetha and Varun Associates, which was set up in Chennai, India. She visits foreign country A quite often and provides accounting services to corporates there in her individual capacity. In country A, she is not subject to any income tax. The details of her income for the financial year 2024-25 is as follows:

1. Remuneration from her CA firm in India (amount received in India) - ₹ 16 lakhs (Deductible while computing the income of the firm)
2. Income received from providing accounting services in country A (received in a bank account in country A) - ₹ 5 lakhs
3. Dividend (from companies incorporated in country A and received in a bank account in country A) - ₹ 8 lakhs
4. Income from a business in country A which was set up in country A but is controlled from Chennai, India (received in country A) - ₹ 7 lakhs

Ascertain her residential status (briefly explaining relevant provisions) along with the taxability of income for the assessment year 2025-26 in the following independent situations:

1. She did not visit India during the F.Y. 2024-25.
2. She visits and stays in India for 200 days every year since 12 preceding previous years including F.Y. 2024-25.
3. She did not visit India during the previous year 2024-25 and her income from profession in India is ₹ 4 lakhs for the financial year 2024-25, instead of ₹ 16 lakhs.

**Solution**

1. She did not visit India during the F.Y. 2024-25

Swetha is a citizen of India who is not liable to tax in Country A. She will be a deemed resident under section 6(1A) if her total income, other than the income from foreign sources, exceeds ₹ 15 lakhs during the previous year.

**Computation of total income, other than the income from foreign sources**

Particulars	₹
Remuneration from CA firm as partner [Accrued or arisen in India]	16,00,000
Income from providing accounting services in Country A and received in Country A [Income from a foreign source, hence, to be excluded]	-
Dividend from companies incorporated in Country A and received in Country A [Income from a foreign source, hence, to be excluded]	-
Income from a business in Country A but controlled from Chennai (To be included since the business is controlled from India, even though such income accrued and received outside India)	7,00,000
<b>Total income (excluding income from foreign sources)</b>	<b>23,00,000</b>

Since Swetha has total income excluding income from foreign sources exceeding ₹ 15 lakhs, she is a deemed resident and resident but not ordinarily resident in India by default.

Her total income would be ₹ 23 lakhs as computed above.

2. She visits and stays in India for 200 days every year since 12 preceding years including F.Y. 2024-25

Swetha is a resident in India since she stayed in India for 182 days or more during the P.Y. 2024-25. She is a resident and ordinarily resident in India since her stay in 7 previous years immediately preceding the P.Y. 2024-25 exceeds ₹ 729 days and she is resident in 2 or more previous years out of 10 previous years preceding P.Y. 2024-25.

In such case, her global income is taxable in India. Accordingly, her total income would be as follows:

Particulars	₹
Remuneration from CA firm as partner	16,00,000
Income from providing accounting services in Country A and received in Country A	5,00,000
Dividend from companies incorporated in Country A and received in Country A	8,00,000
Income from a business in Country A but controlled from Chennai	7,00,000
<b>Total income</b>	<b>36,00,000</b>

3. She did not visit India during the P.Y. 2024-25 and her income from profession in India is ₹ 4 lakhs instead of ₹ 16 lakhs.

In such case, Swetha's total income excluding income from foreign sources would be ₹ 11 lakhs (₹ 4 lakhs + ₹ 7 lakhs) which is not exceeding ₹ 15 lakhs. Accordingly, she will be a non-resident in India during the P.Y. 2024-25. Her total income would be ₹ 4 lakhs comprising of income from profession only.