| | No of Days |
|---|---|
| PY 25-26 | 100 → R |
| PY 24-25 | 100 → R |
| PY 23-24 | 100 → R |
| PY 22-23 | 100 → R |
| PY 21-22 | 100 → R |
| PY 20-21 | 100 → R |
| PY 19-20 | 100 → NR |
| PY 18-19 | 100 → NR |
| PY 17-18 | 100 → NR |
| PY 16-17 | 100 → NR |
| PY 15-16 | NIL |

Part a(ii) :- Determination of Residential status if he stays 90 days every year.

| Particulars | No. of Days | Satisfied/ Not satisfied |
|---|---|---|
| Basic conditions | | |
| (i) stay in India for 182 days or more in PY | 90 days | Not satisfied |
| or | | |
| (ii) stay in India for 60 days or more in PY | 90 days | Not satisfied |
| And | | |
| 365 days or more in las 4 PY's | 360 days | |

Conclusion :- since he not satisfied any basic condition so he will be treated as Non Resident in India

Part a(ii) Determination of Residential status if he stays 110 days every year

| Particulars | No of Days | Satisfied/ Not satisfied |
|---|---|---|
| Basic conditione | | |
| (i) stay in India for 182 days or more in PY | 110 days | Not satisfied |
| OR | | |
| (ii) Stay in India for 60 days or more in PY | 110 days | → satisfied |
| And | | |
| 365 days or more in last 4 PY's | 440 | |
| Additional condition | | |
| (i) Resident in India for 2 PY's or more in last 10 PY's | Yes | satisfied |
| And | | |
| (ii) stay in India for 730 days or more in last 7 PY's | 770 days | satisfied |

Conclusion :- Since Mr. Lee satisfied Basic condition and both the additional condition so he is treated as Resident and Ordinarily Resident in India.

(b) If above question is related to srinath an Indian citixen visit India during the PY and stay in India for only 100 days then his Residential status would be Non Resident irrespective of his Income.

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(c) If Srinath's no. of days stay in India is 120 days.
— If total income (other than foreign source income) within the limit of 1500000 then there is no need to check 2nd Basic condition so he is treated as Non Resident in India. *

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| Particulars | No. of Days | Satisfied / Not satisfied |
|---|---|---|
| Basic conditions | | |
| (i) Stay in India for 182 days or more in PY | 70 days | Not satisfied |
| or | | |
| (ii) Stay in India for 60 days or more in PY | 70 days | → Not satisfied |
| And | | |
| 365 days or more in last 4 PY's | 355 days | |

Conclusion :- Since Mr B not satisfied any condition so he will be treated as Non Resident.

* — If his total income (other than foreign source income) is more than 1500000 then we have to check second Basic condition and instead of 60 days, 120 days shall be considered. In this case since he stay ~~60~~ 120 days in current year and 365 days or more in last 4 PY's so he satisfied 2nd Basic condition, so he is treated as [R-NOR]

| M | T | W | T | F | S | S |
|---|---|---|---|---|---|---|

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Exception of 2nd Basic condition

In the following 3 cases, 2nd Basic condition is not applicable. It means just we have to check first Basic condition

1) Indian citizen leave India during the PY for an employment / Business / Profession outside India.

2) Indian citizen leave India during the PY as a crew member of the Indian ship.

3) Indian citizen or person of Indian origin engaged outside India in any employment / business / profession and visiting India during PY and his Total Income [excluding Income from foreign sources] is upto ₹ 1500000 in PY.

Note:- Person of Indian origin means Assessee or either of his parents or either of his grandparents were born in undivided India.

Note :- In case of Indian citizen or Person of Indian origin having total income (other than foreign income) is more then 1500000 then second basic condition is applicable and instead of 60 days in the PY, 120 days shall be considered. If that person stays in India for 120 days or more but less than 182 days in C.Y and 365 days or more in last 4 PYs then he will be treated as [R-NOR]

There is no need to check the additional conditions.

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Indian citizen or POIO → Not satisfied 1st Basic condition

↓

Visiting India in PY.

Total Income (Other than foreign income)

↓

upto ₹ 1500000

↓

No need to check second basic condition

Total income > 1500000

↓

2nd Basic condition

(1) stay in India for 120 days or more in PY

&

(2) 365 days or more in last 4 PY's

Satisfied

↓

R but NOR

Not satisfied

↓

Non Resident

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— CBDT Notification

In case of Indian citizen being crew member of foreign bound ship leaving India, for calculation of No. of days stay in India following time period shall be excluded.

"From the date entered into continuous discharge certificate in respect of joining the ship and ending on the date entered into continuous discharge certificate in respect of signing off the ship".

— Sec 6(1A) :- Deemed Resident.

If any Individual being Indian citizen not satisfied any basic condition as per sec 6(1), having total Income more than ₹15,00,000 (other than foreign income) shall be deemed to be resident in India if he is not liable to Tax in any country due to residency or domicile then he is treated as R but NOR in India.

Eg:- Mr Technical Guruji is an Indian citizen and currently working in Dubai. During the PY 25-26 he has visited 55 days in India. During the PY he is not liable to pay tax in any country due to his Residency. Determine his residential status if his total income (OTFI

(A) 2150000 → R but NOR

(B) 1100000 → NR

(B) — Residential status of HUF

If control and Management

- Wholly or Partly in India → Resident
  - If karta satisfies both additional conditions as per sec 6(6) → Resident and OR
  - If karta does not satisfies both additional conditions as per sec 6(6) → R but NOR
- Wholly outside India → Non Resident

Q12 pg 20 (A) Residential status of HUF

Business of HUF is fully transacted from Australia it means it is wholly controlled from outside India so as per sec 6(2), HUF is treated as Non Resident in India

(B) Residential status of Mr E.

→

| Particulars | No. of Days | Satisfied/ Not satisfied |
|---|---|---|
| Basic conditions | | |
| (i) Stay in India for 182 days or more | 245 days | Satisfied |
| OR | | |
| ii) Stay in India for 60 days or more in PY | ⟶ | Not applicable |
| And | | |
| 365 days or more in last 4 PYs | | |
| Additional condition | | |
| (i) Resident in India for 2 PY's or more in last 10 PY's | NIL | Not satisfied |
| And | | |
| (ii) Stay in India for 730 days or more in last 7 PY's | NIL | Not satisfied |

Conclusion :- Since Mr E satisfied Basic condition but he has not satisfied both the additional conditions. So he is treated as R but NOR.

(C) Residential status of firm/ LLP/ AOP/ BOI/ Local authority/ AJP. Sec 6(2)

If control and Management

Wholly or Partly in India → Resident

Wholly outside India → Non Resident

— D) Residential status of company Sec 6(3)

- Indian company
  - Always Resident
- Foreign company
  - Place of effective management in India (POEM)
    - Resident
  - Otherwise
    - NR

— Sec 5 :- Scope of Total Income

Total Income

- Indian Income
  - Income Received or deemed to be received in India
    **OR**
    Income accruing or arising or deemed to be accrue or arise in India.
- Foreign Income
  - Income other than Indian Income.

Taxability of Income for Individual and HUF

| # | Income | ROR | R-NOR | NR |
|---|---|---|---|---|
| 1) | Indian Income | Taxable | Taxable | Taxable |
| 2) | Foreign income: Income from Business or Profession controlled / set up in India | Taxable | Taxable | Not Taxable |
| 3) | Other foreign Income | Taxable | Not Taxable | Not Taxable |

| Sr. NO | Income | Resident | NR |
|---|---|---|---|
| 1) | Indian Income | Taxable | Taxable |
| 2) | Foreign Income | Taxable | Not Taxable |

Notes:-

1) Income recived means recived for the First time. After receiving income outside India, subsequently if it is remitted into India, it cannot be treated as Receipt of Income.

2) Income may be in cash or in Kind.

3) Any income already taxed on accrual basis, consequ-ently remitted to India, is not chargeable to tax at the time of remittance irrespective of the residential status.

4) Income accrual in India means income generated in India or source of Income situated in India.

1-3; 2-2, 3-1

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Mr. - -- - PY 25-26 AY 26-27

Computation of Gross Total Income

| | | ① R-OR | ② R-NOR | ③ NR |
|---|---|---|---|---|
| 1) | Interest on UK Development Bonds | | | |
| | → 50% received in India | 5000 | 5000 | 5000 |
| | → 50% outside India | 5000 | — | — |
| 2) | Income from Business in Chennai | 20000 | 20000 | 20000 |
| 3) | STCG on sale of shares of an Indian company received in London | 20000 | 20000 | 20000 |
| 4) | Dividend from British company received in London | 5000 | — | |
| 5) | LTCG on sale of plant at Germany | | | |
| | → 50% in India | 20000 | 20000 | 20000 |
| | → 50% outside India | 20000 | | |
| 6) | Income earned from Business in Germany → Received in India | 40000 | 40000 | 40000 |
| | → outside India | 30000 | 30000 | — |
| 7) | Profits from a business in Delhi | 15000 | 15000 | 15000 |
| 8) | Income from HP in London deposited in Bank of London | 50000 | — | — |
| 9) | Interest on debentures in an Indian company received in London. | 12000 | 12000 | 12000 |