

Question 14

RTP Nov'19

During the P.Y.2023-24, Mr. Ranjit has short-term capital gains of ₹ 95 lakhs taxable under section 111A, long-term capital gains of ₹ 110 lakhs taxable under section 112A and business income of ₹ 90 lakhs. Which of the following statements is correct?

- Surcharge@25% is leviable on income-tax computed on total income of ₹ 2.95 crore, since total income exceeds ₹ 2 crore.
- Surcharge@15% is leviable on income-tax computed on total income of ₹ 2.95 crore.
- Surcharge@15% is leviable in respect of income-tax computed on capital gains of ₹ 2.05 crore; in respect of business income, surcharge is leviable@25% on income-tax, since total income exceeds ₹ 2 crore.
- Surcharge@15% is leviable in respect of income-tax computed on capital gains of ₹ 2.05 crore; surcharge@10% is leviable on income-tax computed on business income, since the same exceeds ₹ 50 lakhs but is less than ₹ 1 crore.

Question 15

RTP May'20

Mr. Ajay is found to be the owner of two gold chains of 50 gms each (market value of which is ₹ 1,45,000 each) during the financial year ending 31.3.2024 but he could offer satisfactory explanation for ₹ 50,000 spent on acquiring these gold chains. As per section 115BBE, Mr. Ajay would be liable to pay tax of -

- ₹ 1,87,200
- ₹ 2,26,200
- ₹ 1,49,760
- ₹ 1,80,960

Question 16

RTP May '23, MTP Sep '23

Mr. Rishabh, aged 65 years and a resident in India, has a total income of 4,50,00,000, comprising long term capital gain taxable under section 112 of 85,00,000, long term capital gain taxable under section of 75,00,000 and other income of 2,90,00,000. What would be his tax liability for A.Y. 2024-25.

Assume that Mr. Rishabh has opted for the provisions of section 115BAC.

- 1,41,40,750
- 1,38,50,200
- 1,38,84,390
- 1,39,81,240

Question 17

RTP May'19

Mr. Anay (aged 25) has an agricultural income of ₹ 2,10,000 and business income of ₹ 2,35,000. Which of the following statement is correct?

- Agricultural income always has to be aggregated with business income for rate purposes
- No aggregation is required since business income which constitutes his total income, is less than basic exemption limit
- No aggregation is required since agricultural income is less than basic exemption limit
- Agricultural income is exempt under section 10(1) but the same has to be aggregated with business income, since it exceeds ₹ 5,000.



Question 18

RTP May'22

Mr. A has taken two ULIPs. ULIP "X" is issued on 1.1.2023 and ULIP "Y" on 1.5.2023. The sum assured of ULIP "X" and ULIP "Y" is ₹ 30 lakhs and ₹ 40 lakhs, respectively. The annual premium paid by Mr. A during the P.Y. 2023-24 is ₹ 3 lakhs and ₹ 4 lakhs, respectively. What would be the taxability of the consideration received by Mr. A on maturity of both the ULIPs?

- Consideration received on the maturity of ULIP "X" would be exempt u/s 10(10D) while the profits and gains from receipt of consideration on the maturity of ULIP "Y" would be taxable.
- Consideration received on the maturity of ULIP "Y" would be exempt u/s 10(10D) while the profits and gains from receipt of consideration on the maturity of ULIP "X" would be taxable.
- Consideration received on the maturity of both ULIP "X" and ULIP "Y" would be exempt u/s 10(10D)
- The profits and gains from receipt of consideration on the maturity of both ULIP "X" and ULIP "Y" would be taxable.

Question 19

MTP2 Sep'24

Mr. Sambhav (aged 48 years) furnishes the following particulars for the previous year 2023-24 in respect of an industrial undertaking established in "Special Economic Zone" in March 2018. It began manufacturing in April 2018.

Export Sales of F.Y. of 2023-24 include freight and insurance of 5 lakhs for delivery of goods outside India. He received rent of 30,000 per month for a commercial property let out to Mr. Akash, a salaried individual. He earned interest on savings bank A/c of 15,000 and interest on Post Office savings A/c of 7,000 during the P.Y. 2023-24. Mr. Sambhav has shifted out of the default tax regime under section 115BAC. Based on the facts of the case scenario given above, choose the most appropriate answer to the following questions: (3 x 2 Marks)

(i) Compute the amount of export turnover and total turnover for purpose of computing deduction under section 10AA for A.Y. 2024-25.

- 45,00,000 and 85,00,000, respectively
- 40,00,000 and 80,00,000, respectively
- 45,00,000 and 80,00,000, respectively
- 40,00,000 and 85,00,000, respectively

(ii) Compute the amount of deduction available to Mr. Sambhav under section 10AA for A.Y. 2024-25.

- 10,00,000
- 4,70,577
- 5,62,500
- 5,00,000

(iii) Compute the total income of Mr. Sambhav for A.Y. 2024-25.

- 17,60,500
- 12,60,500
- 18,72,000
- 17,64,000



Chapter 2: Residence & Scope of Total Income

Descriptive Questions

Easy

Question 1

MTP April'19

Compute the total income of Mr. Rajesh, aged 45 years, an Indian citizen for A.Y. 2024-25. On 22.09.2023, he left India for the first time to work as an officer of a company in Canada.

He earns the following income during the previous year 2023-24:

Sr. No.	Particulars	(Rs.)
1.	Interest on Canada Development Bonds (only 50% of interest received in India)	40,000
2.	Dividend from Canadian company received in Canada	20,000
3.	Short term capital gain on sale of shares of an Indian company received in India	90,000
4.	Interest on savings bank deposit in UCO Bank, Delhi	12,000
5.	Income from Profession in Canada (set up in India), out of which Rs.10,000 is received in India	15,000
6.	Agricultural income from a land situated in Gujarat	45,000
7.	Rent received in Canada in respect of house property at Canada	60,000

7 Marks

Answer:

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

- He has been in India during the previous year for a total period of 182 days or more, or
- He has been in India during the 4 years immediately preceding the previous year for a total period of 365 days or more and has been in India for at least 60 days in the previous year.

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

(As per amendment in case of Indian citizen or person of Indian origin, having total income more than Rs. 15,00,000 (other than income from foreign source) then the second basic condition is applicable and instead of 60 days in the previous year, 120 days are considered)

During the previous year 2023-24, Mr. Rajesh, an Indian citizen, was in India for 175 days only (i.e., 30+31+30+31+31+22 days). Thereafter, he left India for employment purposes.

Since he does not satisfy the minimum criteria of 182 days, he is a non-resident for the A.Y. 2024-25.



Computation of total income of Mr. Rajesh for the A.Y. 2024-25

Notes:

S. No.	Particulars	Non-Resident (Rs.)
1.	Interest on Canada Development Bond (See Note 1)	20,000
2.	Dividend from Canadian Company received in Canada (See Note 2)	-
3.	Short term capital gain on sale of shares of an Indian company received in India	90,000
4.	Interest on savings bank deposit in UCO Bank, Delhi	12,000
5.	Income from profession in Canada (set up in India) out of which Rs.10,000 is received in India (See Note 1)	10,000
6.	Agricultural income from a land in Gujarat (See Note 3)	-
7.	Income from house property at Canada (See Note 4)	-
	Gross Total income	1,32,000
	Less: Deduction under Chapter VI-A Section 80TTA (See Note 5)	10,000
	Total Income	1,22,000

(1) As per section 5(2), in case of a non-resident, only the following incomes are chargeable to tax in India:

- Income received or deemed to be received in India; and
- Income accruing or arising or deemed to accrue or arise in India.

Therefore, only that part of interest income and income from profession which is received in India would be taxable in his hands.

- Dividend received in Canada from a Canadian based company would not be taxable in the hands of Mr. Rajesh since it has neither accrued nor arisen in India nor is it received in India.
- Agricultural income from a land situated in India is exempt under section 10(1) in the case of both non-residents and residents.
- Rental income from property in Canada would not be taxable, since it is neither accrued or arisen in India nor it is received in India.

In case of an individual other than senior citizen, interest up to Rs.10,000 from savings account with, inter alia, a bank is allowable as deduction under section 80TTA, irrespective of the residential status.

Question 2

MTP April, 22

Mr. Krishna (aged 58 years), a citizen of India, serving in the Ministry of Finance in India, was transferred to Indian Embassy in UK on 15th March 2023. His income during the financial year 2023-24 is given hereunder:

Particulars	₹
Rent from a house situated at UK, received in UK. Thereafter, remitted to Indian bank account.	5,25,000
Interest on Post office savings bank account in India	4,500



Salary from Government of India	9,25,000
Foreign Allowances from Government of India	8,00,000

Mr. Krishna did not come to India during the financial year 2023-24. Compute his total income for the Assessment year 2024-25. Assume he does not opt for section 115BAC. **4 Marks**

Answer:

Mr. Krishna is a non-resident for the A.Y.2024-25, since he was not present in India at any time during the previous year 2023-24 [Section 6(1)].

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

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

Computation of Total Income of Mr. Krishna for A.Y. 2024-25

Particulars	₹
Salaries	
Salary from Government of India (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. Krishna, a citizen of India, even though he is a non-resident and rendering services outside India)	9,25,000
Foreign Allowance from Government of India [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)].	Nil
Gross Salary	9,25,000
Less: Standard Deduction under section 16(ia) of ₹ 50,000, being lower of gross salary or ₹ 50,000	50,000
	8,75,000
Income from House Property	
Rent from a house situated at UK, received in UK (Income from property situated outside India would not be taxable in India in the hands of a non-resident, since it neither accrues or arises in India nor is it deemed to accrue or arise in India nor is it received in India)	Nil
Income from Other Sources	
Interest on Post office savings bank account - exempt upto ₹ 3,500	1,000
Gross Total Income	8,76,000
Less: Deduction under section 80TTA	1,000
Total Income	8,75,000

Question 3

MTP Nov'22

Mr. Sarthak, an individual and Indian citizen living in Dubai, since year 2006 and never came to India for a single day since then, earned the following incomes during previous year 2023-24:

	Particulars	Amount (in ₹)
(i)	Income accrued and arisen in Dubai but he is not liable to tax in Dubai	20,00,000



(ii)	Income accrued and arisen 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

1. Determine the residential status of Mr. Sarthak and taxable income for the previous year 2023-24 (assuming no other income arise during the previous year).
2. What would be your answer if income arising in Dubai from a profession set up in India is ₹ 2 lakhs instead of ₹ 10 lakhs?
3. What would be your answer, if Mr. Sarthak is not an Indian citizen but his parents were born in India?

6 Marks

Answer:

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. 2023-24 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(1A). A deemed resident is always a resident but not ordinarily resident in India (RNOR).

Computation of Total Income for A.Y. 2024-25

	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. 2023-24 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 not an Indian citizen and his parents were born in India, he would be 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. 2023-24 and his total income would be ₹ 13 lakhs.

Question 4

MTP May'18

Mr. Kavin, a non-resident, entered into the following transactions during the financial year 2023-24:

1. Received ₹ 20 lakhs from a non-resident for use of patent for a business in India.
2. Received foreign currency equivalent to ₹ 15 lakhs from a non-resident Indian for use of know-how for a business in Sri Lanka and this amount was received in Korea.



3. Received ₹ 7 lakhs from RR Ltd., an Indian company as fees for providing technical services in India.
4. Received ₹ 5 lakhs from R & Co., Mumbai, resident in India, for conducting the feasibility study for a new project in Nepal and the payment was made in Nepal.
5. Received ₹ 8 lakhs towards interest on moneys borrowed by a non-resident for the purpose of business within India. Amount was received in Korea.

Examine briefly whether the above receipts are chargeable to tax in India. (RTP May'18)

Answer:

Taxability of certain receipts in the hands of Mr. Kavin, a non-resident, for A.Y. 2024-25

	Taxability	Reason
(a)	Taxable	Amount of ₹ 20 lakhs received from a non-resident is deemed to accrue or arise in India by virtue of section 9(1)(vi)(c), since the patent was used for a business in India. Therefore, the amount is chargeable to tax in India.
(b)	Not Taxable	Foreign currency equivalent to ₹ 15 lakhs received in Korea from a non-resident for use of know-how for a business in Sri Lanka is not deemed to accrue or arise in India as per section 9(1)(vi)(c), since it is in respect of a business carried on outside India. Also, the amount was received outside India. Therefore, the same is not chargeable to tax in India.
(c)	Taxable	Amount of ₹ 7 lakhs received from RR Ltd., an Indian Company, is deemed to accrue or arise in India by virtue of section 9(1)(vii)(b), since it is for providing technical services in India. Therefore, the same is chargeable to tax in India.
(d)	Not Taxable	Amount of ₹ 5 lakhs received in Nepal from R & Co., a resident, for conducting feasibility study for the new project in Nepal is not deemed to accrue or arise in India as per section 9(1)(vii)(b), since such study was done for a project outside India. The amount was also received outside India. Therefore, the same is not chargeable to tax in India.
(e)	Taxable	Amount of ₹ 8 lakhs received in Korea towards interest on moneys borrowed by a non-resident for the purpose of business within India is deemed to accrue or arise in India by virtue of section 9(v)(c), since money borrowed was used for the purpose of business in India. Therefore, the same is chargeable to tax in India.

Question 5

MTP May'19

Determine the residential status of Ms. Nicole Kidman, an Australian actress, for the A.Y. 2024-25, from the following information about her stay in India contained in her passport.

F.Y.	From	To	F.Y.	From	To
2023-24	May 3rd	August 12th	2018-19	May 3rd	August 12th
2022-23	July 23rd	August 11h	2017-18	May 3rd	August 12th
2021-22	February 9th	March 26th	2016-17	May 3rd	August 12th
2020-21	September 8th	March 26th	2015-16	May 3rd	August 12th
2019-20	May 17th	September 30th	-	-	-

Answer:

The residential status of Ms. Nicole Kidman, a foreign national, would be determined in the following manner -



Previous Year	2023-2024	2022-2023	2021-2022	2020-2021	2019-2020	2018-2019	2017-2018	2016-2017	2015-2016
No. of Days of Stay in India	102	20	46	201	137	102	102	102	102

Ms. Nicole Kidman is said to be resident if she satisfies any one of the following basic conditions:

- Has been in India during the previous year for a total period of 182 days or more (or)
- Has been in India during the 4 years immediately preceding the previous year for a total period of 365 days or more and has been in India for at least 60 days during the previous year. Ms. Nicole Kidman's stay in India during the P.Y.2023-24 is less than 182 days. However, her stay in India during the P.Y.2023-24 is 102 days, which exceeds 60 days; and her stay in India during the four previous years prior to P.Y.2023-24 is 404 days [20 + 46 + 201 + 137], which exceeds 365 days. Hence, she is a resident for P.Y.2023-24.

Further, Ms. Nicole Kidman would be "Resident but not ordinarily resident" in India in during the previous year 2023-24, if she:

- has been a non-resident in 9 out of 10 previous years preceding the relevant previous year; or
- has during the 7 previous years immediately preceding the relevant previous year been in India for less than 730 days. If she does not satisfy both of these conditions, she would be a resident and ordinarily resident.

In the present case, her stay in India in the last seven previous years prior to P.Y.2023-24 is 710 days [20 + 46 + 201 + 137 + 102 + 102 + 102], which is less than 730 days. Therefore, she is resident but not ordinarily resident for the P.Y.2023-24 even if she is resident in the two assessment years i.e., A.Y.2021-22 and A.Y.2020-21 as per the information given in the question.

Question 6

MTP May'20

Mr. Rajesh Sharma (aged 62 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 29th May 2023 as stamped in the passport and returned on 27th April 2024. He has been in India for less than 365 days during the 4 years immediately preceding the previous year. Determine his residential status and his total income for the assessment year 2024-25 from the following information:

- Short term capital gain on the sale of shares of Tilt India Ltd., a listed Indian company, amounting to ₹ 58,000. The sale proceeds were credited to his bank account in Singapore.
- Dividend amounting to ₹ 48,000 received from Treat Ltd., a Singapore based company, which was transferred to his bank account in Singapore. He had borrowed money from Mr. Abhay, a non-resident Indian, for the above-mentioned investment on 2nd April, 2023. Interest on the borrowed money for the previous year 2023-24 amounted to ₹ 5,800.
- Interest on fixed deposit with Punjab National Bank, Delhi amounting to ₹ 9,500 was credited to his saving bank account.

Answer:

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:

- He has been in India during the previous year for a total period of 182 days or more, or



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

If the individual satisfies any one of the conditions mentioned above, he is a resident. If both the above conditions are not satisfied, the individual is a non-resident. Mr. Rajesh Sharma, an Indian citizen, has not satisfied either of the basic conditions for being a resident, since he was in India for only 59 days during the previous year 2023-24. Hence, he is non-resident in India for A.Y.2024-25.

Computation of total income of Mr. Rajesh Sharma for A.Y.2024-25

Particulars		Amount (₹)
(1)	Short-term capital gain on sale of shares of an Indian listed company is chargeable to tax in the hands of Mr. Rajesh Sharma, since it has accrued and arisen in India even though the sale proceeds were credited to bank account in Singapore.	58,000
(2)	Dividend of ₹ 48,000 received from Singapore based company transferred to his bank account in Singapore is not taxable in the hands of the non-resident since the income has neither accrued or arisen in India nor has it been received in India. Since dividend is not taxable in India, interest paid for investment is not allowable as deduction.	Nil
(3)	Interest on fixed deposit with Punjab National Bank, Delhi credited to his savings bank account is taxable in the hands of Mr. Rajesh Sharma as Income from other sources, since it has accrued and arisen in India and is also received in India. He would not be eligible for deduction under section 80TTB, since he is a non-resident.	9,500
Total Income		67,500

Question 7

MTP May'23

Mrs. Roma, an Indian Citizen, is a government employee working for the Indian Government. She submits the following information for the previous year ending 31.03.2024:

Determine the gross total income of Roma for the A.Y. 2024-25 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.

	₹
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

Answer:

Computation of gross total Income of Mrs. Roma for the A.Y. 2024-25



Particulars of income		Resident but not Ordinarily Resident (₹)	Non-Resident (₹)
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	

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 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.

Question 8

MTP Jan'21

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. **3 Marks**

Answer:

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.

Question 9

MTP Nov'20

Mr. Thomas, a non-resident and citizen of Japan entered into following transactions during the previous year ended 31.03.2024. Examine the tax implications in the hands of Mr. Thomas for the Assessment Year 2024-25 as per Income-tax Act, 1961. (Give brief reasoning)

1. 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).
2. Received ₹ 10 lakhs in Japan from a business enterprise in India for granting license for computer software (not hardware specific).
3. 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.
4. 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.

5 Marks**Answer:**

1. Not taxable, since interest payable by a non-resident to another non-resident would be deemed to accrue or arise in India only if the borrowed fund is used for the purposes of business or profession carried on by him in India. In this case, it is used for investing in Indian company's debt fund for earning interest and not for the purposes of business or profession. Hence, it is not taxable in India.
2. Royalty includes, inter alia, consideration for grant of license for computer software. Hence, the amount of ₹ 10 lakhs payable by a resident (business enterprise in India) for grant of license for computer software would be royalty which is deemed to accrue or arise in India in the hands of Mr. Thomas, a non-resident, since it is for the purpose of business in India. Hence, the royalty is taxable in India.
3. No income shall be deemed to accrue or arise to Mr. Thomas through or from activities which are confined to the collection of news and views in India for transmission outside India. Hence, ₹ 10 lakhs are not taxable in India in the hands of Mr. Thomas.
4. ₹ 10 lakhs are deemed to accrue or arise in India to Mr. Thomas, a non-resident, since it represents royalty/fees for technical services paid for services utilized in India, in this case, for setting up a Denim Jeans manufacturing plant in Surat. Hence, the same would be taxable in India in the hands of Mr. Thomas.

Question 10

MTP Nov'18

Following incomes are derived by Mr. Krishna Kumar during the year ended 31-3-2024: 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 assessed is



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

6 Marks

Answer:

Taxability of items 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.

Question 11

MTP Jan'20

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

2 Marks

Answer:

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.

Question 12

MTP May'23

Mr. Jai Chand (an Indian citizen) left India for employment in country X on 5th June, 2015 He regularly visited India and stayed for 60 days in every previous year since then. However, in the financial year 2023-24, he did not come to India at all. He owns a commercial building in Delhi which is let out. He has also set 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 2023-24:

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) 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 2024-25.

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

3 Marks

Answer:

Determination of residential status of Mr. Jai Chand for A.Y. 2024-25

Since Mr. Jai Chand, an Indian citizen employed in Country X, did not come to India at all during the P.Y. 2023-24, he would not be a resident for A.Y.2024-25 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. 2023-24. 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. 2023-24, since the provisions of deemed resident are applicable only to an Indian citizen.

Question 13

PYQ Nov'23

State (Yes/No) whether the following transactions can be treated as income deemed to accrue or arise in India:

1. Hire charges paid outside India for the use of machinery situated in India.
2. Income of a non-resident and non-citizen of India from the shooting of cinematograph film in India.
3. Capital gain arising through a transfer of a house property situated in India, the place of registration and the place of payment of consideration being outside India.
4. Allowances paid by the Government to a citizen of India for the services rendered outside India.
5. Past period foreign untaxed income brought to India during the previous year.
6. Gift received by a non-resident on the occasion of his wedding in India.

3 Marks

Answer:

1. Yes
2. No
3. Yes
4. Yes

Alternative answer - No, since allowances paid by the Government to a citizen of India for the services rendered outside India is exempt u/s 10(7).

5. No
6. No

Question 14

PYQ Nov'23

Mr. Sanjay has following incomes during the previous year 2022 -23:

1. Interest on England Development Bonds (1/3 received in India) ` 60,000.



2. Interest received from a non-resident ` 5,000 against a loan given to him to run a business in India.
3. Royalty received from Akhil, a resident, for technical services given to run a business outside India ` 20,000.
4. Income from business in Sri Lanka ` 25,000 out of which ` 15,000 were received in India. The business is controlled from India.

Compute taxable income of Mr. Sanjay for the assessment year 2023 -24 if he is a

- 1) Not ordinarily resident
- 2) Non-resident

4 Marks

Answer:

Computation of taxable income of Mr. Sanjay for the A.Y. 2023-24

		Not ordinarily resident (RNOR)	Non-resident
(1)	Interest on England Development Bonds (1/3 received in India), amount of ₹20,000 being received in India would be taxable in case of both RNOR and non-resident.	20,000	20,000
(2)	Interest received from non-resident against a loan given to him to run a business in India would be deemed to accrue or arise in India. Thus, such interest is taxable in case of both RNOR and non-resident	5,000	5,000
(3)	Royalty received from Akhil, a resident for technical services given to run a business outside India would not be deemed to accrue or arise in India, since such services are utilised for business carried outside India. Thus, royalty would not be taxable in case of both RNOR and non-resident.	-	-
(4)	Income from business in Sri Lanka of ` 25,000 out of which ` 15,000 were received in India. Whole of the income from business in Sri Lanka is taxable in case of RNOR, since business is controlled from India. However, in case of non-resident only the amount received in India would be taxable.	25,000	15,000
Taxable Income		50,000	40,000

Question 15

CS Execu. Dec'23

Discuss with logical reasoning whether the following are capital or revenue receipts/expenses:

- (a) An amount of ₹ 1,60,000 was spent by a company for sending its production abroad to study new methods of production.
- (b) B & Co. received ₹ 4,00,000 as compensation from C & Co. for pre-mature termination of contract of agency.
- (c) Payment of ₹ 60,000 as compensation for cancellation of a contract for the purchase of machinery with a view to avoid an unnecessary expenditure.



(d) R company Limited instead of receiving royalty year by year, received it in advance in lump sum.

(e) An employee director of a company was paid ₹ 3,60,000 as a lump sum consideration for not resigning from the directorship.

5 Marks

Answer:

(a) ₹ 1,60,000 spent for sending its production manager abroad, is aimed to enhance profitability of the business, hence revenue expenditure.

(b) ₹ 4,00,000 received as compensation for premature termination of contract of agency is revenue receipt under section 28(ii)(c).

(c) ₹ 60,000 paid as compensation for cancellation of contract for the purchase of machinery is revenue expense, deemed in interest of business to prevent loss.

(d) Royalty received in advance in lump sum is revenue receipt, because it is income.

(e) ₹ 3,60,000 paid as a lump sum consideration for not resigning from the directorship is revenue receipt in the hands of director as income.

Moderate

RTP Nov'20

Question 1

Mr. Anand is an Indian citizen and a member of the crew of a Singapore bound Indian ship engaged in carriage of passengers in international traffic departing from Chennai port on 6th June, 2023. From the following details for the P.Y. 2023-24, determine the residential status of Mr. Anand for A.Y. 2024- 25, assuming that his stay in India in the last 4 previous years (preceding P.Y. 2023-24) is 400 days:

Particulars	Date
Date entered into the Continuous Discharge Certificate in respect of joining the ship by Mr. Anand	6 th June, 2023
Date entered into the Continuous Discharge Certificate in respect of signing off the ship by Mr. Anand	9 th December, 2023

Answer:

In this case, since Mr. Anand is an Indian citizen and leaving India during P.Y. 2023-24 as a member of the crew of the Indian ship, he would be resident in India if he stayed in India for 182 days or more. The voyage is undertaken by an Indian ship engaged in the carriage of passengers in international traffic, originating from a port in India (i.e., the Chennai port) and having its destination at a port outside India (i.e., the Singapore port). Hence, the voyage is an eligible voyage for the purposes of section 6(1).

Therefore, the period beginning from 6th June, 2023 and ending on 9th December, 2023, being the dates entered into the Continuous Discharge Certificate in respect of joining the ship and signing off from the ship by Mr. Anand, an Indian citizen who is a member of the crew of the ship, has to be excluded for computing the period of his stay in India. Accordingly, 187 days [25+31+31+30+31+30+9] have to be excluded from the period of his stay in India. Consequently, Mr. Anand's period of stay in India during the P.Y. 2023- 24 would be 179 days [i.e., 365 days - 187 days]. Since his



period of stay in India during the P.Y. 2023-24 is less than 182 days, he is a non-resident for A.Y. 2024-25.

Question 2

MTP Nov'21

Mr. Thomas, a citizen of Japan, comes to India for the first time during the P.Y. 2019-20. During the financial years 2019-20, 2020-21, 2021-22, 2022-23 and 2023-24, he was in India for 50 days, 65 days, 95 days, 150 days and 75 days, respectively. Determine his residential status for the A.Y. 2024-25. Examine the tax implications in the hands of Mr. Thomas for the Assessment Year 2024-25 of the following transactions entered by him.

- (i) Interest received from Mr. Michel, a non-resident outside India (The borrowed fund is used by Mr. Michel for investing in Indian company's debt fund for earning interest).
- (ii) He is also engaged in the business of running news agency and earned income of Rs. 5 lakhs from collection of news and views in India for transmission outside India.

He entered into an agreement with ABC & Co., a partnership firm for transfer of technical documents and design and for providing services relating thereto, to set up a Steel manufacturing plant, in India. He charged Rs. 15 lakhs for these services from ABC & Co. **7 Marks**

Answer:

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

- He has been in India during the previous year for a total period of 182 days or more, or
- He has been in India during the 4 years immediately preceding the previous year for a total period of 365 days or more and has been in India for at least 60 days in the previous year.

If an 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. During the previous year 2023-24, Mr. Thomas was in India for 75 days and during the 4 years preceding the previous year 2023-24, he was in India for 360 days (i.e. 50+ 65+ 95+ 150 days).

The total stay of the Mr. Thomas during the previous year in India was less than 182 days and during the four years preceding this year was for 360 days. Therefore, due to non-fulfillment of any of the two conditions for a resident, he would be treated as non-resident for the Assessment Year 2024-25.

- (i) Not taxable, since interest payable by a non-resident to another non-resident would be deemed to accrue or arise in India only if the borrowed fund is used for the purposes of business or profession carried on by him in India. In this case, it is used for investing in Indian company's debt fund for earning interest and not for the purposes of business or profession. Hence, it is not taxable in India.
- (ii) No income shall be deemed to accrue or arise to Mr. Thomas through or from activities which are confined to the collection of news and views in India for transmission outside India. Hence, Rs. 10 lakhs are not taxable in India in the hands of Mr. Thomas.
- (iii) Rs. 10 lakhs are deemed to accrue or arise in India to Mr. Thomas, a non-resident,

