

since it represents royalty/fees for technical services paid for services utilized in India, in this case, for setting up a Steel manufacturing plant in India. Hence, the same would be taxable in India in the hands of Mr. Thomas.

Question 3

MTP March'21

Determine the residential status and total income of Mr. Raghu for the assessment year 2024-25 from the information given below.

Mr. Raghu (age 62 years), an American citizen, is employed with a multinational company in Gurugram. Mr. Raghu holds a senior level position as researcher in the company, since 2012. To share his knowledge and finding in research, company gave him an opportunity to travel to other group companies outside India while continuing to be based at the Gurugram office.

The details of his travel outside India for the financial year 2023-24 are as under:

Country	Period of stay
USA	25 August, 2023 to 10 November, 2023
UK	20 November, 2023 to 23 December, 2023
Germany	10 January, 2024 to 24 March, 2024

During the last four years preceding the previous year 2023-24, he was present in India for 380 days. During the last seven previous years preceding the previous year 2023-24, he was present in India for 700 days. During the P.Y. 2023-24, he earned the following incomes:

- (i) Salary Rs. 15,80,000. The entire salary is paid by the Indian company in his Indian bank account.
- (ii) Dividend amounting to Rs. 48,000 received from Treat Ltd., a Singapore based company, which was transferred to his bank account in Singapore.
- (iii) Interest on fixed deposit with Punjab National Bank (Delhi) amounting to Rs. 10,500 was credited to his saving account.

7 Marks

Answer:

Determination of residential status

Mr. Raghu would be a resident in India in P.Y. 2023-24, 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 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 he satisfies any one of the conditions mentioned above, he is a resident. If both the above conditions are not satisfied, he would be a non-resident.

During the P.Y. 2023-24 Mr. Raghu stayed in India for 179 days i.e., 365 days - 186 days [78 days + 34 days + 74 days] and 380 days i.e., more than 365 days during the 4 preceding previous years.

He satisfies the second basic condition for being a resident. Hence, he is a resident in India for A.Y. 2024-25.

- a. A person would be "Not ordinarily Resident" in India in any previous year, if such person, inter alia,
- b. has been a non-resident in 9 out of 10 previous years preceding the relevant previous year; or
- c. has during the 7 previous years immediately preceding the relevant previous year been in India for 729 days or less.



For the previous year 2023-24, Mr. Raghu would be "Resident but not ordinarily resident" since he stayed for less than 729 days during the 7 previous years immediately preceding P.Y. 2023-24.

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

Particulars			Amount (Rs.)
(1)	Salary from Indian company received in a bank account in India	15,00,000	
	Less: Standard deduction u/s 16(IA)	50,000	14,50,000
(2)	Dividend of Rs. 48,000 received from Singapore based company transferred to his bank account in Singapore is not taxable in the hands of the resident but not ordinarily resident since the income has neither accrued or arisen in India nor has it been received in India.		Nil
(3)	Interest on fixed deposit with PNB credited to his savings bank account is taxable in the hands of Mr. Raghu as Income from other sources, since it has accrued and arisen in India and is also received in India.		10,500
Gross Total Income			14,60,500
Less: Deduction u/s 80TTB			10,500
Total Income			14,50,000

Question 4

MTP March'19

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

- Salary paid to Mr. Dinesh, a citizen of India Rs.20,00,000 by the Central Government for the services rendered in London.
- Royalty paid to Raja, a non-resident by Ms. Mute, a resident for a business carried on in Sri Lanka.

2. Ms. Anjali, a non-resident, residing in London since 1995, came back to India on 19-02-2022 for permanent settlement in India. Explain the residential status of Ms. Anjali for the Assessment Year 2024-25 in accordance with the various provisions of Income-tax Act, 1961.

MTP 7 Marks

Answer:

Taxability of certain receipts under the Income-tax Act, 1961

	Taxable/ Not Taxable	Amount liable to tax (Rs.)	Reason
1	2	3	4
(I)	Taxable	20,00,000	Salaries payable by the Government to a citizen of India for service rendered outside India shall be deemed to accrue or arise in India as per section 9(1)(iii). Mr. Dinesh is a citizen of India. Therefore, salary paid by the Central Government to him for services rendered in London would be deemed to accrue or arise in India in his hands.



(ii)	Not Taxable	-	Royalty paid by a resident to a non-resident in respect of a business carried on outside India would not be taxable in the hands of the non-resident, as the same would not be deemed to accrue or arise in India as per the exception mentioned in section 9(1)(vi)(b). Therefore, royalty paid by Mute, a resident, to Raja, a non-resident, for a business carried on in Sri Lanka would not be deemed to accrue or arise in India. Note - It is assumed that the royalty was not received in India.
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Determination of residential status of Ms. Anjali for the A.Y. 2024-25

Ms. Anjali is a resident since she has stayed in India for 365 days during the P.Y.2023-24. Therefore, she satisfies the condition of stay in India for a period of 182 days or more in the relevant previous year as per the requirement under section 6(1).

As per section 6(6), an individual is said to be "not ordinarily resident" in India in any previous year, if he has:

- been a non-resident in India in nine out of ten previous years preceding the relevant previous year; or
- during the seven previous years immediately preceding the relevant previous year, been in India for a period of, or periods amount in all to, 729 days or less.

Ms. Anjali must, therefore, satisfy either of the conditions to qualify as a not-ordinarily resident.

Ms. Anjali was a non-resident in India up to A.Y.2022-23.

She was resident in India only for P.Y. 2022-23 (A.Y.2023-24) out of the ten previous years preceding P.Y. 2023-24 (A.Y.2024-25). This implies that she has been a non-resident in India in nine out of ten previous years preceding P.Y. 2023-24 (A.Y. 2024-25).

Further, she was in India only for a period of 406 days [i.e., 10 days in February, 2022 + 31 days in March 2022 + 365 days during the P.Y.2022-23] in the seven previous years preceding P.Y. 2023- 24 (A.Y. 2024-25).

Therefore, since Ms. Anjali satisfies both the conditions for "not-ordinarily resident", her residential status for A.Y.2024-25 would be "Resident but not ordinarily resident".

Question 5

MTP Aug'18

Miss Kaira, an American national, got married to Mr. Ramesh of India in USA on 1.03.2023 and came to India for the first time on 20.03.2023. She left for USA on 20.9.2023. She returned to India again on 27.03.2024. She has earned the following income during the financial year 2023-24.

Sr. No.	Particulars	Amount (Rs.)
1.	Dividend from American company, received in America	20,000
2.	Profits from a profession in Delhi, but managed directly from America	50,000
3.	Long term capital gain on sale of shares of an Indian company, received in India	60,000
4.	Interest on savings bank deposit in SBI, Delhi	17,000



5.	Agricultural income from a land situated in Tamilnadu	55,000
6.	Rent (computed) from property in America deposit in a Bank there, later on remitted to India	1,00,000
7.	Cash gift received from a friend on her birthday on 16.8.2020	51,000
8.	Past foreign untaxed income brought to India	70,000

Determiner her residential status and compute the total income chargeable to tax for the Assessment Year 2024-25.

10 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.

Therefore, the residential status of Miss Kaira, an American National, for A.Y.2024-25 has to be determined on the basis of her stay in India during the previous year relevant to A.Y. 2024-25 i.e. P.Y.2023-24 and in the preceding four assessment years.

Her stay in India during the previous year 2023-24 and in the preceding four years are as under:

P.Y. 2023-24

01.04.2023 to 20.09.2023 - 173 days

27.03.2024 to 31.03.2024 - 5 days

Total 178 days

Four preceding previous years

P.Y.2022-23 [1.4.2022 to 31.3.2023] - 12 days

P.Y.2021-22 [1.4.2021 to 31.3.2022] - Nil

P.Y.2020-21 [1.4.2020 to 31.3.2021] - Nil

P.Y.2019-20 [1.4.2019- to 31.3.2020] - Nil

Total 12 days

The total stay of the assessed during the previous year in India was less than 182 days and during the four years preceding this year was for 12 days. Therefore, due to non-fulfillment of any of the two conditions for a resident, she would be treated as non-resident for the Assessment Year 2024-25.

Computation of total income of Mrs. Kaira for the A.Y. 2024-25

S. No.	Particulars	(Non-Resident) (Rs.)
1.	Dividend from American company, received in America (Note 1)	-
2.	Profit from profession in Delhi, but managed directly from America (Note 2)	50,000
3.	Long-term capital gain on sale of shares of an Indian company (Note 2)	60,000



4.	Interest on savings account with SBI (Note 2)	17,000
5.	Agricultural income from land in Tamilnadu [Exempt under section 10(1)]	-
6.	Rent (computed) from property in America deposited in a Bank at America, later on remitted to India (Note 1)	-
7.	Cash gift received from a friend on Mrs. Kaira birthday on 16.8.2023 Note: As per section 56(2)(x), cash gifts received from a non-relative would be taxable, if the amount exceeds Rs. 50,000 in aggregate during the previous year.	51,000
8.	Past foreign untaxed income brought to India [Not taxable, since it does not represent income of the P.Y.2023-24].	-
Total Income		1,78,000

Notes:

1. 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, dividend from American company received in America, rent from property in America by Mrs. Kaira, a non-resident, would not be taxable in India, since both the accrual and receipt are outside India.

2. Profits from profession in Delhi, long term capital gains and interest on saving account with SBI are taxable in the hands of Mrs. Kaira, since such incomes are deemed to accrue or arise in India during the P.Y. 2023-24.

Question 6

MTP March, 22

Mr. Sushant furnished the following particulars of his income for the year ended 31.3.2024.

	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 2024-25, if he is:

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

7 Marks

Answer:

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



	Particulars	Resident & ordinarily resident	Resident but not ordinarily resident	Non-Resident
		₹	₹	₹
(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	-	-
(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
Gross Total Income		3,26,000	2,07,000	1,92,000

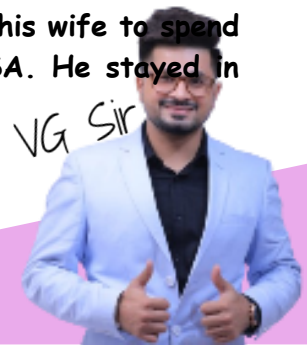
Notes:

- b) 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:
- Income received or deemed to be received in India; and
 - Income accruing or arising or deemed to accrue or arise in India.
- Further, the income which accrues or arises 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.
- c) Agricultural income from a land in Bhutan, received in India is taxable in all cases.
- d) 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.
- e) 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.
- f) 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.

Question 7

MTP sep'22

Mr. Manek, a person of Indian origin and citizen of USA, got married to Ms. Anjali, an Indian citizen residing in USA, on 24th January, 2023 and came to India on 25-03-2023. He left for Country X on 10th July, 2023. He returned to India again on 24-02-2024 with his wife to spend some time with his parents-in law for 30 days and thereafter returned to USA. He stayed in India for 400 days during the 4 years preceding the previous year 2023-24.



He received the following gifts from his relatives and friends of her wife during 01 -04-2023 to 31-03-2024 in India:

- From wife's parents ₹ 1,51,000
- From wife's sister ₹ 21,000
- From very close friends of his wife ₹ 16,00,000

Determine his residential status and compute the total income chargeable to tax along with the amount of tax liability on such income for the Assessment Year 2024-25. **6 Marks**

Answer:

Under section 6(1), an individual, being a person of Indian origin and who comes on a visit to India and he is having total income other than income from foreign sources exceeding ₹ 15 lakhs during the previous year, such individual is said to be resident in India, if he stays in India during the previous year for 120 days or more and for 365 days or more during the 4 years immediately preceding the relevant previous year. As per section 6(6), such individual whose stay in India is for 120 days or more but less than 182 days in the P.Y. 2023-24 would be resident but not ordinarily resident.

Mr. Manek is a person of Indian origin who has come on a visit to India during the previous year. Since his total income other than income from foreign sources exceeds ₹ 15,00,000, he would be a resident in India if he stays in India during the previous year for 120 days or more and for 365 days or more during the 4 years immediately preceding the relevant previous year.

His stay in India during the previous year 2023-24 is as under:

	P.Y. 2023-24	
01.04.2023 to	10.07.2023	101 days
24.02.2024 to	25.03.2024	30 days
Total		131 days

Since he stays in India is for 131 days during the P.Y. 2023-24 and for 400 days during the 4 years immediately preceding the P.Y. 2023-24, he is resident but not ordinarily resident in India for the P.Y. 2023-24.

In such case, his total income and tax liability would be computed in the following manner:

Computation of total income and tax liability of Mr. Manek for the A.Y. 2024-25

Particulars	₹
Income from other sources	
Cash gifts received from non-relatives is chargeable to tax as per section 56(2)(x) if the aggregate value of such gifts exceeds ₹ 50,000.	
- ₹ 1,51,000 received from parents of wife would be exempt, since wife's parents fall within the definition of 'relatives' and gifts from a relative are not chargeable to tax.	Nil
- ₹ 21,000 received from married sister-in-law is exempt, since sister of wife falls within the definition of relative and gifts from a relative are not chargeable to tax.	Nil
- Gift received from close friends of his wife of ₹ 16,00,000 is taxable under section 56(2)(x) since the amount of cash gifts exceeds ₹ 50,000.	16,00,000
Total Income	16,00,000
Tax on total income of ₹ 16,00,000	1,80,000



Upto ₹ 2,50,000 ₹ 3,00,000 Nil	
₹ ₹ 3,00,000 - ₹ 6,00,000 [₹ 3,00,000 @ 5%] 15,000	
₹ 6,00,001 - ₹ 9,00,000 [₹ 3,00,000 @ 10%] 30,000	
₹ 9,00,001 - ₹ 12,00,000 [₹3,00,000 @ 15%] 45,000	
₹ 12,00,001 - ₹ 15,00,000 [₹3,00,000 @ 20%] 60,000	
Above ₹ 15,00,000 @30%	
Add: Health and Education cess@4%	7,200
Tax liability	1,87,200

Note -

Since his tax liability as per normal provisions is ₹ 3,04,200 [₹ 2,92,500 (₹ 1,12,500 plus 30% on ₹ 6,00,000 income exceeding ₹ 10,00,000) plus ₹ 11,700, being health and education cess @4%], which is higher than the tax liability computed as per concessional tax rates available under section 115BAC, it is beneficial for him to opt for section 115BAC.

Question 8

MTP Oct'19

Determine the residential status of Mrs. Rose and compute her gross total income chargeable to tax for the A.Y. 2024-25 from the following information gathered from her documents:

Mrs. Rose is an Australian, got married to Mr. Ram of India in Australia on 2.01.2023 and came to India for the first time on 18.02.2023. She left for Australia on 15.9.2023. She returned to India again on 23.03.2024.

On 01.04.2023, she had purchased a Flat in Delhi, which was let out to Mr. Sahil on a rent of ₹ 25,000

p.m. from 1.5.2023. She had taken loan from an Indian bank for purchase of this flat on which bank had charged interest of ₹ 1,85,500 up to 31.03.2024.

While in India, during the previous year 2023-24, she had received a gold chain from her in-laws worth ₹ 1,50,000.

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.

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.

Therefore, the residential status of Mrs. Rose, an Australian, for A.Y.2024-25 has to be determined on the basis of her stay in India during the previous year relevant to A.Y. 2024-25 i.e. P.Y.2023-24 and in the preceding four previous years.

Her stay in India during the previous year 2023-24 and in the preceding four years are as under:
P.Y. 2023-24

01.04.2023 to 15.09.2023	-	168 days
23.03.2024 to 31.03.2024	-	9 days
Total		177 days
Four preceding previous years		



P.Y.2022-23 [1.4.2022 to 31.3.2023]	-	42 days
P.Y.2021-22 [1.4.2021 to 31.3.2022]	-	Nil
P.Y.2020-21 [1.4.2020 to 31.3.2021]	-	Nil
P.Y.2019-20 [1.4.2019 to 31.3.2020]	-	Nil
Total		42 days

The total stay of Mrs. Rose during the previous year in India was less than 182 days and during the four years preceding this year was for 42 days. Therefore, due to non-fulfillment of any of the two conditions for a resident, she would be treated as non-resident for the Assessment Year 2024-25.

Computation of gross total income of Mrs. Rose for the A.Y. 2024-25

Particulars		₹	₹
Income from house property			
Flat located in Delhi let-out from 01.05.2023 to 31.03.2024 @ ₹ 25,000/- p.m. Gross Annual Value [₹ 25,000 × 11]2		2,75,000	
Less: Municipal taxes		Nil	
Net Annual Value (NAV)		2,75,000	
Less: Deduction under section 24			
30% of NAV	82,500		
Interest on loan [fully allowable as deduction, since property is let-out]	1,85,500	2,68,000	7,000
Income from Other Sources			
Gold chain worth ₹ 1,50,000 received from parents of husband would be exempt, since parents of husband fall within the definition of relatives and gifts from a relative are not chargeable to tax.			Nil
Gross Total income			7,000

Actual rent received has been taken as the gross annual the value in absence of other information (i.e. Municipal value, fair rental value and standard rent) in the question.

Question 9

MTP Nov'22

Mr. Dhanush, an Indian citizen aged 35 years, worked in ABC Ltd. in Mumbai. He got a job offer from XYZ Inc., USA on 01.06.2022. He left India for the first time on 31.07.2022 and joined XYZ Inc. on 08.08.2022. During the P.Y. 2023-24, Mr. Dhanush visited India from 25.05.2023 to 22.09.2023. He has received the following income for the previous year 2023-24 -

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. 2024-25)

Answer:



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. 2023-24 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)]		-
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. 2023-24 and his total income, other than income from foreign sources does not exceed ₹ 15 lakhs, he would be non-resident for the A.Y. 2024-25

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

Question 10

MTP July'21

Mrs. Rohini, aged 62 years, was born and brought up in New Delhi. She got married in Russia in 1999 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 31.03.2024:

	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 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 and tax liability in India for Assessment Year 2024-25 as per normal provisions. **6 Marks**

Answer:

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.2023- 24 and her income other than from foreign sources does not exceed ₹ 15,00,000, she is non-resident for the A.Y. 2024-25. 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. Rohini for A.Y. 2024-25

Particulars		Amt (₹)
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 - Life insurance premium ² 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 111A, respectively]	63,000
Total Income	3,60,000
Computation of Tax Liability	
Long-term capital gains taxable @20% u/s 112 [3,00,000 x 20%]	60,000
Short-term capital gains taxable @15% u/s 111A [60,000 x 15%]	9,000
	69,000
Add: Health and Education Cass @4%	2,760
Tax Liability	71,760

Even if her total income exceeds ₹ 15 lakh, still, she would be non-resident since the minimum period of stay required in the current year for being a resident is 120 days.

Note - The benefit of adjustment of unexhausted basic exemption limit against long-term capital gains taxable u/s 112 and short-term capital gains taxable u/s 111A is not available in case of non-resident. Further, rebate u/s 87A is not allowable to a non-resident, even if his income does not exceed ₹ 5 lakh.

Question 11

MTP Jan'21

(Also includes concepts of Chp 8- Computation of Total Income & Tax Payable)

Rajesh was employed in Axis Ltd., Mumbai. He received a salary of ₹ 45,000 p.m. from 1.04.2023 to 20.09.2023. He resigned and left for Dubai for the first time on 28.09.2023 and got monthly salary of rupee equivalent of ₹ 90,000 from 1.10.2023 to 31.03.2024. His salary for October to December was credited in his Mumbai bank account directly and the salary for January to March 2024 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 2024-25.

7 Marks



Answer:

In case of an Indian citizens 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.

(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 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. 2024-25. 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. 2024-25

Particulars		Amount (₹)
Salary		
Salary from 1.4.2019 to 20.9.2019 [$45,000 \times 5 + 45,000 \times 20/30$]	2,55,000	
Salary from 1.10.2019 to 31.12.2019 [$90,000 \times 3$]	2,70,000	
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.

Question 12

MTP Set'21

The following are the incomes of Shri Subhash Chandra, a citizen of India, for the previous year 2023-24:

- (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 2021-22 of a business in England which was brought in India on 3rd March, 2024.

(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 Subhash Chandra for the A.Y. 2024-25, if he is -

1. A Resident and Ordinarily Resident; and

2. A Resident but Not Ordinarily Resident

6 Marks

Answer:

Computation of Gross Total Income of Shri Subhash Chandra for the A.Y. 2024-25

Particulars	Resident and Ordinarily Resident [ROR] (₹)	Resident but Not Ordinarily Resident [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 2021-22 of a business in England which was brought in India during the P.Y. 2023-24 [Not taxable either in the hands of ROR or RNOR, since such income is not related to the P.Y. 2023-24.]	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 only in the hands of ROR	73,000		
	Less: Deduction u/s 24@30%	21,900	51,100	Nil
	[See Note below for alternative treatment]			
	Gross Total Income			2,70,000

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 Sub hash Chandra is a ROR.

3 Presumed that the same was received in Bhutan However, since the words "Income from house property" appears to indicate that the same is the income computed under that head of income, it is possible to consider the said amount of ₹ 73,000 as income computed under the head "Income from house property" after providing deduction@30% under section 24(a). In such a case, the gross total income of Shri Sub hash Chandra, if he were a ROR, would be ₹ 8,33,000.

Question 13

MTP Oct'23

Examine the tax implications of the following transactions for the assessment year 2024-25: (Give brief reason)

- 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 2023-24 for rendering his services in Japan. He is an Indian citizen having status of non-resident in India for the previous year 2023-24.
- 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 2023-24.
- 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.
- Mr. James, a NRI, borrowed ₹ 10,00,000 on 01.04.2023 from Mr. Akash who is also a non-resident and invested such money in the shares of an Indian Company. Mr. Akash has received interest @ 12% per annum.

7 Marks**Answer:**

- 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.
- (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 × 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.

Question 14

MTP, May'22

Mrs. Shruti is an Indian citizen, is currently in employment with an overseas company located in UAE. During the previous year 2023-24, 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 2019-20, 2020-21, 2021-22, 2022-23 respectively. Her annual income for the previous year 2023-24 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 2024-25. (Support your Answer with computation) **4 Marks**

Answer:

Mrs. Shruti is an Indian citizen in employment in UAE. She comes on a visit to India during the P.Y. 2023-24 for 157 days.

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

P.Y.	No. of days
P.Y. 2019-20	200



P.Y. 2020-21	100
P.Y. 2021-22	76
P.Y. 2022-23	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
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.2023-24, would be a resident in India for A.Y.2024-25, if she satisfies either of the following conditions -

(i)	She is in India for 182 days or more during the P.Y.2023-24 or
(ii)	She is in India for a period of 120 days or more during the P.Y.2023-24 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 2023-24 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.2023-24. The second condition is satisfied, since she has stayed in India for 157 days during the P.Y.2023-24 and 421 days in the four immediately preceding previous years. Since she has become resident in India for A.Y.2024-25 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.2024-25 is resident but not ordinarily resident.

Note -

The provisions of section 6(1A) 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).

