

## CHAPTER 2: RESIDENTIAL STATUS

- Total income of an assessee can be computed only after ascertaining the residential status of the assessee during the previous year, as many provisions under income tax act are different for resident and for non resident assessee.
- Citizenship and residential status are both different concept. A person may be a citizen of India but may be Non resident for income tax purposes.
- Residential status is determined for every previous year, it is possible that person is resident in one year and non resident in another year.

### Residential status of individuals Section 6(1) / 6(6)(a)

Section 6(1), an individual is said to be resident, if he satisfies any one of the following two basic conditions:

- He stays in India for 182 days or more during the relevant previous year (RPY)
- He stays in India for 60 days or more in RPY and also for 365 days or more during 4 years preceeding the RPY.

Note:

1. Period of stay may not be continuous.
2. Date of departure and arrival both shall be considered for stay in india.

**Example 1. Riya citizen of UK visited India during FY 2024-25 from 19.9.24 – 15.11.24**

Her stay for last 4 years is as follows:

2023-24	100d	2021-22	200d
2022-23	50d	2020-21	150d

Determine the residential Status of Riya during AY 2025-26

### Additional Condition

Section 6(6), An individual is said to be a resident and ordinarily resident if he satisfies both the following conditions:

- He is a resident in any 2 out of last 10 previous year, and
- His total stay in India in the last 7 years is 730 days or more.

**Example 2.**

Mr. X visit India for 110d every year since 2001. Determine Residential Status for PY 2024-25.

**Example 3.**

Mr. X visit India for 100d every year since 2020-21 before that he never visited India. Determine Residential status for FY 2024-25.

### Exceptions to the basic condition - Check only 182 days

1. If an Indian Citizen leaves India for the purpose of employment
2. If an Indian Citizen leaves India as a crew member of Indian Ship.

Note: Date of Joining and Date of Signing Off As per continuous discharge certificate shall be considered as outside India in the case of crew member of foreign going Ship.

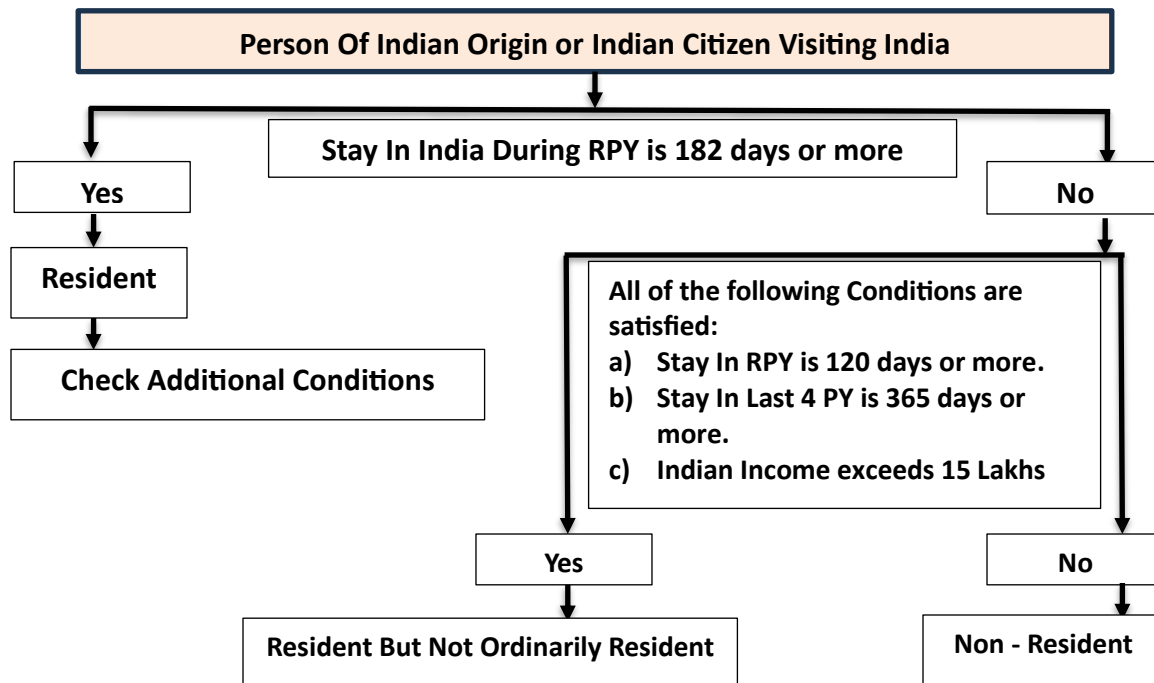
#### Example 4.

Mr. X (Indian Citizen) is a Crew member of foreign going Indian vessel.

Date of joining 15.7.24  
Date of signing off 10.11.24

- Last 4 year stay in India = 400d
- Last 7 year stay in India = 790d
- He was Resident in each of last 5 year.

Determine Residential Status of FY 2024-25



\* Indian Income includes Foreign business income whose control is in India or foreign professional income whose setup is in India

### Deemed Resident Section 6(1A)

Individual Shall be NOR if all of the following conditions are satisfied:-

- a) Individual is Indian Citizen
- b) Total income excluding income from foreign sources but including foreign business income whose control is in India, exceeds 15 Lakh.
- c) Such person is not paying Tax In any Country due to his domicile, residence or

similar nature

**Illustration 1: Determine residential status of Mr. X for the assessment year 2025-26, who stays in India during various financial years as under :**

Previous Years	Stay
2024-25	100
2023-24	200
2022-23	91
2021-22	90
2020-21	89
2019-20	87
2018-19	91
2017-18	82
2016-17	90
2015-16	88
2014-15	89
2013-14	86
2012-13	87
2011-12	89
2010-11	90

**Illustration 2: Mr.X an American citizen has come to India for the first time on 10.07.2020, as an employee of a multinational company. The particulars of his arrival and departure are as given below:**

Date of Arrival	Date of Departure
10.07.2020	07.08.2021
07.10.2022	27.11.2022
01.03.2023	01.02.2024
10.05.2024	30.03.2025

Determine his residential status for previous year 2022-23 to 2024-25

**Illustration 3: Mr. X, the Australian cricketer comes to India for 105 days every year. Find out his residential status for the A.Y. 2025-26.**

**Illustration 4: Mr. X, a Canadian citizen, comes to India for the first time during the P.Y.2020-21. During the financial years 2020-21, 2021-22, 2022-23, 2023-24 & 2024-25 he was in India for 55 days, 60 days, 90 days, 150 days and 70 days respectively. Determine his residential status for the A.Y.2025-26.**

**Illustration 5:** On 01.06.2022 Mr. X, a Malaysian citizen leaves India after stay of 10 year During the financial year 2023-24 he comes to India for a period of 46 days. Later, he returns to India for one year on 10.10.2024. Determine Mr. X's residential status for the assessment year 2025-26.

**Illustration 6:** Mr. X, an Indian citizen, leaves India on 22.09.2024 for the first time, to work as an officer of a company in France. Determine his residential status for the A.Y. 2025-26.

**Illustration 7:** Mr. X and Mrs..X are settled outside India for the purpose of employment and they came to India on 15.10.2024 on a visit for 7 months. Both of them are Indian citizens. In the earlier years they were in India as follows:

Year	Mr. X	Mrs. X
2023-24	235 Days	365 Days
2022-23	330 Days	30 Days
2021-22	Nil	28 Days
2020-21	118 Days	120 Days

Find out the residential status of Mr. X and Mrs. X for the assessment year 2025-26.

**Illustration 8:** Mr. Anand is an Indian citizen and a member of the crew of a Singapore bound Indian ship engaged in international traffic departing from Chennai port on 6th June, 2024. From the following details for the P.Y.2023-24 , determine the residential status of Mr. Anand for A.Y.2025-26, assuming that his stay in India in the last 4 previous years (preceding P.Y.2024-25) is 400 days and last seven previous years (preceding P.Y.2024-25) is 750 days:

Date entered into the Continuous Discharge Certificate in respect of joining the ship by Mr. Anand	6th June, 2024
Date entered into the Continuous Discharge Certificate in respect of signing off the ship by Mr. Anand	9th December, 2024

**Illustration 9:** Mr. J born in Lahore, Pakistan on 1st July 1943. He took the citizenship of Australia in the year 2000 and since then residing there with Family. He came to India on 10th November 2017 for the first time after 10/8/2000 and since then he is visiting India for 100 days but in the previous year 2024-25 he is present in India for 150 days. Determine his Residential status for the AY 2024-25 from the following information:

Source of Income	Case A	Case B
Indian	10 Lakh	18 Lakh
Foreign	6 Lakh	6 Lakh
Total Income	16 Lakh	24 Lakh

### Residential status of HUF Section 6(2)/6(6)(b).

**Section 6(2)**, an HUF would be resident in India if C&M of its affairs is situated wholly or partly in India. Otherwise, Non- resident.

**Section 6(6)(b)**, An HUF is said to be ROR if Karta satisfies both additional conditions, Otherwise NOR

**Example 5.** R and Sons is a HUF in which Mr. R is Karta

R and his family resides in Australia since 1.4.2013

R visit India for 105 days every year to manage affairs of his business in Noida.

Determine Residential Status of HUF and his Karta Mr. R

**Example 6.** R & sons is a HUF in which Mr. R is Karta who Resides in Australia since 1.4.2012

During FY 2024-25, Mr.R visits India for 50 days to manage affairs of business and take some important policy matters.

R was visiting India for 200 days every ear till last year i.e. FY 2023-24.

Determine Residential Status of R and sons and Karta R.

**Illustration 10:** Karta of one Hindu Undivided Family comes to India every year for minimum 60 days and maximum 91 days. Determine residential status of the Hindu Undivided Family and also that of the Karta for the assessment year 2025-26.

**Illustration 11:** One Hindu Undivided Family is being managed partly from Mumbai and partly from Nepal. Mr. X (a foreign citizen), Karta of Hindu Undivided Family, comes on a visit to India every year since 1982 in month of April for 105 days. Determine residential status of the Hindu Undivided Family and also that of the Karta in his individual capacity for the assessment year 2025-26.

### Residential status of partnership firm or BOI or AOP Section 6(2)

Resident if Control & Management is wholly or partially in India, otherwise Non Resident.

### Residential Status Of Company Section 6(3)

Indian Company shall Always be a Resident.

Foreign company shall be a Resident if POEM (Place of effective management) is in India

**Illustration 12:** ABC Inc., a Swedish company headquartered at Stockholm, not having a permanent establishment in India, has set up a liaison office in Mumbai in April, 2021 in compliance with RBI guidelines to look after its day to day business operations in India, spread awareness about the company's products and explore further opportunities. The liaison office takes decisions relating to day to day routine operations and performs support functions that are preparatory and auxiliary in nature. The significant

management and commercial decisions are, however, in substance made by the Board of Directors at Sweden. Determine the residential status of ABC Inc. for A.Y.2025-26.

**Illustration 13:** Wipro Ltd. an Indian company has most of its business outside India. Determine its residential status.

**Illustration 14:** Shrine International Ltd. is incorporated in Mauritius and its place of effective management is in Mauritius. Determine its residential status for the assessment year 2025-26.

**Scope of Total Income or Tax Incidence [Section 5]**

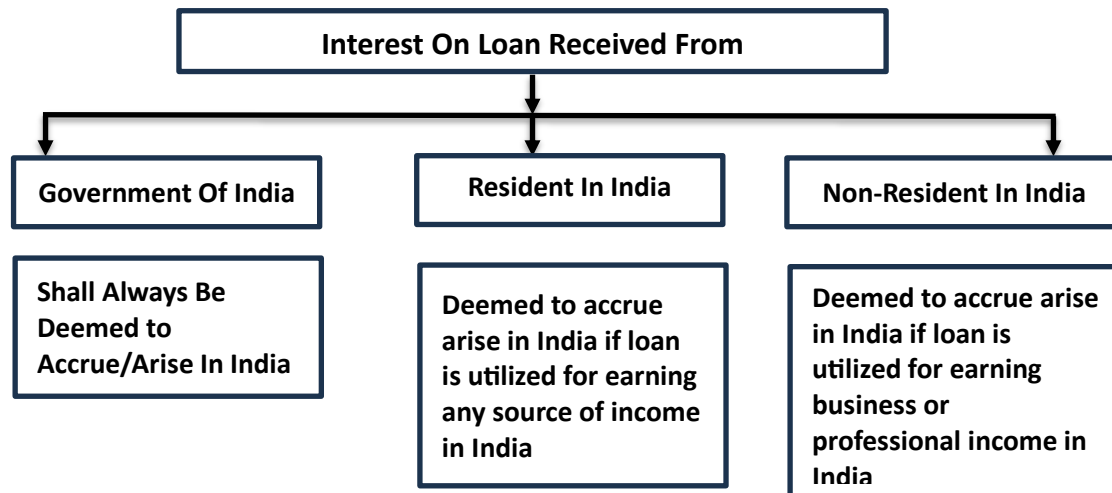
Income Accrue or Arise / Deemed To Accrue or Arise	Income Received / Deemed To Be Received	Income
India	India	Indian
India	Outside India	Indian
Outside India	India	Indian
Outside India	Outside India	Foreign

Income	ROR	NOR	NR
Indian	Taxable	Taxable	Taxable
Foreign	Taxable	Non – Taxable Exception : Following Foreign Incomes are Taxable. 1. Business Income – Business Controlled From India. 2. Professional Income – Profession Set Up in india	Non - Taxable

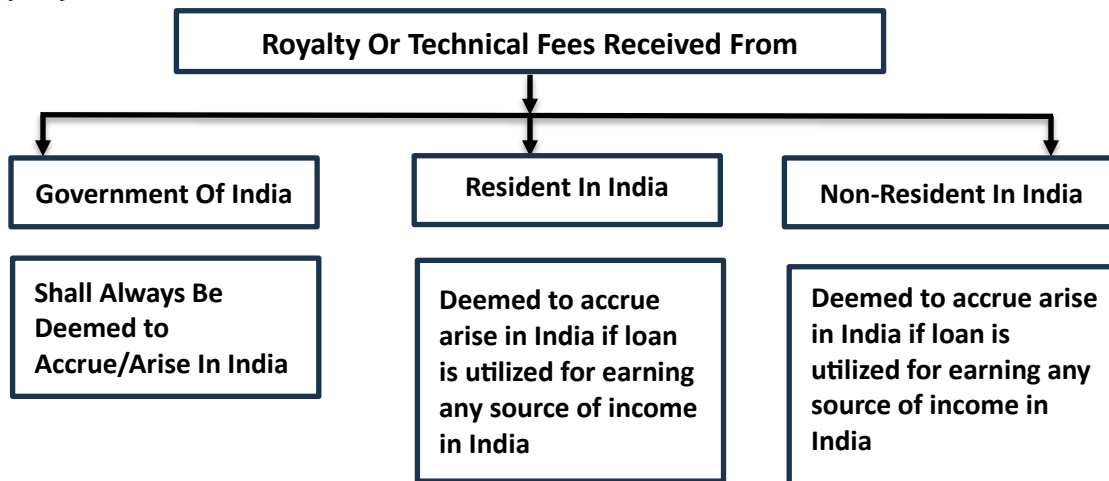
**Income deemed to accrue or arise in India Section 9**

1. Any income accruing or arising to an assessee in any place outside India whether directly or indirectly
  - (a) Through or from any business connection in India.  
 However, Following shall not be considered as business connection in India:
    - Purchase for export.
    - Collection of news in India for transmission outside India.
    - Shooting of film in India by foreign citizen or by a firm who doesn't have any partner who is Indian citizen/resident in India or by a company who doesn't have any shareholder who is a Indian citizen/resident in India.
    - In case of foreign company engaged in the business of mining of diamonds from the activities which are confined to display of uncut and unassorted diamonds in any special zone notified by CG.
  - (b) Through or from any property, any asset or source of income in India or

- (c) Through the transfer of a capital asset situated in India would be deemed to accrue or arise in India.
2. Income, which falls under the head “Salaries”, deemed to accrue or arise in India, if it is earned in India. Salary payable for service rendered in India would be treated as earned in India.
  3. Income from ‘Salaries’ which is payable by the Government to a citizen of India for services rendered outside India would be deemed to accrue or arise in India. However, allowances and perquisites paid or allowed outside India by the Government to an Indian citizen for services rendered outside India is exempt, by virtue of section 10(7).
  4. Dividend paid by Indian company outside india
  5. Interest On Loan



6. Royalty Or fees from technical services



**Illustration 15: Mr. X has income as under:**

1. He has income from a business in Germany Amounting to ₹ 3,00,000 and half of it was received in India.

2. He has interest income of ₹ 1,00,000 from UK Development Bond and entire interest income was credited to a bank account in UK. Subsequently, the Amount was transferred in India.
3. He has a business in Bombay and entire income of ₹ 3,00,000 was received in UK.
4. He has one house property in Ghaziabad and income of ₹ 5,00,000 was received in UK.
5. He has received salary income of ₹ 5,00,000 (computed) in India and half of the services were rendered in UK and half in India.  
(Presume all the above incomes are computed incomes)  
Compute his income presuming that he is NOR, NR and ROR

**Illustration 16: Mr. X earns the following income during the financial year 2024-25:  
(Presume all the above incomes are computed incomes)**

Particulars	Amount (₹)
Income from house property in London, received in India	60,000
Profits from business in Japan and managed from there (received in Japan)	9,00,000
Dividend from foreign company, received in India	30,000
Dividend from Indian company, received in England	50,000
Profits from business in Kenya, controlled from India, Profits received in Kenya	3,00,000
Profits from business in Delhi, managed from Japan	7,00,000
Capital gains on transfer of shares of Indian companies, sold in USA and gains were received there	2,00,000
Pension from former employer in India, received in Japan	50,000
Profits from business in Pakistan, deposited in bank there	20,000
Profit on sale of asset in India but received in London	8,000
Past untaxed profits of UK business of 2018-19 brought into India in 2020-21	90,000
Interest on Government securities accrued in India but received in Paris	80,000
Interest on USA Government securities, received in India	20,000
Salary earned in Bombay, but received in UK	60,000
Income from property in Paris, received there	1,00,000

**Determine the gross total income of Mr. X if he is (i) resident and ordinarily resident, resident but not ordinarily resident, non-resident in India during the financial year 2024-25**

**Illustration 17: Determine the taxability of the following incomes in the hands of a resident and ordinarily resident, resident but not ordinarily resident, and non-resident for the A.Y. 2025-26**

Particulars	Amount (₹)
Interest on UK Development Bonds, 50% of interest received in India	10,000
Income from a business in Chennai (50% is received in India)	20,000
Profits on sale of shares of an Indian company received in London	20,000
Dividend from British company received in London	5,000
Profits on sale of plant at Germany 50% of profits are received in India	40,000
Income earned from business in Germany which is controlled from Delhi (₹ 40,000 is received in India)	70,000
Profits from a business in Delhi but managed entirely from London	15,000
Income from property in London deposited in a Indian Bank at London, brought to India	50,000
Interest for debentures in an Indian company received in London	12,000
Fees for technical services rendered in India but received in London	8,000
Profits from a business in Bombay managed from London	26,000
Pension for services rendered in India but received in Burma	4,000
Income from property situated in Pakistan received there	16,000
Past foreign untaxed income brought to India during the previous year	5,000
Income from agricultural land in Nepal received there and then brought to India	18,000
Income from profession in Kenya which was set up in India, received there but spent in India	5,000
Gift received on the occasion of his wedding	20,000
Interest on savings bank deposit in State Bank of India	10,000
Income from a business in Russia, controlled from Russia	20,000
Dividend from Reliance Petroleum Limited, an Indian Company	5,000
Agricultural income from a land in Rajasthan	15,000

**Illustration 18:** Mr. Sarthak, an individual and Indian citizen living abroad (Dubai), a tax haven, since year 2005 and never came to India for a single day since then, earned the following incomes during previous year 2024-25 :

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

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

- c) What would be your answer, if Mr. Sarthak born in Dubai and his parents were born in India?

**Illustration 19:** Mrs. Shruti is an Indian citizen, is currently in employment with an overseas company located in UAE. During the previous year 2024-25, she comes to India for 157 days. She is in India for 200 days, 100 days, 76 days and 45 days in the financial years 2020-21, 2021-22, 2022-23 and 2023-24, respectively. Her annual income for the previous year 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 2025-26. (Support your Answer with computation)

**Illustration 20:** Miss Asha is an Indian citizen. She is a lawyer by profession. She started her consultancy profession in India in 2020 with the name “New way associates”. In May 2023, she got married to Mr. Ram, an American citizen. Mr. Ram came to India for the first time on 1st May 2022 when he joined an MNC in India. He got a promotion and was transferred to Dubai. He left for Dubai on 1st October, 2023. Mrs. Asha accompanied him to Dubai. She started providing consultancy there. Both of them came to India for 3 months from June to August in 2024 to spend time with Asha’s family. Following incomes were earned by Mr. Ram and Mrs. Asha during the P.Y. 2024-25.

	Income of Mr. Ram	Amount
1	Salary from company in Dubai (not liable to tax in Dubai)	13,00,000
2	Long term capital gain on sale of shares of an Indian company	2,50,000
3	Income from house property in Delhi (computed)	4,60,000
4	Dividend from shares of an Indian company	65,000
	<b>Income of Mrs. Asha</b>	
1	Profit from consultancy profession in Dubai which was set up in India (not liable to tax in Dubai)	12,00,000
2	Profit from consultancy profession in India	3,00,000
3	Long term capital gain on sale of shares of British company, credited to her Dubai bank account	60,000
4	Short term capital loss on sale of listed shares of an Indian co.	(42,000)

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