

*Income tax liability does not arise on the basis of person's citizenship,  
it depends on the residential status of the assessee.*

## 5

# RESIDENCE AND TAX LIABILITY

It is not necessary that an assessee earns his income only in India, he can earn all over the world. In this situation a question arises — Is the assessee liable to pay tax on income earned in India or on foreign income as well ? The answer of the question depends upon the residential status of the assessee. Residential status determined on the basis of the period that the assessee lived in India during the previous year.

**Under the Income Tax Act the assessment has been made on the total income of the assessee and the total income is computed considering the residential status—**

Section 6 of the Income tax Act prescribes the tests to be applied to determine the residential status of all tax payers for purposes of income tax. Before we start to understand rules for determining the residential status, it is however, important to keep the following points in mind –

- (1) Residential status is determined for each category of persons separately e.g. there are separate set of rules for individuals and separate rules for companies etc.
- (2) Residential status is always determined for the previous year not for the Assessment Year.
- (3) Residential status of a person is to be determined for every previous year because it may change from year to year. For example X, who is resident in India in the previous year 2019-20, may become a non-resident in previous year 2020-21.
- (4) A person may be a resident of more than one country for any previous year. If Y is a resident in India for previous year 2019-20, it does not mean that he cannot be a resident of any other country for that previous year.
- (5) Citizenship of a country and residential status of that country are separate concepts. A person may be an Indian citizen, but may not be a resident in India. Similarly, a person may be a foreign citizen, but may be a resident in India.

## ■ DETERMINATION OF RESIDENTIAL STATUS

Income Tax is levied on the total income of an assessee earned during the previous year. Under the provisions of Income Tax Act, 1961, the total income of each person is based upon his residential status. Determination of residential status has nothing to do with the citizenship or domicile of the person. These are decided according to the provisions of the constitution whereas the residential status is the subject matter of the Income Tax Act which divides the assessable person into the following two main categories –

- (1) Resident (Ordinarily Resident, Not Ordinarily Resident)
- (2) Non-Resident.

■ **Residential status of an Individual [Section 6 (1) and 6 (6)]**

Individual means natural human being whether male or female, minor or major. Like Suresh, Ramesh, Neelam, Sonia etc. On the basis of residence, individuals are classified into the following categories, namely-

- I. Resident in India [Ordinarily Resident].
- II. Not ordinarily resident in India.
- III. Non-resident in India

### I. ORDINARILY RESIDENT IN INDIA

An individual is said to be ordinarily resident in India in any previous year if he fulfills -

- (A) Any one of the following two basic conditions,  
and
- (B) Both the additional conditions.

■ **Basic and additional conditions are as under :**

**(A) Basic conditions**

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

- (i) He/she is in India in the relevant previous year for a period of 182 days or more, or
- (ii) He/she has been in India for at least 365 days during the four years preceding the relevant previous year and is in India for at least 60 days during the relevant previous year.

► **Exceptions : Atleast 182 days compulsory**

In the following two exceptional cases, the residential status of an individual shall be determined with suitable modifications -

- (i) An individual, who is a citizen of India, leaving India in any year for the purpose of employment or as a member of the crew of an Indian ship, is considered as resident in India in that year only if he has been in India in that year for 182 days or more.
- (ii) A citizen of India or a person of Indian origin who is residing outside India and comes to India on a visit in any previous year is required to stay in India for 182 days for being treated as Resident.

► **Note :** A person is said to be of Indian origin if he, or either of his parents or any of his grand parents was born in undivided India.

**Simply in case of the aforesaid two exceptions basic condition will be only one that such person must live in India at least 182 days during the previous year being a resident.**

**(B) Additional Conditions**

In addition to fulfilling one of the above basic conditions, the individual shall have to fulfil both the following additional conditions for him to be considered as ordinarily resident -

- (i) He / She has been resident in India for atleast 2 out of 10 years preceeding the relevant previous year; and
- (ii) He / She has been in India for atleast 730 days during 7 years preceeding the relevant previous year.

**■ Example—** During the previous year 2019-20 Indian citizen Mr. Aman resided in India for 3 months and in America for a period of 9 months for education purpose. He has never been out of India in the past.

In this situation the status of Mr. Aman for the previous year 2019-20 will be ordinarily resident in India, because –

- (a) **He satisfies at least one of the two basic conditions** i.e. in this case although he does not satisfy the first condition of category A, he satisfies the second condition as he was in India for more than 60 days in the relevant previous year and was also here for more than 365 days during four preceeding previous years. He is therefore, ordinarily resident in India.
- (b) **He also satisfies both the additional conditions of category B** because he has always been in India before the relevant previous year 2019-20.

**Note :** The exception will not be applicable to him because he did not leave India for the purpose of employment.

### I Important Explanations

1. Relevant previous year means the previous year for which the residential status is being determined.
2. It is not necessary that he should stay for a continuous period of 182 days. It is the total duration of his stay in India that will be considered for the purpose.
3. It is also not necessary that the entire stay should be at one place. It may be at different places in India. He may live in a rented house, his own house, in a hotel or with some friends.
4. Where a stay is only for a part of a day, the physical presence would be reckoned on an hourly basis. A total of 24 hours of stay spread over a number of days shall amount to the stay of one day. If however data is not available in terms of hours, then the day of entry in India as well as the day of departure from India, both shall be taken into account as stay of individual in India.

### II. NOT ORDINARILY RESIDENT IN INDIA

An individual is said to be 'Not ordinarily resident in India' if he satisfies any of the basic conditions but does not satisfy any or both of the additional conditions.

**(A) Basic conditions** - Must satisfy at least one of the following basic conditions –

- (i) At least 182 days in India, or
- (ii) At least 182 days in the previous year + 365 days in preceeding 4 years in

- **Note** : In case a citizen of India leaving India for employment purpose or coming back to India from outside for any purpose must leave at least 182 days in India.
- (B) **Additional Conditions** - Does not satisfy any or both of the following additional conditions-
- Who has been a resident in India in 2 out of 10 previous years preceding that year.
  - Who has been India for a period 730 days or more during 7 years immediately preceding the relevant previous year.

Thus an individual will be Not Ordinarily Resident if he satisfies above mentioned at least one basic conditions but does not satisfies any or both of the additional conditions.

□ Example- Mr. Robertson came to India first time in 2005. During the previous year 2019-20 stayed in India for more than 182 days. He stayed in India for a period amounting in all more than 730 days during the seven years preceding the previous year 2019-20 but he was not resident at least two times in preceding 10 years.

Under this situation he is '**Not ordinarily Resident in India**' because -

- He fulfils the first basic condition to become a resident i.e. he is in India during the relevant previous year 2019-20 for more than 182 days.
- He does not fulfils the both additional conditions i.e. he had been in India for a period amounting in all at least 730 days during the seven previous years preceding the previous year 2019-20 but not resident at least 2 times in last 10 years.

### III. NON-RESIDENT IN INDIA

An individual not fulfilling any of the basic conditions will be a non-resident. It's not relevant whether or not he fulfills the additional conditions.

In other words he satisfies none of the basic conditions -

(i) He is in India in the relevant previous year for a period of 182 days or more;

(ii) He has been in India for at least 365 days during the four years preceding the relevant previous years and is in India for at least 60 days during the relevant previous years.

or

■ Example - Mr. Wilson came to India from France, for his business purpose, for the first time and he stayed in India for a period amounting in all to 125 days during the previous year 2019-20.

In this case Mr. Wilson is a non-resident because -

- During the previous year 2019-20 he is in India only for 125 days i.e. he does not satisfy the first basic condition.
- Prior to the previous year he has never been in India i.e. he does not satisfy the second condition also.

He is, therefore, a Non-resident.

RESIDENCE OF HINDU UNDIVIDED FAMILY (H.U.F.) [Section 6 (2)]

For the purpose of residential status, H.U.F. can be categorised in three native ways –

**(1) Ordinarily Resident HUF-** The H.U.F. shall be considered ordinarily

(i) If the control and management of the affairs of the H.U.F. is wholly or partly situated in India ;  
and

(ii) The Karta (manager) of the family satisfies the following two additional conditions–

(i) He has been resident in India in atleast 2 out of 10 previous years preceeding the relevant previous year ; and

(ii) He has been present in India for a period of 730 days or more during 7 years preceeding the previous year.

Example- A H.U.F. has four members. Mr. Bhanwarlal is the Karta (manager) of the family. The family resides in Indore (India). Other members the H.U.F. reside mostly out of India. However the Karta has lived in India mostly during the relevant previous year and runs the family business.

Under this situation the residential status of the family would be ordinarily resident because the control and management of the business of the H.U.F. is wholly or partly situated in India and the Karta has been residing in India for maximum time. Therefore, the Karta satisfies the two additional conditions. For determining whether H.U.F. is Ordinarily Resident in India or not, Karta's status for the preceeding years becomes relevant. The status of other members, whether they live, in India or not is material.

**(2) Not Ordinarily Resident-** If the control and management of the affairs of the H.U.F. is wholly or partly situated in India but the Karta (manager) of the family does not satisfy both or one additional condition, (resident 2/10 or not less than 730 days in last 7 years) such H.U.F. shall be considered as Not ordinarily resident.

In other words, a H.U.F. is ordinarily resident only when its Karta satisfies both the above additional conditions otherwise the family becomes Not ordinarily resident.

**(3) Non-Resident-** The Hindu undivided family is non-resident in India if the control and management of its affairs is wholly situated outside India.

Example - Mr. S.K. Talati is the Karta of a H.U.F. whose whole business and property is situated in Canada. During the previous year 2019-20, the Karta came to India with his family members for a month and went back.

Under this situation the residential status of this H.U.F. will be non-resident for the previous year 2019-20 as the control and management of its affairs has been wholly situated outside India.

RESIDENCE OF FIRM OR ASSOCIATION OF PERSONS ETC. [Section 6 (2)]

A Firm or AOP etc. can be distinguished in two categories for residential purposes –

**(1) Resident -** A Firm or AOP and every other person other than a company is considered as resident if the control and management is wholly or partly situated in India.

(2) Non-Resident - A firm or AOP and every other person other than company is considered as non-resident if the control and management is situated outside India.

### RESIDENCE OF COMPANY [Section 6 (3)]

For the purpose of residential status, Companies are of two types ..

#### **(1) Resident Company**

A company is resident in India if in the relevant previous year-

(i) it is an Indian company, or

(ii) during the year, the control and management of its affairs is situated wholly in India.

#### **(2) Non-Resident Company**

A company will be a non-resident in any previous year if it is not an Indian company and the control and management of its affairs is situated wholly or partly outside India.

**Chart for determination of Residential Status of an Individual**

Resident	Conditions ordinarily	Not Ordinarily Resident	Non-Resident
<b>(A) Basic Conditions</b> Who fulfills one or both the conditions (i) He is in India in the relevant previous year for at least 182 days and/or (ii) He is in India in the relevant previous year for at least 60 days and at least 365 days, during four years preceding the relevant previous year. <small>This condition (ii) is not applicable to such Indian who left India for employment purpose or who came to India from outside India during the previous year.</small>	✓ and/or ✓	✓ and/or ✓	✓ and/or ✓
<b>(B) Additional Conditions</b> Both must be fulfilled (i) he has been resident in India for at least 2 out of 10 previous years preceding the relevant previous year. and (ii) he has been in India for at least 730 days in all during the 7 previous years preceding the relevant previous years.	✓ ✓	✗ OR ✗	✗

► **Note :** If an Individual does not satisfy any one or both the above additional conditions, then he will be 'resident but not ordinarily resident in India'. In other words both the additional conditions must be fulfilled to become an ordinarily resident.

**How to find correct residential status in easy manner ?**

Put the following two questions namely—

- (1) Does the Individual fulfil at least one out of the two basic conditions?
  - (2) Does the Individual fulfil both the additional conditions?
- If,
- (A) The answer to both the questions is 'Yes', he will be called 'Ordinarily Resident'
  - (B) The answer to question (1) is 'Yes' but it is 'No' to question (2) he will be called 'Not Ordinarily Resident'.
  - (C) The answer to question (1) is 'No', he will be called 'Non-Resident'. Question (2) does not require to be examined.

**DETERMINATION OF RESIDENTIAL STATUS : PRACTICAL PROBLEMS**

**SPP-1**

**Mr. Yogendra Jain, an Indian citizen, has been staying in America for last six years.** Before this he has never been out of India in the past. During the previous year he came to India on 1st of July 2019 to meet his brother. For this purpose, he resides four months in Mumbai and three months in Indore. During these seven months he also carried on business in India. He returned to America on 1st of February 2020. Determine his residential status.

**Solution :**

**Not ordinarily resident**— During the previous year Mr. Jain stayed in India for 7 months [i.e. more than 182 days]. He satisfies the basic condition of 182 days to become the resident.

Mr. Jain has been in India less than 730 days preceding 7 years (he was in America for last 6 years), so he does not fulfil the second additional condition.

Hence Mr. Yogendra Jain is therefore, 'Not ordinarily resident'.

**SPP-2**

**Miss Megha Batra, a citizen of India, left India on 15th of May 2019 for London to meet her uncle.** She came back to India on 25th of March, 2020 and joined the Assistant Manager post in a company in Indore. Say whether she will be called 'Resident'.

**Solution :**

**Non-resident**— She will not be called 'Resident'. She will be a non-resident in India for previous year 2019-20 because she does not satisfy at least one out of the two basic conditions. During the previous year 2019-20, she stayed in India only for 52 days (1.4.2019 to 15.5.2019 and 25.3.2020 to 31.3.2020). Miss Megha is, therefore, a 'Non-Resident'.

SPP-8

Shri Kundanmal Sachdeva was born in Karachi [Pakistan] in 1945. He has been staying in America since 1.10.2019 and returned on 28.3.2020. Determine Shri Kundanmal Sachdeva residential status for the Assessment Year 2020-21.

**Solution : Non - Resident**

The basic conditions are relaxed for the benefit of a person of Indian origin who is residing outside India and comes to India on a visit in any relevant previous year required to stay in India for 182 days for being treated as Resident.

On the basis of aforesaid exception to basic conditions Shri Sachdeva would be Non-resident because Shri Sachdeva does not fulfil the requirement of 182 days. In other words he remained in India only for 180 days [31 + 30 + 31 + 31 + 29 + 28]. He does not satisfy the basic condition. He is, therefore, a non-resident.

## RESIDENTIAL STATUS AND TAX LIABILITY – (Section-5)

OR

## SCOPE OF TOTAL INCOME / INCIDENCE OF TAX

The tax is levied on total income of a person. The total income is based on residential status. That is why residential status is determined in order to compute the Total Income of the assessee for the relevant previous year. The scope of Total Income, according to the residential status, is as under –

### **(1) Tax liability of Resident (ordinarily) –**

The following incomes form part of Total Income in case of resident (ordinarily resident) in India –

- (a) **Income received in India** – Like income received from business situated in India.
- (b) **Income deemed to be received in India** – Like interest accrued on debentures of Indian company upto 31st of March.
- (c) **Income accrued or arose in India** – Like services provided in India but amount received outside India.
- (d) **Income deemed to be accrued or arisen in India** – Salary provided outside India by the Government of India.
- (e) **Income accrued outside India** – Like rent from house property situated outside India.

In simple words, ordinarily resident has to pay tax on every income earned by him whether in India or outside India or whether in cash or in kind during the relevant previous year.

### **(2) Tax liability of not ordinarily Resident –**

The following incomes form part of Total Income in the case of resident but not ordinarily resident in India –

- (a) Income received in India;
- (b) Income deemed to be received in India;
- (c) Income accrued or arose in India;
- (d) Income deemed to be accrued or arisen in India;

- (e) Income accrued outside India from a business or profession controlled from India.

### **(3) Tax liability of Non-Resident**

The following incomes form part of Total Income in the case of Non-Resident in India-

- (a) Income received in India;
- (b) Income deemed to be received in India;
- (c) Income accrued or arose in India;
- (d) Income deemed to be accrued or arisen in India.

These provisions may be summarised as under -

<b>Particulars of Income</b>	<b>Resident</b>	<b>Not ordinarily Resident</b>	<b>Non-Resident</b>
1. Income received or deemed to be received in India whether earned in India or elsewhere.	Taxable	Taxable	Taxable
2. Income accrued or deemed to be accrued in India, whether received in India or elsewhere.	Taxable	Taxable	Taxable
3. Income earned and received outside India from a business controlled from India.	Taxable	Taxable	Non-Taxable
4. Income earned and received outside India from any source except the above (3).	Taxable	Non-taxable	Non-Taxable
5. Income earned and received outside India during the years preceding the previous years and remitted to India during the previous year.	Non-Taxable	Non-taxable	Non-Taxable

**Incidence of tax can be understand through the following table also easily:**

<b>Place of Income</b>	<b>Ordinarily Resident</b>	<b>Not Ordinarily Resident</b>	<b>Non-Resident</b>
(1) Received or accrued in India or deemed to be in India.	✓	✓	✓
(2) Income from business outside but controlled by India.	✓	✗	✗
(3) Foreign Income.	✓	✗	✗
(4) Past untaxed foreign income brought in India in the previous year.	✗	✗	

**Six Taxable (✓) Non-taxable (✗)**

**Residential Status and Tax Liability**

<b>1. Ordinarily Resident</b>	(i) Income received in India or accrued in India (ii) Income outside India (iii) Past untaxed foreign income brought in India	Taxable Taxable Not-taxable
<b>2. Not Ordinarily Resident</b>	(i) Income received in India or accrued in India (ii) Income from foreign business which is controlled from India (iii) Other foreign income or past untaxed income	Taxable Taxable Not-taxable
<b>3. Non-Resident</b>	(i) Income received in India or accrued in India (ii) Foreign income of any type (iii) Past untaxed foreign income brought in India	Taxable Not-taxable Not-taxable

**SOLVED PRACTICAL PROBLEMS****SPP-9**

The following are the particulars of Income of Mr. Vikas Batra (Indian Citizen) for the previous year 2019-20 – ₹

1. Profit from business in Japan received in India.	1,00,000
2. Income from house property in Bangladesh received in India.	1,000
3. Income from house property in Srilanka deposited in a bank there.	2,000
4. Profit from business in Burma deposited in a bank there. This business is controlled from India.	2,000
5. Accrued in India but received in Malaysia.	4,000
6. Profit of business in Indore.	2,72,000
7. Past untaxed foreign income brought into India during the previous year.	15,000

From the above particulars compute the taxable income of Mr. Vikas Batra for the Assessment Year 2020-21.

- (a) Ordinarily Resident, (b) Not ordinarily resident, (c) Non-Resident.

**Solution :**

**Computation of Taxable Income of Mr. Batra****For the Assessment Year 2020-21**

Particulars of Income	Ordinarily Resident	Not Ordinarily Resident	Non-Resident
1. Profit from business in Japan received in India.	1,00,000	1,00,000	1,00,000
2. Income from House property in Bangladesh received in India.	1,000	1,000	1,000

**■ State whether the following Statements are Right or Wrong-**

1. A company may be not ordinarily resident.
2. Income from business in China is taxable in case of non-resident in India.
3. A non-resident Indian is not liable to pay tax on his income received in India.
4. H.U.F is said to be resident in India if control and management is situated in India.
5. Past untaxed foreign Income brought into India will not be taxable.
6. Salary received in India but the service rendered in England is taxable for non-resident.
7. Dividend received in India from a British Company is taxable for non-resident.
8. A person can be a resident in more than one country.
9. There is no relation of residential status of an individual to his citizenship.
10. The residential status of an assessee may change in every previous year.

Ans. : (1) W (2) W (3) W (4) R (5) R (6) R (7) R (8) R (9) R (10) R.

**PRACTICAL PROBLEMS FOR PRACTICE (PPP)**

**■ VERY SHORT PRACTICAL PROBLEMS :**

Ascertain the residential status of the different assessees in the following cases for the Assessment Year 2020-21 -

- (1) Ajay is a citizen of Indian. He left for Canada on 18th April, 2019 and could not return to India till the end of the Financial Year 2019-20.  
**Ans. : Non-Resident** (Did not fulfil at least one basic condition)
- (2) Gautam left for U.S.A. on 10th March, 2017 after having lived in India for 20 years. He returned to India on 10th September 2019.  
**Ans. : Ordinarily-Resident** (Basic condition + both conditions fulfilled.)
- (3) Mr. Shamim a Bangladeshi cricket player, comes India since 2009-10 every year to play cricket and stays here for 120 days. State his residential status for Assessment Year 2020-21.

**Ans. : Non-Resident** (Being an Indian origin does not fulfil basic condition atleast 182 days)

- (4) M. Ahmed Ali, who is a citizen of Pakistan came to India during the previous year and lived from 1st September 2019 to 20th March, 2020 prior he had visited India in 2013.

**Ans. : Not ordinarily resident**

- (5) An Indian Citizen Miss Neha Narang who has been living in America with his brother for the last three years, came to India on 1st January, 2020 and returned to America on 1st August, 2020.

**Ans. : Non-resident** (at least one basic condition was not fulfilled)

- (6) A citizen of India went to America on 1st August, 2019 for service and did not come back upto 31st March, 2020. Prior to this he had lived for the past four years full time in India.

**Ans. : Non-resident** (if an Indian citizen goes outside India for employment and does not reside in India at least 182 days, basic condition is not fulfilled)

- (7) Mr. Marshal came to India in 2012 and started a business here. He is a British citizen. During the previous year he went to England on 1st July, 2019 and did not come back to India upto 31st March, 2020.

**Ans. : Ordinarily Resident**

■ **SHORT PRACTICAL PROBLEMS :**

**PPP-1**

Following are the taxable incomes of Shree Deepak Shah for the previous year 2019-20 –

(i)	Salary accrued and received in India (Taxable amount)	₹ 4,20,000
(ii)	Profit of a hotel business at Australia	1,30,000
(iii)	Agricultural income in India	44,000
(iv)	Income from transfer of a long term capital asset situated in India	20,000

Find out taxable income in case of ordinarily resident, not ordinarily resident and non-resident.

**Ans. : (a) Ordinarily resident ₹ 5,70,000**

**(b) Not ordinarily resident ₹ 4,40,000 (c) Non-resident ₹ 4,40,000.**

**PPP-2**

Mr. Vivek Agrawal furnished the following information about his income -

1.	Income from house property in Dacca received there and there after brought to India.	₹ 15,000
2.	Income from electronic business in Bhopal.	2,65,000
3.	Past untaxed foreign income brought in to India during the previous year.	28,000
4.	Income from business in London (this business is controlled from India)	80,000

Compute his taxable income, if he is –

(a) Ordinarily resident. (b) Not ordinarily resident. (c) Non-resident.

**Ans. : Taxable income – Ordinarily Resident ₹ 3,60,000,**

**Not-ordinarily resident ₹ 3,45,000 and Non-resident ₹ 2,65,000.**

**PPP-3**

Mr. Pravin Bandi, who is a citizen of India, presents the following details of his income during the previous year 2019-20 –

1.	Income from salary from an American Firm (Services rendered in New York).	₹ 2,70,000
2.	Commission received from an Indian company and deposited in an American Bank.	60,000
3.	Business income in Sri Lanka, the business controlled by India.	1,20,000
4.	Income from house property in London received in India.	70,000

Calculate the taxable Income of Mr. Pravin Bandi for the Assessment Year 2020-21, if he is (a) Resident, (b) Not ordinarily resident and (c) Non-resident.

**Ans. : (a) ₹ 5,20,000, (b) ₹ 2,50,000 (c) ₹ 1,30,000.**

PPP-4

Compute the total income of a non-resident Indian from the following information—

1. Salary for 3 months received in India (Computed)	₹ 2,99,000
2. Dividend received in Germany from British companies	22,000
3. Interest on Fixed Deposits with State Bank of India	6,000
4. Taxable income from house property in India	34,000

Ans. : Taxable Income ₹ 3,39,000.

PPP-5

Shri Ramesh Vadhwani has the following income for the financial year 2019-20 –

1. Income from property situated in London	₹ 40,000
2. Income from salary received in India for services rendered in London	2,28,000
3. Profit from business in London controlled from India	11,20,000
4. Profit from Kanpur business	1,10,000
5. Agricultural income in India	10,000

Compute the income of Shri Ramesh for the Assessment Year 2020-21.  
If he is not ordinarily resident in India.

Ans. : Taxable Income ₹ 14,58,000  
(London income is not taxable for not ordinarily resident)

PPP-6

Mr. Scott who is citizen of Germany has been staying in India since 2012. He leaves India for the first time on 14th July, 2019 of visit to Germany and comes back on 8th January, 2020. Determine his residential status for the Previous Year 2019-20.

► Hints : He fulfilled at least one basic condition and both additional conditions.

PPP-7

Mr. Nilesh Kala, an Indian citizen left India for the first time on 1st of July 2019 for employment in Dubai during the previous year 2019-20. He did not come back to India until 31.3.2020. Determine his residential status.

► Hints : An Indian citizen is taking up employment outside India, the limit of 182 days residence is applicable to him. While he remains in India for a period of less than 182 days in the previous year 2019-20. He is therefore, a non-resident for the previous year 2019-20.

PPP-8

Mr. Ramchandran, an Indian citizen and origin, has been living in America for the last 15 years and comes to India every year for three months. During the year 2019-20 he came India on 1st November 2019 and returned back on 31.1.2020. Determine his residential status.

Ans. : Non-Resident

► Hints : He will be Non-resident for the previous year 2019-20, because he was not in India for at least 182 days during the previous year.

Ans. : Non-Resident

**PPP-9**

**Shri Dhanraj Lalwani was born in Karachi (Pakistan) in 1945.** He has been staying in America since 1965. He came to visit India on 1st October, 2019 and returned on 28th March, 2020. Determine Shri Dhanraj Lalwani's Residential Status for the Assessment Year 2020-21.

**Ans. : Non-Resident**

**PPP-10**

Mr. Sarthak Dosi an Indian citizen desires to establish his industry in Thailand, so advise him to leave on which date so that his foreign income remains exempted from income tax. He wants to visit India for medical treatment for a year in near future but he does not want to be a resident of India. Advise him so that his foreign income may be exempted.

**Ans. : Departure date on or before 28.9.2020 and arrival date after 30.9.2021**

**PPP-11**

**Shree Amitabh Bachchan went to America on 1st April, 2019 for a film shooting.** Due to ill health, he had to stay there just after shooting. He came back to India on 25th September, 2019. He had to go again on 8th December, 2019 and returned India on 15th February, 2020. Is Shree Amitabh Bachchan resident in India for the Assessment Year, 2020-21 "If not", why ?

**Ans. : Non-Resident** (In case of employment purpose the basic condition at least 182 days in India should be fulfilled and he did not fulfill such condition)

**PPP-12**

**Madhuri Duggar went to London for higher education on May 10, 2017.** She is unable to visit India until March 31, 2020. Determine her residential status for the Assessment Year 2020-21. Assume she is an Indian citizen.

Would it make any difference, if she visits India for 182 days during 2019-20 ?

**Ans. :** (a) **Non-resident** – One minimum basic condition has not been fulfilled;  
 (b) **Ordinarily resident** – Fulfil at least one basic condition and both additional conditions.

**LONG PRACTICAL PROBLEMS**

**PPP-13**

The following are the particulars of Mr. Piyush Mehta income during the previous year 2019-20 –

1. Agricultural Income in Kanpur, India.	₹ 23,000
2. Income from business in Chennai, the business is managed from London.	30,000
3. Income from electronics industry in Japan, its head office is situated in Japan, out of this income ₹ 50,000 are brought in India.	1,50,000
4. Income from business in Iran (₹ 35,000, the income from a business which is controlled from India is included.)	80,000
5. Income from agricultural land in Ceylon and deposited in a bank there.	50,000
6. Sudhir who is a non-resident paid interest on loan provided to him for a business carried on in India.	28,000

Compute his taxable income for the Assessment Year 2020-21 if he is –

- (i) Ordinarily resident, (ii) Not ordinarily resident, (iii) Non-resident.

**Ans. : (i) Ordinarily resident ₹ 3,38,000;**

**(ii) Not ordinarily resident ₹ 93,000; (iii) Non-resident ₹ 58,000.**

#### PPP-14

**Particulars of income of Mr. Rupesh Mittal are as follows-**

	₹
(1) Interest on debentures of a company at England which was received in India	26,000
(2) Interest received from Shree Philip, a non-resident, on the loan provided to him for a business carried on in India	15,000
(3) Royalty received in Germany from Shree Kailash, a resident in India for technical services provided for a business carried on in Germany	3,20,000
(4) Fees from an Indian company carrying on business at London for technical services rendered at London having been directly deposited by the company in his bank account in India	2,30,000

Compute total income for the Assessment Year 2020-21, if he is a –

- (a) Resident, (b) Not ordinarily resident and (c) Non-resident.

**Ans. : (a) ₹ 5,91,000 (b) ₹ 2,71,000 (c) ₹ 2,71,000.**

#### PPP-15

The following are the income of Pushpendra Chourey for the previous year 2019-20 –

- (i) Interest on England Development Bond (1/5 received in India) ₹ 50,000.
- (ii) Income from agriculture in America, received there, but later on remitted to India ₹ 81,000.
- (iii) Income from property in Canada, received outside India ₹ 40,000.
- (iv) Income earned from business in Uganda, which is controlled from Delhi (₹ 25,000 is received in India) ₹ 45,000.
- (v) Dividend (Gross) paid by a domestic company and received outside India ₹ 40,000.
- (vi) Untaxed Profit of 2016-17 brought to India in 2019-20 ₹ 10,000.
- (vii) Profit from a business in Chennai, which is controlled from London ₹ 2,00,000.
- (viii) Profit on sale of a building in India but received in Sri Lanka. ₹ 18,000.

From the above particulars ascertain the gross total income of Pushpendra for the previous year 2019-20 if he is – (i) a resident (ii) not an ordinarily resident (iii) a non-resident.

**Ans. (i) Resident ₹ 4,34,000, (ii) Not Ordinarily Resident ₹ 2,73,000,**  
**(iii) Non-Resident ₹ 2,53,000.**

#### PPP-16

**Mr. Anurag Tiwari gives the following information–**

- (i) Mr. Tiwari first time went to Japan on 10th January, 2009 and came back to India on 22nd June, 2009.

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- (ii) On 30th September, 2012 he went to England and came back to India after 90 days.
  - (iii) On 16th July, 2017 he had gone to Srilanka and came back to India after staying 100 days.
  - (iv) On 2nd December, 2017 he had gone to Nepal for 85 days.
  - (v) In the previous year 2019-20 he was out of India for 280 days.
- He submits the following details of his incomes for the Previous year-
- (1) Taxable Salary ₹ 80,000 received in Japan for the services given in India.
  - (2) Commission received in India for the services given in Srilanka ₹ 1,40,000.
  - (3) Rent received of the house situated in Nepal received in India ₹ 30,000.
  - (4) Dividend of a England based company received in India ₹ 75,000.
  - (5) Profit of the business situated in Japan was not brought to India ₹ 5,00,000.

Determine residential status of Mr. Anurag for the previous year 2019-20 and explain that on which income he is liable to pay tax in India ?

**Ans. : Ordinary Resident, Total Income ₹ 8,16,000.**

**Hints :** Mr. Tiwari lived in India at least 60 days durings the previous year + 360 days in preceeding 4 years, so he fulfilled basic condition and also both additional conditions. Hence he is Ordinarily Resident.

### PP-17

Mr. Rafi Mohammad Seikh is an Indian Citizen. He went outside India 1st August 2019 for service in a company of Dubai and came back to dia for two months on 1st March, 2020 to meet his family. During the evious year his receipt details were as under -

1. Salary in Dubai	11,60,000
2. Interest on debentures of an Indian company received in Dubai	18,000
3. Taxable income from house property situated at Ajmer (Raj.)	18,500
4. Dividend on shares of a foreign company received outside India.	7,500
5. Nursery income, land situated at Ajmer (Raj.)	13,500
6. Interest received from firm in Dubai and thereafter remitted to India	9,200
7. Income from business in Ajmer –	
(a) From 1st April, 2019 to 31st July, 2019	2,48,000
(b) From 1st August 2019 to 31st March, 2020	<u>2,60,000</u> 5,08,000
8. Payment from Public Provident Fund ₹ 10,000.	
9. Income from Indian partnership firm ₹ 20,000.	
10. Dividend from Indian company ₹ 5,000.	
11. Indian Agricultural income ₹ 12,000.	

Determine his Residential status and Gross Total Income.

**Ans. : Non-Resident and Gross Total Income ₹ 5,44,500.**

**PPP.18**

Mr. Kumar Jayratne a foreign citizen leaves India for the first time in the last 20 years on November 20, 2017. During the calendar year 2018, he came to India on September 1st and stayed for a period of 30 days. During the calendar year 2019, he did not visit India at all. He came to India on January 18, 2020 and did not leave thereafter.

Determine the Residential status of Mr. Jayratne for the Assessment Year 2020-21 if - (a) He is an Indian origin. (b) He is not an Indian origin.

**Ans. : (a) Non-resident; (b) Ordinarily resident.**

**PPP.19**

**Discuss the assessability of the following items of receipts in the case of resident, Not ordinarily resident-**

- A sum equivalent to ₹ 4,00,000 was earned from a business in the London but the profits have been remitted to India. The assessee used to attend to the business only when he was in the England.
- Remuneration of ₹ 2,00,000 due to him for services rendered in Singapore was credited to his bank account in Singapore and immediately thereafter remitted to India.
- Remuneration of ₹ 1,50,000 due to him from an Indian company carrying on business in Singapore for services rendered in Singapore and the same having been directly deposited by the Indian Company in his bank account in India.

**Ans. : (a) Not Taxable; (b) Not Taxable (c) Taxable.**

**PPP.20**

**Mr. 'X' a citizen of India left India on 6.6.2016 for employment abroad.** Prior to this date he stayed always in India. During 2017-18 and 2018-19 he visited for 145 days and 165 days respectively. In the previous year 2019-20 he came to India on 7.4.2019 and left on 30.11.2019. Determine his residential status for the Assessment Year 2020-21.

**Ans. : Ordinarily Resident**

**PPP.21**

**Following are the particulars of taxable income of Shri Hari Narayan Arora for the previous year ended 31st March, 2020 –**

- Royalty received from Govt. of India ₹ 2,24,000.
- Income from business earned in Afghanistan ₹ 25,000 of which ₹ 15,000 were received in India. Business is controlled from India.
- Interest received from Shri Aditya Kumar a non-resident against a loan provided to him run a business in India ₹ 5,000.
- Royalty received from AL-Afnan a resident for technical services provided to run a business outside India ₹ 20,000.
- Income from business in Jaipur ₹ 4,40,000 this business is controlled from France. ₹ 20,000 were remitted to France.

Find out Gross Total Income of Shri Hari Narayan Arora for Assessment Year 2020-21 if he is – (a) Resident of India, (b) Not ordinarily resident of India and (c) Non-resident of India in previous year.

**Ans. : (i) Ordinarily Resident ₹ 7,14,000**

**(ii) Not Ordinarily Resident ₹ 6,94,000, (iii) Non-Resident ₹ 6,84,000.**

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