

CHAPTER 1: BASIC CONCEPTS

Sr	Particulars	Explanation	
1	Component of Income Tax law	1) Income tax Act, 1961, 2) Finance Act, 3) Income Tax Rules, 1961, 4) Circulars / Notification from CBDT, 5) Supreme Court and High Court Decisions.	
2	India	1) The territory of India as per Article 1 of the constitution, 2) Its territorial waters, seabed and subsoil underlying such waters, 3) Continental Shelf, 4) Exclusive Economic Zone, or 5) Any other specified Maritime Zone, and 6) The air space above its Territory and Territorial waters.	
3	Income Tax Rules	CBDT is empowered to frame rules from time to time to carry out the purpose and proper administration of the Act.	
4	Circulars/Notifications	CBDT issues Circulars and Notifications from time to time	
5	Types of Amendments	Prospective / Immediate/Retrospective effect	
6	Person Sec 2(31)	Individual, HUF, Firm, Company, AOP, BOI, Local Authority, AJP.	
7	Assessee Sec 2(7)	1) Assesse means any person who is liable to pay any tax or any other sum under the Income Tax Act, 1961. 2) Every person in respect of whom any proceedings has been taken for the assessment of income, loss and refund. 3) Deemed Assessee : Legal representative 4) Assessee in default : Fail to deduct TDs	
8	Assessment year [Sec.2(9)]	12 months commencing 1 st April of every day	
9	Previous Year [Sec. 3]	Financial year prior to Assessment Year. In case of newly established business or profession from the date of set up to the end of Financial year,	
10	Exceptions to the general rule that income of a previous year is taxed in its assessment year	Details	Assessment
		Shipping Business of Non-Resident	Mandatory
		Persons leaving India	Mandatory
		AOP / BOI / AJP formed for a particular event or purpose	Mandatory
		Persons likely to transfer property to avoid tax	Mandatory
		Discontinued Business	Assessment is discretionary
11	Cash Credits [Sec. 68]	Taxable in the FY in which it is found credited in books of accounts if Assessee offers unsatisfactory explanation about its nature and source.	
12	Unexplained	Investments made by Assessee which are not recorded in books and he offers	

	Investments [Sec. 69]	no explanation or offers unsatisfactory explanation about its nature and source, then the value of investment is deemed to be Income of the Assessee of such FY.
13	Unexplained money, Bullion, Jewel or valuable article etc [Sec. 69A]	Where in any FY the assessee is found to be the owner of Money, Bullion, jewellery, or any valuable article and those are not recorded in books and he offers no explanations or offers unsatisfactory explanation about its nature and source, then the value of those assets is deemed to be Income of the Assessee of such FY.
14	Investments, etc. not fully disclosed in books of account [Sec. 69B]	Where in any FY the assessee has made investments or is found to be the owner of money, Bullion, Jewellery, etc the AO finds that amount expended exceeds the amount recorded in books and assessee offers no explanation or offers unsatisfactory explanation about excess amount, then such excess amount is deemed to be Income of the assessee of such FY.
15	Unexplained Expenditure, etc. [Sec. 69C]	Where assessee incurred any expenditure and he offers no or unsatisfactory explanation about source of expenditure or part thereof, then such amount may be deemed to be income of the assessee of such FY. Such expenditure shall not be allowed as deduction under any head of income.
16	Amount borrowed / repaid on Hundi expected by A/c Payee Cheque [Sec. 69D]	Where any amount borrowed on Hundi or repaid the same otherwise than through and Account Payee Cheque drawn on Bank, then such amount shall be treated as income of the person for the PY in which the amount borrowed or repaid. If the amount is taxed at the time of borrowing the same cannot be taxed at the time of repayment. Amount repaid includes interest on borrowed amount.
17	Sec. 68, 69, 69A, 69B, 69C, 69D	Income is chargeable under the head "Other Sources" at 30%. No deduction in respect of any expenditure/ allowance or any set-off of any loss shall be allowed. (Sec. 115BBE).
18	Income [Sec. 2(24)]	Includes – 1) Income chargeable under various heads, 2) Voluntary contributions received, 3) Employees' contribution to Welfare Funds, 4) Amount received under Keyman Insurance Policy including Bonus, 5) Gift in kind, 6) Any sum of money or value of property as defined u/s 56(2)(vii)/ (viiia), 7) Value of shares of a company (closely held company) received in any Previous Year, by a Firm or a Company (closed held company), from any person(s), 8) Any consideration received for issued of shares as exceeds the Fair market Value referred u/s 56(2)(viib), 9) Advance forfeited on failed negotiations for transfer of Capital Asset, 10) Subsidy, Duty Drawback, Grant (Whatever name called) received by the assessee from central Govt/ State Govt/ any Authority, other than the grants which considered as cost of Asset u/s.43(1).

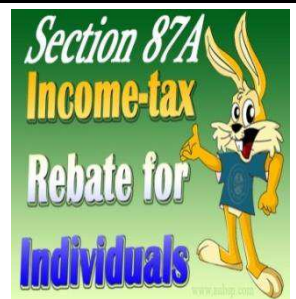
19	Method of accounting	Relevant only for Profits and Gains from business or and Income from other sources. Based on cash or mercantile system of accounting used regularly by Assessee, subject to specified exceptions.
20	Exemption	Section 10 deals with income exempt from tax.
21	Deductions	Sec 80C to 80U deals with deductions. Assessee need to claim.
22	Relief	Exemptions & Deductions reduces income where as relief reduces income tax liability.
23	Heads of income & Source of Income	1) Salaries, 2) Income from house property, 3) profits and gains of business or profession, 4) capital gains, and 5) Income from other sources Source is part of head of income.
24	Tax , Surcharge & Cess	1) Tax and surcharge is general purpose revenue. 2) Tax is applied on income. 3) Surcharge is applied on income tax. 4) Cess is specific purpose revenue. It is to be applied on tax plus surcharge.
25	Rounding off of Total Income [Sec. 288A]	Rounded off to nearest Ten Rupees.
26	Rounding off of Tax, interest etc. [Sec. 288B]	Rounded off to nearest Ten Rupees.
27	Application of Income	An obligation to apply income, which has accrued or has arisen or has been received amounts to merely the apportionment of Income. Essential are – 1) Income accrues to the assessee, 2) Income reaches the assessee, and 3) Income is applied to discharge an obligation, whether self-imposed or gratuitous.
28	Diversion of Income	An obligation to apply the income in a particular way before it is received by the assessee or before it has arisen or accrued to the assessee results in diversion of income. The source in charged with an overriding title, which diverts the income Essentials of “Diversion of Income” are – 1) Income is diverted as source, 2) there is an overriding charge or title for such diversion, and 3) Charge / Obligation is on the source of Income & not on the receives.
29	Chargeability of Income Tax (Sec. 2(17))	Income Tax is charged for Any Assessment year at the rates prescribed in the Finance Act in respect of Total Income of the previous year of every person.

TAX RATES FOR AY 17-18

Tax rate	Resident Individual (Male & Female), HUF, AOP, BOI & AJP	Resident Individual (Age >= 60) Senior citizen (Male & Female)	Resident Individual (Age >=80) Super senior citizen (Male & Female)
NIL	2,50,000	3,00,000	5,00,000
10%	2,50,001 to 5,00,000	3,00,001 to 5,00,000	NA
20%	5,00,001 to 10,00,000	5,00,001 to 10,00,000	5,00,001 to 10,00,000
30%	Above 10,00,000	Above 10,00,000	Above 10,00,000
Add	Surcharge @ 15% (Amendment Finance Act 2016) if Total Income exceeds Rs 1 crore		
Education cess	2% on Tax plus surcharge (If applicable)		
Secondary and Higher secondary Education cess	1% on Tax plus surcharge (If applicable)		

REBATE U/ 87A

- A resident individual (whose net income does not exceed Rs. 5, 00,000) can avail rebate u/s. 87A. It is deductible from income tax before calculating education cess.
- Net income = GTI – Deduction u/s 80C to 80U**
- The amount of rebate is 100%** of income tax or Rs. 5,000 whichever is less. **[Amendment Finance Act 2016]**
- It is to be deducted before education cess.**
- Rebate u/s 87A and surcharge cannot come at a time.**

**NON RESIDENT ASSESSEE**

- For Non-Resident individual exempted income shall be upto Rs. 2, 50,000 irrespective of Age Tax Rate for Non-Resident.
- Surcharge @ **15%** if income exceeds 1cr
- Cess @ 3% on Tax + SC
- Rebate u/s 87A is not available.

KEY NOTE	Total Income does not include taxable Long Term Capital Gain (20%), Short Term Capital Gain (15%) on Securities subjected to STT, Lottery Winnings, Horse races, etc. (30%) and other Income chargeable at Special Rates.
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FOR OTHER ASSESSEES / PERSONS (W.e.f. AY 17-18)

Assessee	Rate of tax	TI < Rs. 1 Crore	TI > Rs.1 Crore, but TI ≤ Rs.10 Crores	TI > Rs.10 crores	Rate of EC + SHEC
Domestic Companies	30%		7%	12%	3%
Foreign Companies	40%		2%	5%	3%

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Firms and LLP	30%		12%	12%	3%
Local Authorities	30%		12%	12%	3%
Co – operative Societies	10%		-	-	3%
For First Rs.10,000	20%		-	-	3%
For Next Rs.10,000	30%		12%	12%	3%
For the Balance					

FOR DOMESTIC COMPANIES

TI = Total Income TT = Total Turnover GR = Gross Receipts

Asst. Year	Tax Rate		SC	Cess
2017 – 18	TT / GI \leq Rs. 5 Crores in FY 2014 – 15	TT / GI $>$ Rs. 5 Crores in FY 2014 – 15		
TI \leq Rs. 1 Crores	29%	30%	-	3%
TI $>$ Rs. 1 Crore, but \leq Rs. 10 Crores	29%	30%	70%	3%
TI $>$ Rs. 10 Crores	29%	30%	12%	3%

MARGINAL RELIEF

Meaning	Marginal relief is provided to insure that the additional income tax payable including surcharge on excess of income over Rs.1,00,00,000 is limited to the amount by which the income is more than Rs.1.00,00,000
Applicable to	All assessee
Condition	Net income is slight more than Rs.1,00,00,000 [in case of corporate assessee slight more than 10 crore]
Marginal relief	<p>$\{[(\text{Income tax} + \text{surcharge}) \text{ on actual income}] - \text{Income tax on 1 crore}\} - [\text{actual income} - 1 \text{ crore}]$</p> <p>In case of corporate assessee: $\{[(\text{Income tax} + \text{surcharge}) \text{ on actual income}] - \text{income tax on 10 crore}\} - [\text{Actual Income} - 10 \text{ crore}]$</p>

Illustration 1

Compute the amount of marginal relief available if the income of Mr. Apple is Rs 1.02crores and tax Payable

Solution

Computation of Marginal Relief

Particular	Amount	
Total income	Rs. 1 crore	Rs.1.02 crore
Rate tax	Slab rate	Slab rate

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Tax liability before surcharge and cess	Rs. 28.25 lakhs	Rs.28.85 lakhs
Add: surcharge @ 15%	NA	Rs.4.3275 lakhs
Tax liability after surcharge before Cess	Rs.28.25 lakhs	Rs.33.1775 lakhs

Marginal relief = (Income Tax + surcharge) on actual income] – [(Income Tax on Rs. 1 crore) – (Income – Rs.1 crore)]

=Rs. [(33.1775-28.25) lakhs – (102-100) lacs]

=Rs.4.9275 lakhs – Rs.2 lakhs

=Rs.2.9275 lakhs

Computation of Tax payable

Total income	Rs. 1.02 crore
Rate of Tax	Slab Rate
Tax liability before surcharge and cess	Rs.28.85 lakhs
Add: Surcharge @15%	Rs.4.3275 lakhs
Tax liability surcharge before cess	Rs.33.1775 lakhs
Less: Marginal relief	Rs.2.9275 lakhs
Tax liability before cess	30.25 lakhs
Add Education cess @ 3%	0.9075 lakhs
Tax liability	31.1575lakhs

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1. If total income of Mt. X, resident, age 50 years, is Rs. 3,80,000/-, his tax liability including surcharge and cess shall be –

(a) Rs. 8,240

(b) Rs. 10,000

(c) Rs. 10,300

(d) Rs. 8,300

Computation of tax liability

Particulars	Working	Amount
Tax liability before Rebate	Rs. 2,50,000 × Nil	Nil
	Rs. 1,00,000 × 10%	13,000
Total		13,000
Less: Rebate u/s 87A		5,000
Liability before surcharge		8,000
Add: surcharge		Nil
Tax liability after surcharge		8,000
Add: Education cess	3% of above	240
Total		8,240

2. Calculate income tax payable by an individual (aged 30 years) for AY 2017-18 if his total income is Rs. 1,01,20,000

(a) Rs. 30,33,350

(b) Rs. 32,41,510

(c) Rs. 29,46,830

(d) Rs. 34,39,790

Computation of tax liability

Particulars	Working	Amount
Tax liability before rebate	Rs. 2,50,000 × Nil	Nil
	Rs. 2,50,000 × 10%	25,000
	Rs. 5,00,000 × 20%	1,00,000
	Balance × 30%	27,36,000
Total		28,61,000
Less: Rebate u/s 87A		Nil
Liability before surcharge		28,61,000
Add: Surcharge		84,000
Tax liability after surcharge		29,45,000
Add: Education cess	3% of above	88,350
Total		30,33,350

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3. What will be the amount of marginal relief available to an individual (52 years) whose total income is Rs. 1,00,10,000/-

(a) Rs. 4,17,200

(b) Rs. 4,24,200

(c) Rs. 3,35,800

(d) Rs. 2,82,800

Particulars	Working	Case 1
Tax liability before Rebate	Rs. 2,50,000 × Nil	Nil
	Rs. 2,50,000 × 10%	25,000
	Rs. 5,00,000 × 20%	1,00,000
	Balance Income × 30%	27,03,000
Total		28,28,000
Less: Rebate u/s 87A	As income exceeds Rs. 5,00,000	Nil
Liability before surcharge [A]		28,28,000
Add: Surcharge	B = [15% of (A)]	4,24,200
Marginal relief	B – 70%(Rs. 1,00,10,000 – Rs. 1,00,10,000)	4,17,200

4. What will be the amount of tax (including surcharge and cess) of an individual (58 year) having total income of Rs. 1,05,00,000/-

(a) Rs. 34,24,750

(b) Rs. 34,31,960

(c) Rs. 33,65,010

(d) Rs. 35,68,950

Particulars	Working	Case 2
Tax liability before Rebate	Rs. 2,50,000 × Nil	Nil
	Rs. 2,50,000 × 10%	25,000
	Rs. 5,00,000 × 20%	1,00,000
	Balance income × 30%	28,50,000
Total		29,75,000
Less: Rebate u/s 87A	As income exceeds Rs. 5,00,000	Nil
Liability before surcharge [A]		29,75,000
Add: Surcharge	B = [15% of (A)]	4,46,250
Less marginal relief	B – 70%(Rs. 1,05,00,000 – Rs. 1,00,00,000)	96,250
Effective surcharge [C]		3,50,000
Tax liability after surcharge	[A + C]	33,25,000
Add: Education cess	3% of above	99,750
Total		34,24,750
Rounded of		34,24,750

5. Income-tax (including surcharge and cess) payable by a resident individual (aged 80 years) having total income of Rs. 5,00,000 is _____.

(a) Nil

(b) Rs. 18,540

(c) Rs. 23,690

(d) Rs. 25,750

In Case of Resident Individual is exempt upto Rs. 5,00,000

6. Income-tax (including surcharge and cess) payable by a non-resident individual (aged 80 years) having total income of Rs. 5,00,000 is _____.

(a) Nil

(b) Rs. 18,540

(c) Rs. 23,690

(d) Rs. 25,750

Computation of tax liability

Particulars	Working	Amount
Tax liability	Rs. 2,50,000 × Nil	Nil
	Rs. 2,50,000 × 10%	25,000
Total		25,000
Add: Education cess	3% of above	750
Total		25,750

7. Income-tax (including surcharge and cess) payable by a resident individual (aged 63 years) having total income of Rs. 4,30,000 is Rs _____.

(a) Rs. 8,240

(b) Rs. 10,300

(c) Rs. 15,450

(d) Rs. 13,390

Computation of Tax Liability

Particulars	Working	Amount
Tax liability before Rebate	Rs. 3,00,000*Nil	Nil
	Rs. 1,30,000*10%	13,000
Total		13,000
Less: Rebate u/s 87A		5,000
Liability before surcharge		8,000
Add: Surcharge		Nil
Tax liability after surcharge		8,000
Add: Education cess	3% of the above	240
Total		8,240

8. Income-tax (including surcharge and cess) payable by a company having total income of Rs. 4,00,000 is _____.

(a) **Rs. 1,23,600**

(b) Rs. 46,350

(c) Rs. 30,900

(d) Rs. 1,35,960

Computation of tax liability

Particulars	Working	Amount
Tax liability	Rs. 4,00,000 × 30%	1,20,000
Add: Education cess	3% of above	3,600
Total		1,23,600

9. Income-tax (including surcharge and cess) payable by a resident individual (aged 45 years) having total income of Rs. 8,40,000 is Rs _____.

(a) Rs. 93,730

(b) **Rs. 95,790**

(c) Rs. 90,640

(d) Rs. 70,040

Computation of tax liability

Particulars	Working	Amount
Tax liability before Rebate	Rs. 2,50,000 × Nil	Nil
	Rs. 2,50,000 × 10%	25,000
	Rs. 3,40,000 × 20%	68,000
Total		93,000
Less: Rebate u/s 87A		Nil
Liability before surcharge		93,000
Add: Surcharge		Nil
Tax liability after surcharge		93,000
Add: education cess	3% of above	2,790
Total		95,790

10. Income-tax (including surcharge and cess) payable by a resident HUF having total income of Rs. 2,60,000 is Rs _____.

(a) **1,030**

(b) Nil

(c) Rs. 1,000

(d) Rs. 2,060

Computation of tax liability

Particulars	Working	Amount
Tax liability before Rebate	Rs. 2,50,000 × Nil	Nil
	Rs. 10,000 × 10%	1,000
Total		1,000
Less: Rebate u/s 87A		Nil
Liability before surcharge		1,000
Add: Surcharge		Nil
Tax liability after surcharge		1,000
Add: Education cess	3% of above	30
Total		1,030

CHAPTER 2: RESIDENTIAL STATUS

Sr	Particulars	Explanation	
1	Why Residential status?	To decide where to pay tax in India or Outside India.	
2	Criteria to decide Residential status	Person	Criteria
		Individual	Period of stay in India
		HUF	Place of control and Management
		Company	Place of effective management
		Other assessee	Place of control and Management
3	Hints for determination of Residential status	<p>1) Citizenship of a country and residential status of that country are different concepts.</p> <p>2) If person is resident in India in the P.Y. relevant to an A.Y. in respect of any source of income, he shall be deemed to be resident in India for his other source of income.</p> <p>3) If an individual stays on a ship, which is in the territorial waters of India, then it shall be treated as his presence in India.</p> <p>4) 24 hrs. Shall be treated as one day.</p> <p>5) It is not essential that stay should be at same place.</p> <p>6) Continuous stay is not required.</p> <p><u>Counting of number of days:</u> If nothing is mentioned about the time of arrival and departure than the day of arrival and the day of departure both shall be include for determining residential status of an Individual</p>	

RESIDENTIAL STATUS AT A GLANCE

Assessee	Condition to be a Resident	Condition to be an Ordinary Resident
Individual Sec 6(1)	Assessee satisfies any one condition of sec. 6(1) i.e.	Assessee satisfies both the conditions of sec. 6(6).
	1. He is in India in the previous year for a period of 182 days or more; or	1. He has been resident in India in at least 2 out of 10 previous years immediately preceding the relevant previous year; and
	2. He is in India for a period of 60 days or more during the previous year and 365 days or more during 4 previous years immediately preceding the relevant previous year.	2. He has resided in India for a period of 730 days or more during 7 previous years immediately preceding the relevant previous year.
	Exceptions: In the following cases, (b) is irrelevant.	
	1. An Indian citizen, who leaves India during the previous year for employment purpose.	
	2. An Indian citizen, who leaves India during the	

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	previous year as a member of crew of an Indian ship.	
	3. An Indian citizen or a person of Indian origin, who normally resides outside India, comes on a visit to India during the previous year.	

Note

A person is said to be of Indian origin if he or either of his parents or any of his grandparents (maternal & paternal) was born in undivided India.

AMENDMENT FINANCE ACT 2015

Determination of Residential Status of Crew Member of a Ship: W.e.f. 01/04/2016 In the case of an Individual, being an Indian Citizen and a member of the Crew of a Foreign-hound Ship leaving India, the period(s) of stay in India shall, in respect of such voyage, be determined in the manner and subject to such prescribed conditions. For determining the period of Stay in India, the following period shall not be included:

Period beginning from	Period ending to
Date entered into the Continuous Discharge Certificate in respect of joining the ship by the said individual for the eligible voyage	Date entered into Continuous Discharge Certificate in respect of the signing off by that individual from the ship in respect of such voyage.

RULES FOR DETERMINING THE RESIDENTIAL STATUS OF HUF [SECTION 6(2)]

Place of Control & Management	Residential status
Fully In India	Resident
Partly in India	Resident
Fully outside India	Non-Resident

ADDITIONAL CONDITIONS TO TEST AS TO WHEN A HUF IS ROR & RNOR

Condition	Particulars
1	Karta has been resident in India in at least 2 out of 10 previous years immediately preceding the relevant previous year.
2	Karta has been in India for a period of 730 days or more during 7 years immediately preceding the relevant previous year.

INCIDENCE OF TAX [SEC. 5]**For individual and HUF**

Nature of income	Ordinarily resident	Not ordinarily resident	Non-resident
Income received in India (no matter where it is earned)	Taxable	Taxable	Taxable
Income earned in India (no matter where it is received)	Taxable	Taxable	Taxable
Income earned and received outside India from a source controlled from India	Taxable	Taxable	Not Taxable
Income earned and received outside India from a source	Taxable	Not Taxable	Not Taxable

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not controlled from India

Note: Past year untaxed income brought in India shall not be taxable in the current year; however, past year file shall be reassessed.

RESIDENTIAL STATUS OF A COMPANY [Sec.6 (3)]

Sr	Place of Control	Indian Company	Foreign Company
<u>Place of Effective Management (POEM)</u>			
1	Wholly in India	Resident	Resident
2	Wholly outside India	Resident	Non-resident
3	Partly in India and partly outside India	Resident	Resident

FOR DETERMINING THE RESIDENTIAL STATUS OF FIRM, AOP & BOI [SECTION 6(4)]

Place of Control and Management situated	Status
Fully in India	Resident in India
Partly in India	Resident in India
Fully outside India	Non-Resident

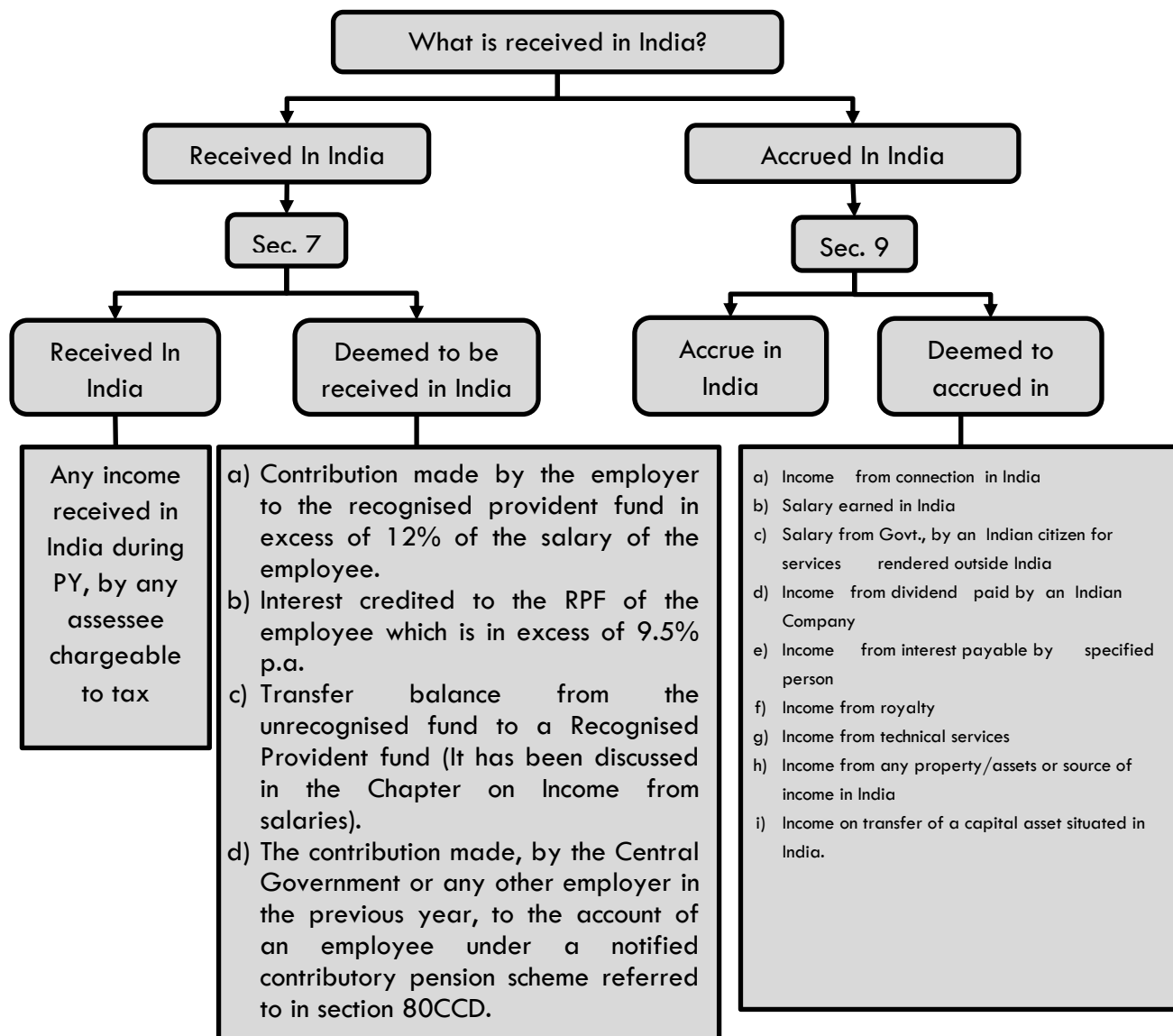
RESIDENTIAL STATUS & INCIDENCE OF TAX

Nature of income	Resident	Non – resident
Income received in India (no matter where it is earned)	Taxable	Taxable
Income earned in India (no matter where it is received)	Taxable	Taxable
Income earned and received outside India from a source controlled from India	Taxable	Not Taxable
Income earned and received outside India from a source not controlled from India	Taxable	Not Taxable

Note: Past year untaxed income brought in India shall not be taxable in the current year; however, past year file shall be reassessed.

KEY NOTES

- **Remittance v/s Receipt:** Receipt is different from remittance. The receipt of income refers to the first occasion when the recipient gets the money under his control. Once amount is received as income any subsequent remittance of amount to India does not result in income in India.
- If income is accrued and received outside India in any year preceeding the previous year and later on remitted to India in current financial year is not taxable.

**Meaning of business connection:**

Includes	If the assessee (non-resident) has an authority in India who can conclude contracts on his behalf and he habitually exercises such authority then it shall be treated as business connection in India. However, if the activities are limited to the purchase of goods or merchandise for the non-resident then it shall not be treated as business connection; or
	If the assessee (non-resident) has an authority who habitually maintains in India a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the assessee then it shall not be treated as business connection; or
	If the assessee (non-resident) has an authority who habitually secures orders in India for such assessee.

Does not include	<u>In the case of a business, in respect of which all the operations are not carried out in India [Explanation 1(a) to section 9(1) (i)]:</u> In the case of a business of which all the operations are not carried out in India, the income of the business deemed to accrue or arise in India shall be only such part of income as is reasonably attributable to the operations carried out in India. Therefore, it follows that such part of income which cannot be reasonably attributed to the operations in India, is not deemed to accrue or arise in India.
	<u>Purchase of goods in India for export [Explanation 1(b) to section 9(1)(i)]:</u> In the case of 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.
	<u>Collection of news and views in India for transmission out of India [Explanation 1(c) to section 9(1) (i)]:</u> in the case of a non – resident, being a person engaged in the business of running a news agency or of publishing newspapers, magazines or journals, no income shall be deemed to accrue or arise in India to him through or from activities which are confined to the collection of news and views in India from transmission out of India.
	<u>Shooting of cinematograph films in India [Explanation 1(d) to section 9(1)(i)]:</u> In the case of a non-resident, no income shall be deemed to accrue or arise in India through or from operations which are confined to the shooting of any cinematograph film in India, if such non-resident is: <ul style="list-style-type: none"> a. An individual, who is not a citizen of India or b. A which does not have any partner who is a citizen of India or who is resident in India; or c. A company which does not have any shareholder who is a citizen of India or who is resident in India.
	<u>Activities confined to display of rough diamonds in SNZs [Explanation 1(e) to section 9(1)(i)]:</u> In order to facilitate the FMCs to undertake activity of display of uncut diamond (without any sorting or sale) in a Special Notified Zone (SNZ), clause (e) has been inserted in Explanation 1 to section 9(1)(i) to provide that in the case of a foreign company engaged in the business of mining of diamonds, no income shall be deemed to accrue or arise in India to it through or from the activities which are confined to display of uncut an unsorted diamonds in any special zone notified by the Central Government in the Official Gazette in this behalf. [Amendment Fin Act 2016]

Explanation no 6 and 7 have been inserted by Fin Act 2015 w-e-f 1/4/2016 as given below

Explanation 6 provides that the share of interest in a company of entity registered or incorporated outside India, shall be deemed to derived its value substantially from the assets (whether tangible or intangible) in India, if on the specified date, the value of Indian assets, -

(a) > Rs. 10 Crore; and

(b) Represents at least 50% of the value of all the assets owned by the company or entity, as the case may be;

Explanation 7: to section 9(1) (i) provides that no income shall be deemed to accrue or arise to a non-resident from transfer, outside India, of any share of, or interest in, a company or an entity, registered or incorporated outside India, in the following ceases:

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(1)	Foreign company or entity directly owns the assets situated in India	AND	The transferor (whether individually or along with its associated enterprises), at any time in the 12 months preceding the date of transfer, does not hold 1) The right of management or control in relation to foreign company or entity; or 2) The voting power or share capital or interest > 5% of the total voting power or total share capital or total interest, as the case may be, of the foreign company or entity; or
(2)	Foreign company or entity directly owns the assets situated in India	AND	The transferor (whether individually or long with its associated enterprises), at any time in the 12 months preceding the date of transfer, does not hold 1) The right of management or control in relation to foreign company or entity; or 2) Any right in, or in relation to, foreign company or entity which would entitle him to the right of management or control in the company or entity that directly owns the assets situated in India; or 3) Such percentage of voting power or share capital or interest in foreign company or entity which result in holding of (either individually or long with associated enterprises) a voting power or share capital or interest exceeding 5% of the total voting power or total share capital or total interest, as the case may be, of the company or entity that directly owns the assets situated in India;

In effect, the exemption shall be available to the transferor of a share of, or interest in a foreign entity if he along with its associated enterprises, -

- 1) Neither held the right of control or management
- 2) Nor held voting power or share capital or interest exceeding 5% of the total voting power or total share capital.

SALARY INCOME [SEC 9(1) (ii)]

Salary income shall be deemed to be earned in India if services are rendered in India.

Exception to the above rule

If salary is payable to-

- 1) Government employee b) who is a citizen of India; c) for services rendered outside India
-then such salary (even service rendered outside India) shall be deemed to be earned in India.

Key Note: Any allowances or perquisites paid to above employee shall be exempted u/s 10(7).

Pension received in India by abroad: If an assessee, residing in India, receives pension from abroad from past services rendered in foreign country, then such income shall be treated as income accruing abroad, and shall not be liable to tax in India.

DIVIDEND INCOME [SEC 9(1) (iii)]

Any dividend **Paid** by an Indian company outside India shall be deemed to accrue to arise in India.

Dividend income paid to a non- resident by Indian company is deemed to accrue or arise in India only on payment and not on declaration.

KEY NOTE: Dividend from Indian company shall be exempted u/s 10(34).

INTEREST, ROYALTY & FEES FOR TECH. SERVICE-WHEN DEEMED TO ACCRUE OR ARISE IN INDIA**1. Accrual of Interest 9(1)(v) in India:**

Payer	Purpose of Payment	Is the payment deemed to accrue or arise in India	Taxability in the hands of receiver
Government	Any purpose	Yes	All Assessee
Resident	For carrying on Business or profession outside India or earning income outside India	No	ROR – Taxable NOR – Not Taxable NR – Not Taxable [For NOR or NR – assumed first receipt not in India]
Resident	For any other purpose	Yes	All Assessee
Non-Resident	For carrying on business or profession in India	Yes	All Assessee
Non-Resident	For any other Purpose	No	ROR – Taxable NOR –Not Taxable NR – Not Taxable [for NOR or NR – assumed first receipt not in India]

2. Accrual of Royalty 9(1)(vi), and Fees for Technical Service 9(1)(vii) in India:

Payer	Purpose of payment	Is the payment deemed to accrue or arise in India	Taxability in the hands of receiver
Government	Any purpose	Yes	All Assessee
Resident	For carrying on business or profession outside India or earning Income outside India	No	ROR – Taxable NOR – Not taxable NR – Not taxable [For NOR or NR – assumed first receipt not in India]
Resident	For any other purpose	Yes	All Assessee
Non-resident	For carrying on business or profession in India or any other source in India	Yes	All Assessee
Non-resident	For any other purpose	No	ROR – Taxable NOR – Not taxable NR – Not taxable [For NOR or NR – assumed first receipt not in India]

INCOME FROM PROPERTY IN INDIA 9(1) (i)

Income arising through or from any property or any asset or source of income in India

Ex: Mr. Mac Mohan residing in China leases out a building situated in Nagpur and receives rent in China. Such rental income shall be deemed to accrue or arise in India as the building (i.e. source of income) is situated in India.

INCOME FROM TRANSFER OF PROPERTY IN INDIA

Income arising through or from the transfer of a capital asset situated in India

Ex: If Mr. Mohan sells the building situated in Nagpur to a person Outside India and receives consideration outside India, such income shall also be deemed to accrue or arise in India as the property transferred is situated in India.

PRACTICAL QUESTIONS WITH ANSWERS

1. X, a foreign citizen, resident in India during the previous year 2016-17 for 83 days. What will be his residential status for previous year 2016-17. His stay in India during the last few previous years are given in the table –

Year	Days	Year	Days	Year	Days	Year	Days
2001-02	220	2005-06	36	2009-10	137	2013-14	175
2002-03	15	2006-07	115	2010-11	265	2014-15	15
2003-04	257	2007-08	123	2011-12	310	2015-16	67
2004-05	110	2008-09	65	2012-13	121		

(a) Resident and Ordinary Resident in India

(b) Resident but not Ordinary Resident in India

(c) Non-resident

(d) Resident

Solution

During the previous year 2016-17, X was in India for 83 days & during 4 years immediately preceding the previous year, he was in India for 378 days as shown below:

Year	2012-13	2013-14	2014-15	2015-16	Total
No. of days stayed in India	121	175	15	67	378

Thus, he satisfies one of the conditions satisfied u/s 6(1) & consequently, he becomes resident in India in the PY 2016-17. Further, to determine whether X is an ordinarily resident or not, he needs to satisfy both conditions laid down u/s 6(6).

Year	Presence in India (In Days)	Resident (R) or Non-Resident (NR)	Condition satisfied to become a resident
2015-16	67	R	6(1)(c)
2014-15	15	NR	None
2013-14	175	R	6(1)(c)
2012-13	121	R	6(1)(c)
2011-12	310	R	Both
2010-11	265	R	Both
2009-10	137	NR	None
2008-09	65	R	6(1)(c)
2007-08	123	R	6(1)(c)
2006-07	115	R	6(1)(c)

Condition (i): of sec. 6(6) requires that an individual should be resident in Indian for at least 2 out of 10 years preceding the relevant previous year. X was resident in India for 8 out of 10 years immediately preceding the previous year. Thus, he satisfies this condition.

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Condition (ii): of sec. 6(6) requires that an individual should be present in India for at least 730 days during 7 years preceding to relevant previous year. X was in India for 1090 days during 2009-10 to 2015-16. Hence, the satisfies this condition also.

X satisfies condition (ii) of sec. 6(1) as well as both the conditions of sec. 6(6). Thus, he is a resident and ordinarily resident in Indian for the previous year 2016-17.

2. Miss pal, an Indian citizen, left India for first time on 1st April, 2016 for joining job in Tokyo. She came to India on 11th October, 2016 for any 190 days. What will be her residential status for PY 2016-17?

(a) Non-resident

(b) Resident

(c) Resident and Ordinary Resident

(d) Resident but not Ordinary Resident

Solution

Number of days Miss Pal stayed in India can be calculated as under:

PY	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
16-17	1	-	-	-	-	-	21	30	31	31	28	31	173
17-18	18	-	-	-	-	-	-	-	-	-	-	-	18

Since she left India for employment purpose. Hence for becoming resident she has to stay in India for at least 182 days. However, she is in India for only 173 days during the previous year, thus she is a non-resident for the PY 2016-17.

3. Andy, a British national, comes to India for the first time during 2012-13. During the financial year 2012-13, 2013-14, 2014-15, 2015-16, and 2016-17, he was in India for 55 days, 60 days, 80 days, 160 days and 70 days respectively. Determine his residential status for the assessment year 2017-18.

(a) Non-resident

(b) Resident

(c) Resident and Ordinary Resident

(d) Resident but not Ordinary Resident

Solution

During the previous year 2016-17, Andy was in India for 70 days & during 4 years immediately preceding the previous year, he was in India for 355 days as shown below.

Year	2012-13	2013-14	2014-15	2015-16	Total
No. of days stayed in India	55	60	80	160	355

Thus, he does not satisfy Sec. 6(1) & consequently, he is a non-resident in India for the previous year 2016-17.

4. Sam came to India first time during the previous year 2016-17. During the previous year, he stayed in India for 50 days. What will be his residential status for PY 2016-17?

(a) Non-resident

- (b) Resident
- (c) Resident and Ordinary Resident
- (d) Resident but not Ordinary Resident

Since Sam resides in India only for 50 days in the previous year 2016-17, he does not satisfy any of the conditions satisfied in sec. 6(1). He is, therefore, a non-resident in India for the PY 2016-17.

5. Mr. X **age 19** years, left India for first time on May 31, 2016. Determine his residential status for the previous year 2016-17 if he left India for world tour.

(a) Non-resident

- (b) Resident but not Ordinary Resident
- (c) Resident and Ordinary Resident
- (d) Resident

Solution

During the previous year 2015-16, Mr. X was in India for 61 days as shown below –

PY	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
16-17	30	31	-	-	-	-	-	-	-	-	-	-	61

During the previous year 2016-17, X stayed in India for 61 days. Further, he was in India for more than 365 days during 4 years immediately preceding the relevant previous year (as he left India for first time).

6. Mr. X aged 19 years, left India for first time on May 03, 2016 for a year. Determine his residential status for the previous year 2016-17 if he left India for world tour.

(a) Non-resident

- (b) Resident but not Ordinary Resident
- (c) Resident and Ordinary Resident
- (d) Resident

Solution

During the previous year 2016-17, X stayed in India for 33 days only. He does not satisfy any of the condition given u/s 6(1), hence he is a non-resident

7. X came India for first time on July 24, 2012. From July 24, 2012 to December 25, 2013 he was in India again, he came to India on August 5, 2016 for employment purpose & left India on November 25, 2016 permanently. Determine his status for the previous year 2016-17 assuming he is a Indian citizen.

- (a) Non-resident
- (b) Resident but not Ordinary Resident**
- (c) Resident and Ordinary Resident
- (d) Resident

Solution

During the previous year 2016-17, X was in India for 113 days as shown below

PY	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
16-17	-	-	-	-	27	30	31	25	-	-	-	-	113

Further, he was in India for more than 365 days during 4 years immediately preceding the previous year as shown below:

PY	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
12-13	-	-	-	8	31	30	31	30	31	31	28	31	251
13-14	30	31	30	31	31	30	31	30	25	-	-	-	269
14-15	-	-	-	-	-	-	-	-	-	-	-	-	-
15-16	-	-	-	-	-	-	-	-	-	-	-	-	-

As he satisfies condition given in sec. 6(1)(c), he is a resident in India.

Further, he was resident during 2 out of 10 years immediately preceding the relevant previous year but he was in India only for 520 days in 7 years immediately preceding the relevant previous year. As he is not satisfying dual conditions of sec. 6(6), he is a resident but not ordinarily resident in India for the previous year 2016-17.

Coming in India for employment purpose is not covered by 'exception to sec. 6(1)(c)'.

8. Ram provides following details of income, calculate the income which is liable to be taxed in India for the AY 2017-18 assuming that he is a non-resident

Particulars	Amount
Salary received in India from a former employer of UK	1,40,000
Income from tea business in Nepal being controlled from India	10,000
Interest on company deposit in Canada (1/3 rd received in India)	30,000
Profit from a business in Mumbai controlled from UK	1,00,000
Profit for the year 2002-03 from a business in Tokyo remitted to India	2,00,000
Income from a property in India but received in USA	45,000
Income from a property in London but received in Delhi	1,50,000
Income from a property in London but received in Canada	2,50,000
Income from a business in Jambia but controlled from Turkey	10,000

(a) Rs. 4,45,000

(b) Rs. 4,55,000

(c) Rs. 7,35,000

(d) None of these

Solution

Calculation of Income Liable to be taxed in India of Ram for the AY 2017-18

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Particulars	Non-resident
Salary received in India from a former employer of UK	1,40,000
Income from tea business in Nepal being controlled from India	Nil
Interest on company deposit in Canada -	
- 1/3 rd received in India	10,000
- 2/3 rd received outside India	Nil
Profit from a business in Mumbai controlled from UK	1,00,000
Profit for year 2002-03 from a business in Tokyo remitted to India	Nil
Income from a property in India but received in USA	45,000
Income from a property in London but received in Delhi	1,50,000
Income from a property in London but received in 'Canada'	Nil
Income from a business in Jambia but controlled from Turkey	Nil
Income liable to tax in India	4,45,000

9. Teji, a citizen of India, is an export manager of Arjun Overseas Ltd., an Indian company since 1-5-2012. He has been regularly visiting USA for export promotion. He spent the following days in USA during the last five years; determine his residential status for AY 2017-18 assuming that prior to 1-5-2012, he had never travelled abroad.

Previous year ended	Number of days spent in USA
31-3-2013	319 days
31-3-2014	150 days
31-3-2015	270 days
31-3-2016	310 days
31-3-2017	295 days

(a) Resident or ordinary resident

- (b) Resident but not ordinary resident
(c) Non-resident
(d) Resident

Solution

During previous year 2016-17, Teji was in India for 70 days (i.e., 366 days – 295 days) & during four years immediately preceding the previous year, he was in India for 412 days as shown below:

Year	2012-13	2013-14	2014-15	2015-16	Total
No. of days stayed in India	46 days	215 days	95 days	55 days	412 days
	(365 - 319)	(365 - 150)	(365 - 270)	(365 - 310)	

Thus, he satisfies one of the conditions specified u/s 6(1) & consequently, he becomes resident for the PY 2016-17. Further, to determine whether Teji is an ordinary resident or not, he needs to satisfy both condition laid down in sec. 6(6). His days of stay in India in last few years are as follows:

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S N	Year	Presence in India (in days)	Resident (R) or non-resident (NR)	Condition satisfied to become a resident
1	2015-2016	55	NR	None
2	2014-2015	95	R	Sec. 6(1)(c)
3	2013-2014	215	R	Both
4	2012-2013	47	NR	None
5	2011-2012	365	R	Both
6	2010-2011	365	R	Both
7	2009-2010	365	R	Both
8	2008-2009	365	R	Both
9	2007-2008	365	R	Both
10	2006-2007	365	R	Both

Condition (i): of sec. 6(6) requires that an individual should be resident in India for at least 2 out of 10 years immediately preceding the relevant previous year. Teji was resident in India for 8 out of 10 years immediately preceding the previous year. Thus, he satisfied this condition.

Condition (ii): of sec. 6(6) requires that an individual should be present in India for at least 730 days during 7 years immediately preceding the relevant previous year. Teji was in India for 1507 days during 2009-10 to 2015-16. Hence, he satisfies this condition also.

Teji satisfies the condition for sec. 6(1)(c) as well as both the conditions of sec. 6(6). Thus, he is a resident and ordinarily resident in India for the previous year 2016-17.

10. From the following information compute the taxable income of Shri Amiyo Roy Choudhury for the assessment year 2017-18, assuming that Shri Roy Choudhury is a Resident but not ordinarily resident:

- Remuneration for consultancy services rendered in Italy Rs. 30,000 but received in India.
- Income from business in Ireland and received in Ireland Rs. 65,000. The business is, however, controlled from India
- Pension for services rendered in India but received in Israel Rs. 25,000
- Interest on deposit in a local bank in Indonesia Rs. 20,000

(a) Rs. 1,20,000

(b) Rs. 55,000

(c) Rs. 1,40,000

(d) Rs. 1,10,000

Solution**Computation of total income in India of Sri Amiyo Roy Chowdhury**

S N	Particulars	Resident but not ordinarily resident
(a)	Remuneration received in India	30,000

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(b)	Income from business situated outside India but controlled from India	65,000
(c)	Pension for services rendered in India received outside India	25,000
(d)	Interest earned and received outside India	Nil
	Total Income	1,20,000

11. During the financial year 2016-17, Sri Avirup Acharya had the following incomes. Compute the income of Sri Acharya if he is Non-resident in India.

- Income from profession in India but received in USA Rs. 1,00,000
- Agriculture income accrued and received in Australia Rs. 20,000
- Income from business from Indonesia not brought into India Rs. 3,00,000. The business is controlled from India
- Property income accrued and received in London (out of which Rs. 40,000 was remitted to India) Rs. 1,30,000
- Interest from deposits with an African company but received in India Rs. 75,000

(a) Rs. 1,75,000

(b) Rs. 4,75,000

(c) Rs. 6,05,000

(d) Rs. 1,00,000

Solution**Calculation of Income Liable to be taxed in India of Sri Avirup Acharya**

Particulars	Non-resident
Income from profession in India but received in USA	Rs. 1,00,000
Interest from deposits with an African company but received in India	Rs. 75,000
Income liable to tax in India	1,75,000

12. Mr. Jeff, a citizen of USA came to India for 80 days, 90 days, 110 days and 130 days in the financial years 2013-14, 2014-15, 2015-16 and 2016-17 respectively. Determine his residential status for the Assessment year 2017-18.

(a) Resident

(b) Non-resident

(c) Ordinary resident

(d) Not ordinary resident

Solution

During the previous year 2016-17, Mr. Jeff was in India for 130 days & during 4 years immediately preceding the previous year, he has in India for 280 days as shown below:

Year	2012-13	2013-14	2014-15	2015-16	Total
No. of days stayed in India	-	80	90	110	280

Thus, he does not satisfy sec. 6(1) & consequently, he is a non-resident in India for the previous year 2016-17.

13. Mr. A furnished the following particular of his income during the previous year 2016-17:

- Gift of Rs. 52,000 received in foreign currency from a relative in India
- Income from agriculture in Bangladesh, received thereof Rs. 2,00,000 and subsequently remitted to India
- Arrears of salary Rs. 70,000 received in India from a former employer in England
- Income from property received abroad but later on remitted to India Rs. 3,20,000 (Rs. 1 lakh used in Bahrain for educational expenses and Rs. 2 lakhs remitted in India later.)
- Profit from business outside India managed from India Rs. 90,000 and received outside India.

Find out the gross total income of Mr. A for the assessment year 2017-18 if Mr. A is Resident and ordinarily resident.

(a) Rs. 6,80,000

(b) Rs. 1,60,000

(c) Rs. 70,000

(d) Rs. 6,28,000

Solution

Computation of total income in India of Mr. A

Particulars	Resident but not ordinarily resident
Income from agriculture in Bangladesh, received thereof and subsequently remitted to India	Rs. 2,00,000
Arrears of salary received in India from a former employer in England	Rs. 70,000
Income from property received abroad but later on remitted to India	Rs. 3,20,000
Profit from business outside India managed from India and received outside India	Rs. 90,000
Income liable to tax in India	Rs. 6,80,000