2 RESIDENCE AND SCOPE OF TOTAL INCOME [S. 5 - 6]

THEORY AND ILLUSTRATIONS

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1. INTRODUCTION

The "scope" of income i.e. what is to be included in income depends upon **(a) who earns the income** i.e. whether a resident in India or a non-resident **(b) when the income arises,** i.e. whether in the previous year or not and **(c) where the income arises** i.e. whether in India or outside India. Thus, scope of income depends upon the residential status as well as the place and year of accrual. The "*who, when and where of income*" is explained in detail in :

Section 5 which defines the 'scope of income'.

Section 6 which defines the residential status of a person.

2. RESIDENTIAL STATUS [S. 6]

A person is classified, on the basis of *legal status*, into Individual, Hindu Undivided Family, Firm, Association of Persons, Body of Individuals, or Artificial Juridical Person. This has already been explained in Chapter 1. A person may be further classified, on the basis of *residential status* into (a) a Resident in India or (b) a Non-resident in India. Resident Individuals can be further classified into (a) Ordinarily Resident or (b) Not Ordinarily Resident. It should be noted that :

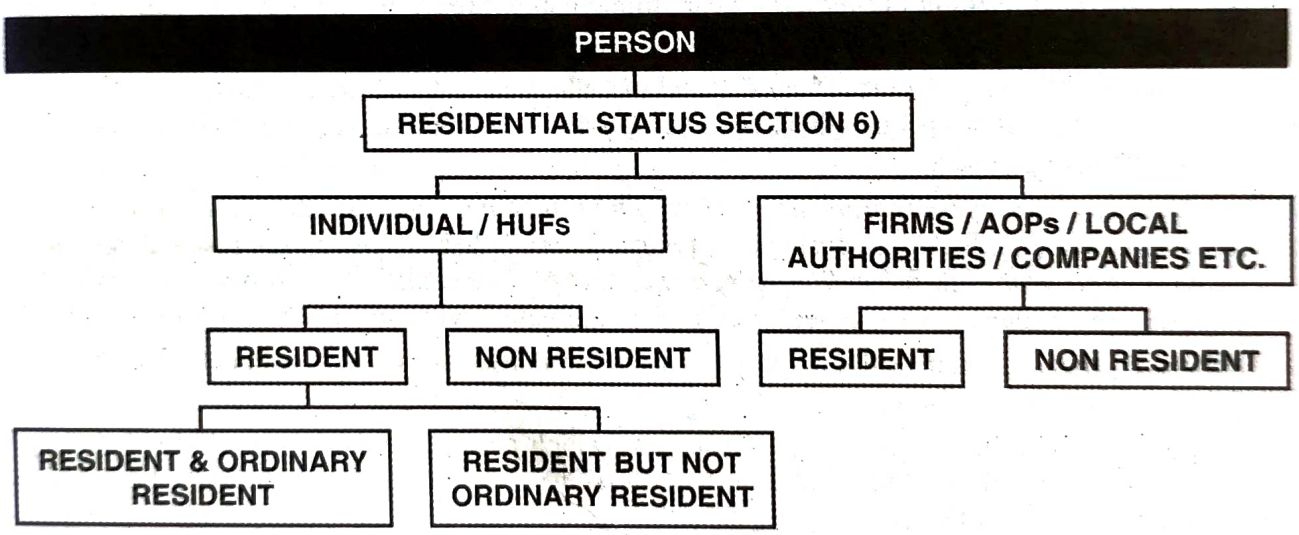
(1) *Residential status is to be determined for every previous year as it may change from year to year.* It depends upon the number of days a person is in India during the concerned previous year.

(2) *Residential status is different from citizenship.* An individual may be the citizen of Britain, but a resident in India. Similarly an Indian citizen may be a non-resident in India.

(3) *Residential status is important in deciding whether foreign income of a person is taxable or not.*

The various types of residents are illustrated in the following Exhibit :

EXHIBIT 1 : TYPES OF RESIDENTS



3. INDIVIDUAL

3.1 RESIDENT INDIVIDUAL [S. 6(1)]

3.1.1 Basic Conditions

Normally, an individual is said to be resident in India, in any previous year, if he satisfies any one of the following two basic conditions -

(1) he is in India, during that previous year, for a period of 182 days or more; OR

(2) (a) he is in India, for 365 days or more during the 4 years immediately preceding the previo year; AND

(b) he is in India during the previous year for a period of 60 days or more.

Normally, an individual is a resident in India if he was in India either (a) for 182 days during the y or (b) for 60 days during the year and for at least 365 days during the last 4 years. An individual w satisfies either of the above two conditions is a resident. An individual who satisfies neither of t two conditions is called a non-resident.

3.1.2 Exceptions

Following are the two exceptions to the rule of stay in India for a period of 60 days in the seco condition above:

(a) *A citizen of India, or an Indian member of a crew of an Indian ship, who leaves India in t previous year for the purpose of employment*, becomes a resident only if he stays in India for 1 days or more during the year (and not for 60 days). *"Employment"* above includes a salaried jo as well as self-employment. A person leaving India for his own business or profession is al covered. Under the doctrine of 'floating island', an Indian ship will be treated as a floating islan of India, even when away from India. This doctrine of 'floating island' does not apply to a Indian citizen who is a member of a crew of an Indian Ship.

(b) *A citizen of India, or a person of Indian origin, who being outside India, comes on a visit India, in the previous year*, becomes a resident only if he stays in India for 182 days or mor during the year (and not for 60 days).

(c) In addition to the two exceptions to the rule of stay in India for 60 days (explained in Para 3.1 above) an additional exception is provided w.e.f. 1-4-2021.

An individual having *total income, other than the income from foreign sources exceeding ₹ lakhs* during the previous year will be treated as resident in India if

- the period of his stay during the relevant previous year amounts to 182 days or more, or
- he has been in India during the 4 years immediately preceding the previous year for a tota period of 365 days or more and has been in India for at least 120 days in the previous year

"Income from foreign sources" means income which accrues or arises outside India (excep income from a business controlled from or profession set up in India) and which is not deemed t accrue or arise in India.

(d) An individual, being an *Indian citizen*, having total income, other than the income from foreig sources exceeding *₹15 lakhs* during the previous year would be deemed to be resident in India i that previous year, if he is *not liable to pay tax in any other country* or territory by reason of hi domicile or residence or any other criteria of similar nature, vide an amendment w.e.f. 1-4-2021

However, this provision will not apply in case of an individual who is a resident of India in th previous year as per section 6(1).

"Income from foreign sources" means income which accrues or arises outside India (excep income from a business controlled from or profession set up in India) and which is not deemed t accrue or arise in India.

A person is deemed to be of "Indian origin", if he or either of his parents (father or mother) or any o his grand-parents (grand-father or grand-mother) was born in undivided India (i.e. India, Pakistan and Bangladesh).

A resident, as we will see later, has to pay tax even on his foreign income. The longer period (18 days) enables above individuals to be treated as non-residents who are not liable to pay tax on thei foreign income.

3.1.3 Current Assessment Year

An individual will become a resident in India in the previous year 2021-22 i.e. for the curren Assessment Year 2022-23, if he satisfies any one of the following two basic conditions-

(1) he is in India during 2021-22 for a period of 182 days or more; OR

(2) (a) he is in India for 365 days or more during the period from 1st April, 2017 to 31st March, 2021; AND

(b) he is in India during 2021-22 for a period of 60 days or more.

However,

(a) A citizen of India, or an Indian member of a crew of an Indian ship, who leaves India in 2021-22 for the purpose of employment becomes a resident only if he stays in India for 182 days or more during 2021-22.

(b) A citizen of India, or person of Indian origin, who being outside India, comes on a visit to India in 2021-22 becomes a resident only if he stays in India for 182 days or more during 2021-22.

3.2 NON-RESIDENT INDIVIDUAL [S. 2 (30)]

According to Section 2(30) of the Act *a "non-resident" means a person who is not a "resident".* Thus, an Individual who does not satisfy the tests laid down in Section 6(1) above, is to be called a non-resident. The following Flowchart shows, step-by-step, how to determine whether an individual is resident or not during the previous year 2021-22.

WORKSHEET 1 : ASCERTAINING IF AN INDIVIDUAL (ABC) IS A RESIDENT

Step	Find Out	Result
1.	No. of days ABC is in India between 1-4-2021 and 31-3-2022	= [A]
2.	If [A] is 182 or more	ABC is a resident
3.	If [A] is less than 60	ABC is a non-resident
4.	If [A] is less than 182; and ABC is (a) a citizen of India leaving India for employment or an Indian crew member of an Indian ship, who had left India during 2021-22 or (b) a citizen of India or a person of Indian origin, who, being outside India, visits India during 2021-22	ABC is a non-resident
5.	If [A] is 60 or more; and ABC is in India between 1-4-2017 and 31-3-2021 for 365 days or more; and ABC is not covered under (4) above	ABC is a resident

3.3 RESIDENT & ORDINARILY RESIDENT INDIVIDUAL [S. 6(6)]

3.3.1 Meaning

A resident individual may be either an ordinary resident or a not-ordinary resident. Every individual who has stayed in India for the specified number of *days* in a particular year is a 'resident' in India for that previous year. But, a resident individual would also be an ordinary resident in India if he has been a resident in India for a large number of *years* in the past.

3.3.2 Legal Provision

According to Section 6(6)(a) of the Act (interpreted positively), *an individual who is a resident in India is treated as an 'ordinary resident' if* -

(a) he has been a resident in India for at least 2 out of the 10 years immediately preceding the previous year, and

(b) he has been in India for a period of 730 days or more during the 7 years immediately preceding the previous year.

3.3.3 Current Assessment Year

Thus, during the current assessment year 2022-23, a resident individual is treated as an ordinary resident, if -

(a) he has been a resident in India for at least 2 out of the 10 years immediately preceding previous year 2021-22, i.e. from the period 1st April, 2011 to 31st March 2021 AND

(b) he has been physically present in India for 730 days or more during 7 years immediately preced the previous year 2021-22 i.e. from 1st April, 2014 to 31st March, 2021.

3.3.4 Conditions for Resident for Last 10 Years

For ascertaining whether an individual was a resident or not for each year between 1-4-2011 31-3-2021, it should be kept in mind that all conditions were same throughout these years (182 d in P.Y.; or 60 days in P.Y. + 365 days in last 4 years).

3.3.5 Resident Vs. Ordinary Resident

To sum up, for determining whether an individual is a resident, only the stay during the partic previous year is to be considered, while for determining whether a resident is also an ordinary resid his residential status and stay during several years immediately preceding the relevant previous have to be ascertained.

[**Tutorial Note:** Actually, 6(6)(a) defines the term "Not Ordinarily Resident" (NOR), in a nega manner. The meaning of "Ordinarily Resident" (OR) given above is derived by converting the nega definition of "NOR" into a positive definition of "OR" for easy understanding.]

3.4 NOT ORDINARY RESIDENT

(1) An individual who is a resident, according to the tests laid down in S. 6(1), but who fail satisfy the additional tests laid down in S. 6(6), is called a 'resident, but not ordinary resid [RNOR]. A person would be "not ordinarily resident" in India in any previous year if such per is an individual who has been a non-resident in India in 9 out of 10 previous years preceding year, or has during 7 previous years preceding that year been in India for a period of 729 da less.

(2) **Not Ordinary Resident [S.6(6)(c&d)] :** Further, a person would be called a 'not ordina resident' in the following cases :

(i) If such individual is *an Indian citizen or person of Indian origin* (who, being outside Ind comes on a visit to India in any previous year) having total income, other than the incom from foreign sources *exceeding ₹15 lakhs* during the previous year, who has been in India 120 days or more but less than 182 days during that previous year, or

(ii) If such individual is an Indian citizen who is deemed to be resident in India under sect 6(1A). It may be noted that *a deemed resident will always be a resident but not ordina resident.*

The following Flowchart shows, step-by-step, how to determine whether an individual is ordinary resident or not for assessment year 2022-23 (excluding amendment w.e.f. 1-4-202

WORKSHEET 2 : ASCERTAINING IF AN INDIVIDUAL (ABC) IS ORDINARY RESIDENT

Step	Find Out	Result
1.	No. of years ABC is a resident from 1-4-2011 to 31-3-2021	= [C]
2.	If [C] is less than 2	ABC is RNOR
3.	If [C] is 2 or more	Check next condition
4.	No. of days ABC is in India from 1-4-2014 to 31-3-2021	= [D]
5.	If [D] is less than 730	ABC is a RNOR
6.	If [C] is 2 or more and [D] is 730 or more	ABC is ROR

[**Note :** RNOR = Resident; but Not Ordinarily Resident. ROR = Resident & Ordinary Resident]

3.5 COUNTING OF DAYS

While counting the number of days in all the cases above, the following points should be kept in mind -

(1) The stay need not be at the same place.

(2) The stay need not be continuous.

(3) Where the stay is for part of a day, physical presence should be calculated on hourly basis. Stay of 24 hours will be counted as stay for a day. Where such hour-wise information is not available, both the days of entry and exit will be counted as full days in India.

(4) A stay in a boat anchored in the territorial waters of India is treated as stay in India.

(5) For February, count 29 days in a leap year (e.g. 2012, 2016, 2020).

(6) CBDT to prescribe the manner of computation of period of stay for an Indian citizen, being a member of the crew of a foreign bound ship leaving India [Section 6(1)]

(i) Under section 6(1), the conditions to be satisfied by an individual to be a resident in India are provided. The residential status is determined on the basis of the number of days of his stay in India during a previous year.

(ii) However, in case of foreign bound ships where the destination of the voyage is outside India, there is uncertainty regarding the manner and the basis of determining the period of stay in India for an Indian citizen, being a crew member.

(iii) To remove this uncertainty, *Explanation 2* has been inserted to section 6(1) to provide that in the case of an individual, being a citizen of India and a member of the crew of a foreign bound ship leaving India, the period or periods of stay in India shall, in respect of such voyage, be determined in the prescribed manner and subject to the prescribed conditions. The relevant rule is not explained, being beyond the scope of the syllabus.

4. ILLUSTRATIONS

4.1 BASIC

Illustration 1 :

Mr. Arvind, an Indian citizen, came to India for first time on 1-10-2021 and left India on 31-3-2022 during the previous year 2021-22. Is he a resident during assessment year 2022-23 ?

Solution :

Ascertaining whether a resident

1. Mr. Arvind is an Indian citizen coming on a visit to India.
2. He will be a resident only if he is in India from 1-4-2021 to 31-3-2022 for 182 days or more.
3. He is in India for 182 [31 + 30 + 31 + 31 + 28 + 31] days from 1-4-2021 to 31-3-2022.

Conclusion :

Mr. Arvind is a resident.

Illustration 2 :

Mrs. Kiran, an Indian citizen, is in India for 181 days during the previous year 2021-22.

(i) Is she a resident during assessment year 2022-23 ?

(ii) Are there any other conditions under which she may be treated as a resident ?

Solution :

Ascertaining whether a resident

1. Mrs. Kiran is an Indian citizen living in India.
2. She will be a resident if she is in India from 1-4-2021 to 31-3-2022 for 182 days or more.
3. She is in India for 181 days from 1-4-2021 to 31-3-2022.

Conclusion :

(i) Mrs. Kiran is a non-resident on the basis of the given information.

(ii) She may be treated as a resident if (i) she is in India for 60 days or more during the previous 2021-22; and (ii) she is in India between 1-4-2017 and 31-3-2021 for 365 days or more in India for more than 60 days during the previous year. Additional information about her between 1-4-2017 and 31-3-2021 is needed to check this second condition.

Illustration 3 :

Mr. Yogendra, a US citizen, is in India for 59 days during the previous year 2021-22.

(i) Is he a resident during assessment year 2022-23 ?

(ii) Is there any other condition under which it is possible to treat him as a resident ?

Solution :

Ascertaining whether a resident

1. Mr. Yogendra is a US citizen living in India.
2. He will be a resident if he is in India from 1-4-2021 to 31-3-2022 for 182 days or more.
3. He is in India for 59 days from 1-4-2021 to 31-3-2022.

Conclusion :

(i) Mr. Yogendra is a non-resident.

(ii) He may be treated as a resident if (i) he is in India for 60 days or more during the previous 2021-22; and (ii) he is in India between 1-4-2017 and 31-3-2021 for 365 days or more. conditions are cumulative (i.e. both the conditions must be satisfied). He is in India for less th 60 days during the previous year. Hence it will not be possible to treat him as a resident.

Illustration 4 :

Mr. Vishant, an Indian citizen, left India for employment in the USA on 28-9-2021.

(i) Is he a resident during assessment year 2022-23 ?

(ii) Is there any other condition under which it is possible to treat him as a resident ?

Solution :

Ascertaining whether a resident

1. Mr. Vishant is an Indian citizen leaving India for employment.
2. He will be a resident **only** if he is in India from 1-4-2021 to 31-3-2022 for 182 days or more.
3. He is in India for 181 days from 1-4-2021 to 31-3-2022 (30 + 31 + 30 + 31 + 31 + 28).

Conclusion :

(i) Mr. Vishant is a non-resident.

(ii) The condition for being treated as a resident if (i) he is in India for 60 days or more during th previous year 2021-22; and (ii) he is in India between 1-4-2017 and 31-3-2021 for 365 days more does **not apply to an Indian citizen leaving India for employment.** Hence it will not c possible to treat him as a resident.

4.2 MIGRATING INDIAN : NON-RESIDENT

Illustration 5 : (Indian Leaving for Employment)

Mr. Sanjay, an Indian Citizen went to U.S.A. for the first time for the purpose of employment on 10t May, 2021. He came back to India on 19th November, 2021. Find out his residential status f Assessment Year 2022-23. ***(T.Y.B.Com., March 2006, adapted***

Solution :

Ascertaining whether a resident

(1) Sanjay is a citizen of India leaving India for 'employment'.

(2) He will be a resident only if he is in India from 1-4-2021 to 31-3-2022 for 182 days or more.

(3) He is in India for 173 days (30 + 10 + 12 + 31 + 31 + 28 + 31).

Conclusion : Sanjay is a non-resident (as he does not satisfy condition 2.)

Illustration 6 : (Person of Indian Origin)

Mr. Lobo, a Canadian citizen but of Indian origin came to India on 1st October, 2016, for the firs time. His total stay in India was as under.

Year ended	No. of days
31st March, 2017	25
31st March, 2018	80
31st March, 2019	180
31st March, 2020	100
31st March, 2021	25

He informs that he was in India from 1st April, 2021 to 28th June, 2021, both days inclusive. Determine his residential status under the Income-tax Act for the Assessment year 2022-23.

Solution : ***(T.Y.B.Com., Oct. 2010, adapted)***

Ascertaining whether a resident

1. Mr. Lobo is a person of Indian origin coming on a visit to India.
2. He will be a resident only if he is in India from 1-4-2021 to 31-3-2022 for 182 days or more.
3. He is in India for 89 days (30 + 31 + 28)

Conclusion : Mr. Lobo is a non-resident [as he does not satisfy condition 2].

Illustration 7 :

Mr. Charlie Farande who is an Indian Citizen went for employment to Dubai on 1st April 2016 and came on a visit to India on 1-7-2021 and left for Dubai on 15-12-2021. Determine his residential status for Assessment Year 2022-23. ***(T.Y.B.Com., March 2013, April 2017, adapted)***

Solution :

Ascertaining whether a resident

1. Mr. Charlie is a person of Indian origin coming to India on a visit.
2. He will be a resident only if he is in India from 1-4-2021 to 31-3-2022 for 182 days or more.
3. He is in India for 168 days from 1-4-2021 to 31-3-2022 (31 + 31 + 30 + 31 + 30 + 15).

Conclusion : Mr. Charlie is a non-resident.

Illustration 8 :

Shri Ramesh an Indian Citizen, left India for the first time on 22-9-2021 for employment in U.K. and did not return to India till 31st March, 2022. Determine his residential status for the Assessment Year 2022-23. ***(T.Y.B.Com., Mar. 2011, adapted)***

Solution :

Ramesh is an Indian citizen.

Ascertaining whether a resident

1. Ramesh is a citizen of India leaving India for employment.
2. He will be a resident only if he is in India for 182 days or more in the P.Y.
3. He is in India for 175 days (30 + 31 + 30 + 31 + 31 + 22).

Conclusion : He is Non Resident in India for A.Y. 2020-21 (as he does not satisfy condition 2).

Illustration 9 :

Amol, an Indian film actor gives the following information of his stay outside India for film shooting.

Period	Place
12th April, 2021 to 27th April, 2022	USA
5th May 2021 to 11th July, 2022	Sri Lanka
26th August, 2020 to 9th September, 2021	UK
20th September, 2020 to 11th October, 2021	New Zealand
3rd January, 2022 to 25th March, 2022	South Africa

He made his debut in international films on 10th March, 2019 and went to Hollywood for 2 years and returned to India on 28th March, 2021.

Determine his residential status with reasons for assessment year 2022-23.

Solution : ***(T.Y.B.Com., Oct. 13, adapted)***

Ascertaining whether a resident

1. Amol is an Indian citizen leaving India for 'employment'.
2. Amol will be resident only if he is in India from 1-4-2021 to 31-3-2022 for 182 days or more.
3. He is in India for 162 days from 1-4-2021 to 31-3-2022 (WN).

Conclusion : Mr. Amol is a 'Non Resident'.

Working Note :

Stay in India during P.Y. 2021-22

Year	Months	Days
2021 :	April	14
	May	04
	June	Nil
	July	20
	August	25
	September	10
	October	20
	November	30
	December	31
2022 :	January	02
	February	Nil
	March	06
	Total	162

Note : Day of departure as well as arrival, treated as full day in India.

4.3 MIGRATING INDIAN : RESIDENT & OR

Illustration 10 : (Indian Leaving for Employment)

Mr. Balaji an Indian Citizen and a professional cricketer toured South Africa, Australia, U. K. / Indies and Zimbabwe on various dates. The details of departure from and arrival to India ar under.

Country	Date of Departure	Date of Arrival
South Africa (for the first time)	01-03-2019	25-03-2021
Australia	15-04-2021	01-05-2021
U.K.	05-05-2021	11-07-2021
West Indies	31-08-2021	14-09-2021
Zimbabwe	01-01-2022	23-03-2022

Determine his residential status for the assessment year 2022-23. Give your working and explanat

(T.Y.B.Com., Oct. 2004, April 2009, adapt

Solution :

A. Ascertaining whether a resident

1. Mr. Balaji is an Indian citizen leaving India for 'employment'.
2. Mr. Balaji will be a resident only if he is in India from 1-4-2021 to 31-3-2022 for 182 days or mo
3. He is in India for 191 days from 1-4-2021 to 31-3-2022 (WN 1).

Conclusion : Mr. Balaji is a resident.

B. Ascertaining whether an ordinary resident

1. Mr. Balaji will be an ordinary resident if (a) he is a resident for at least 2 out of 10 preceding ye and (b) is in India between 1-4-2014 and 31-3-2021 for at least 730 days.
2. Mr. Balaji is a resident for 8 years [WN 2]; He is in India for 1,804 days from 1-4-2014 to 31 2021 [WN 2]. He satisfies both the conditions.

Conclusion : Mr. Balaji is a resident and an ordinary resident.

Working Notes :

(1) Stay in India during 01-04-2021 to 31-03-2022

April	15 days
May	05 days
June	Nil
July	21 days
August	31 days
September	17 days
October	31 days

November	30 days		
December	31 days		
January	01 day		
February	Nil		
March	09 days	= 191 days	

(2) Previous Year	Days in India	
2011-12	366 days	(Resident)
2012-13	365 days	(Resident)
2013-14	365 days	(Resident)
2014-15	365 days	(Resident)
2015-16	366 days	(Resident)
2016-17	365 days	(Resident)
2017-18	365 days	(Resident)
2018-19	336 days	(Resident)
2019-20	Nil	(Non-Resident)
2020-21	07 days	(Non-Resident)

Illustration 11 : (Visiting Indian)

Mr. Rajesh, who is born and brought up in India and an Indian Citizen, went for further studies to U.S.A. on 1st March, 2018 and came back to India on 1st October, 2021 and since then he is in India. Determine his residential status for the assessment year 2022-23 giving explanation for your answer.

Solution :

A. Ascertaining whether a resident

1. Mr. Rajesh is an Indian citizen coming to India on a visit.
2. Mr. Rajesh will be a resident only if he is in India from 1-4-2021 to 31-3-2022 for 182 days or more.
3. He is in India for 182 days from 1-4-2021 to 31-3-2022 (31 + 30 + 31 + 31 + 28 + 31).

Conclusion : Mr. Rajesh is a resident.

B. Ascertaining whether an ordinary resident

1. Mr. Rajesh will be an ordinary resident if (a) he is a resident for at least 2 out of 10 preceding years and (b) is in India between 1-4-2014 and 31-3-2021 for at least 730 days.
2. Mr. Rajesh is a resident for at least 2 years [Assessment year 2018-19 and 2017-18 (stay exceeding 182 days each); He is in India for 1460 days between 1-4-2014 and 31-3-2021. He satisfies both the conditions.

Conclusion : Mr. Rajesh is a resident and an ordinary resident.

4.4 MIGRATING INDIAN : RESIDENT BUT NOR

Illustration 12 : (Visiting Indian)

Mr. Nath a person of Indian origin who was abroad, returned to India for the first time on August 1, 2021 and again left India on February 15, 2022. What is his residential status for the Assessment year 2022-23 ?

Solution :

A. Ascertaining whether a resident

1. Mr. Nath is a person of Indian origin coming to India on a visit.
2. Mr. Nath will be a resident only if he is in India from 1-4-2021 to 31-3-2022 for 182 days or more.
3. He is in India for 199 days from 1-4-2021 to 31-3-2022 (31 + 30 + 31 + 30 + 31 + 31 + 15).

Conclusion : Mr. Nath is a resident.

B. Ascertaining whether an ordinary resident

1. Mr. Nath will be an ordinary resident if (a) he is a resident for at least 2 out of 10 preceding previous years and (b) is in India between 1-4-2014 and 31-3-2021 for at least 730 days.
2. Mr. Nath is a non-resident for all the earlier years as he has come to India for the first time in 2021-22; hence, he cannot be a resident for 2 out of 10 years. Since he does not satisfy condition 1(a), there is no need to check the next condition 1(b).

Conclusion : Mr. Nath is a resident but not ordinary resident.

4.5 NON-INDIAN : NON-RESIDENT

Illustration 13 : (Non-Indian : NR)

Mr. Hemant Bhosale a resident of USA came to India for the first time on 1st May, 2014. He sta here without break for 3 years and left for Japan on 1st May, 2017. He returned to India on 1st A 2018 and went back to USA on 1st December, 2018. He was posted back to India on 20th Jan 2022 and has been in India since then. Determine his residential status for the previous year en on 31st March, 2022 giving explanation for your answer. ***(T.Y.B.Com., Oct. 09, adapt***

Solution :

Ascertaining whether a resident

1. Mr. Hemant Bhosale is a resident of USA but appears to be a person of Indian origin. How he has come to India not for just a visit but for employment.
2. He will be a resident if
   (a) He is in India from 1-4-2021 to 31-3-2022 for 182 days or more; or
   (b) (i) He is in India from 1-4-2021 to 31-3-2022 for 60 days or more; and
   (ii) He is in India between 1-4-2017 and 31-3-2021 for 365 days or more.
3. He is in India from 1-4-2021 to 31-3-2022 for 71 days (12 + 28 + 31); and
4. He is in India between 1-4-2017 and 31-3-2021 for 276 days (31 + 245).

Conclusion : He is a non-resident [as he satisfies neither condition 2 (a) nor 2 (b)].

Illustration 14 :

Shri Praveen Kumar an Australian citizen came to India from Australia for the first time on 11-10-202 He returned to Australia after staying upto 10-6-2022. Determine his residential status for the Assessment Year 2022-23. ***(T.Y.B.Com., Oct. 2011, adapted)***

Solution :

Mr. Praveen Kumar is a Non-Indian.

(A) Ascertaining whether a resident

1. Mr. Praveen Kumar will be a resident if he is in India from 1-4-2021 to 31-3-2022 for 182 days or more, or he is in India for 365 days in 4 years preceeding previous year and 60 days in previous year.
2. He is in India for 172 days from 1-4-2021 to 31-3-2022 (21 + 30 + 31 + 31 + 28 + 31), and for n days in preceeding previous years.

(B) Conclusion :

Mr. Praveen Kumar is a **non-resident**.

4.6 NON-INDIAN : RESIDENT BUT NOR

Illustration 15 : (Resident due to #1; NOR due to #1)

Mr. Kennedy, a citizen of U.S.A., came to India, for the first time, on his appointment as a Manager of Thomas Cook & Co., on 1st April, 2017. On 1st February, 2018 he was transferred to Singapore for three years. He comes back to India on 2nd February, 2021 and joins his original M/s. Thomas Cook & Co. as a Manager and since then he is in India. Determine the residential status of Mr Kennedy for the Assessment Year 2022-23. Give explanation for your answer.

Solution :

A. Ascertaining whether a resident

1. Mr. Kennedy is a non-indian visiting India.
2. He will be a resident if (a) he is in India from 1-4-2021 to 31-3-2022 for 182 days or more; or (b) (i) he is in India from 1-4-2021 to 31-3-2022 for 60 days or more; and (b) (ii) he is in India between 1-4-2017 and 31-3-2021 for 365 days or more.
3. He is in India for 365 days from 1-4-2021 to 31-3-2022.

Conclusion : Mr. Kennedy is a resident [as he satisfies condition 2(a)].

B. Ascertaining whether an ordinary resident

1. Mr. Kennedy will be an ordinary resident if (a) he is a resident for at least 2 out of 10 preceding years and (b) is in India between 1-4-2014 and 31-3-2021 for at least 730 days.

2. He is resident for only 1 year (Previous year 2017-18 : stay 307 days) in the past. He was not present at all in India in the next two previous years (2018-19 and 2019-20). In the next previous year 2020-21, he was present in India for only 60 days (29 + 31). He fails to satisfy the first condition. Since he does not satisfy condition 1(a), there is no need to check the next condition 1(b).

Conclusion : Mr. Kennedy is a resident but not ordinary resident.

Illustration 16 : (Resident due to #2; NOR due to #2)

Mr. Xavier, a U.K. National, comes to India for the first time on 15-4-2017. During the financial years 2017-18; 2018-19; 2019-20, 2020-21 and 2021-22, he was in India for 120 days; 90 days; 3 days; 200 days and 65 days respectively. Determine his residential status for the Assessment year 2022-23 giving explanation for your answer.

Solution :

A. Ascertaining whether a resident

1. Mr. Xavier is neither a citizen of India nor a person of Indian origin.
2. He will be a resident if (a) he is in India from 1-4-2021 to 31-3-2022 for 182 days or more; or (b) (i) he is in India from 1-4-2021 to 31-3-2022 for 60 days or more; and (b) (ii) he is in India between 1-4-2017 and 31-3-2021 for 365 days or more.
3. He is in India from 1-4-2021 to 31-3-2022 for 65 days; and
4. He is in India between 1-4-2017 and 31-3-2021 for 413 days (i.e. 120 + 90 + 3 + 200).

Conclusion : Mr. Xavier is a resident [as he satisfies condition 2(b)].

B. Ascertaining whether an ordinary resident

1. Mr. Xavier will be an ordinary resident if (a) he is a resident for at least 2 out of 10 preceding years and (b) is in India between 1-4-2014 and 31-3-2021 for at least 730 days.
2. He in India for 413 days during last 7 years; he fails to satisfy condition 1(b). Hence, there is no need to check condition 1(a).

Conclusion : Mr. Xavier is a resident but not ordinary resident.

[**Note :** Depending upon the details, students should quickly check any one (easier) condition (for ordinary resident) first, so that there is no need to check the "difficult" condition.]

4.7 NON-INDIAN : RESIDENT AND OR

Illustration 17 : (Resident due to #1)

Shri Ram Gopal Desai, a citizen of USA has been staying in India since 1999. He leaves India on 16th July 2021 on a visit to USA and returns on 4th January 2022. Determine his residential status for the previous year 2021-22. ***(T.Y.B.Com., Mar. 08, adapted)***

Solution :

A. Ascertaining whether a resident

(1) Mr. Desai is not a citizen of India.

(2) He will be resident if

(a) He is in India from 1-4-2021 to 31-3-2022 for 182 days or more; or

(b) (i) He is in India from 1-4-2021 to 31-3-2022 for 60 days or more; and

(ii) He is in India between 1-4-2017 and 31-3-2021 for 365 days or more.

(3) He is in India from 1-4-2021 to 31-3-2022 for 194 days (30 + 31 + 30 + 16 + 28 + 28 + 31).

Conclusion : Mr. Desai is a resident [as he satisfies condition 2 (a)]. There is no need to check condition 2 (b).

B. Ascertaining whether an ordinary resident

(1) Mr. Desai will be an ordinary resident if he is a resident for at least 2 out of 10 preceding years and is in India between 1-4-2015 and 31-3-2022 for at least 730 days.

(2) Mr. Desai is a resident for 10 years (stay of 365 days each in last 10 years) and in India for 2556 days between 1-4-2014 and 31-3-2021.

Conclusion : Mr. Desai is a resident and an ordinary resident.

Illustration 18 : (Resident due to #2)

Mr. X is a U.S.A. citizen. He came to India on October 15, 2021 for a visit and was in India till 31st March, 2022. In earlier previous years, he is in India as under :

Previous Year	Days	Previous Year	Days
2011-12	188	2016-17	300
2012-13	190	2017-18	195
2013-14	185	2018-19	185
2014-15	200	2019-20	100
2015-16	40	2020-21	200

Find out the residential status of Mr. X for the assessment year 2022-23 assuming that he is not a person of India origin. ***(T.Y.B.Com., March 2005, adapted)***

Solution :

A. Ascertaining whether a resident

1. Mr. X is not a citizen of India. He is also not a person of Indian origin.
2. He will be a resident if (a) He is in India from 1-4-2021 to 31-3-2022 for 182 days or more; or (b) (i) He is in India from 1-4-2021 to 31-3-2022 for 60 days or more; and (b) (ii) He is in India between 1-4-2017 and 31-3-2021 for 365 days or more.
3. He is in India from 1-4-2021 to 31-3-2022 for 168 days (17 + 30 + 31 + 31 + 28 + 31); and
4. He is in India for 680 days between 1-4-2017 and 31-3-2021 (200 + 100 + 185 + 195).

Conclusion : Mr. X is a resident [as he satisfies condition 2(b)].

B. Ascertaining whether an ordinary resident

1. Mr. X will be an ordinary resident if he is a resident for at least 2 out of 10 preceding years and is in India between 1-4-2014 and 31-3-2021 for at least 730 days.
2. Mr. X is a resident for 9 years (WN) and in India for 1,220 days between 1-4-2014 and 31-3-2021.

Conclusion : Mr. X is a resident and an ordinary resident.

Working Note :

Previous Year	Days	R / NR	Previous Year	Days	R / NR
2020-21	200	R	2015-16	40	NR
2019-20	100	R	2014-15	200	R
2018-19	185	R	2013-14	185	R
2017-18	195	R	2012-13	190	R
2016-17	300	R	2011-12	188	R

Illustration 19 : (Resident due to #2)

Mr. Ramesh Shah, an American citizen, staying in Mumbai leaves Mumbai on 16th July, 2021 for joining an American firm as an employee. He was in India since 1st January 2004 till he left for U.S.A. on 16th July 2021 for the purpose of employment. Determine his residential status.

Solution :

A. Ascertaining whether a resident

1. Mr. Ramesh is not a citizen of India.
2. He will be a resident if (a) he is in India from 1-4-2021 to 31-3-2022 for 182 days or more; or (b) (i) he is in India from 1-4-2021 to 31-3-2022 for 60 days or more; and (b) (ii) he is in India between 1-4-2017 and 31-3-2021 for 365 days or more.
3. He is in India from 1-4-2021 to 31-3-2022 for 107 days (30 + 31 + 30 + 16); and
4. He is in India for all the days between 1-4-2017 and 31-3-2021 (365 + 365 + 366 + 365 = 1,461).

Conclusion : Mr. Ramesh is a resident [as he satisfies condition 2(b)].

B. Ascertaining whether an ordinary resident

1. Mr. Ramesh will be an ordinary resident if he is a resident for at least 2 out of 10 preceding years and is in India between 1-4-2014 and 31-3-2021 for at least 730 days.
2. Mr. Ramesh is a resident for all the 10 preceding years as he was in India throughout between 1-4-2005 till 31-3-2021 and was in India for 2556 days i.e. all the days between 1-4-2014 and 31-3-2021.

Conclusion : Mr. Ramesh is a resident and an ordinary resident.

Note : The exception of 182 days is (The exception for persons of India India).

Illustration 20 : (Non-Indian : R &

Professor Rajendra Bhatt a UK c University, provides you the detai

Previous Year	
2021-22	
2020-21	
2019-20	
2018-19	

Prior to 1-4-2015 he did not 2022-23.

Solution :

A. Ascertaining whether a

1. Prof. Rajendra Bhatt is n
2. He will be resident if
   (a) He is in India from 1
   (b) (i) He is in India fron
   (ii) He is in India be
3. He is in India from 1-4- 2(a).
   He is in India from 1- India for 530 days (19

Conclusion : Prof. Raje

B. Ascertaining wheth

1. Prof. Rajendra Bha preceding years an
2. Prof. Rajendra Bha days in 2017-18); a + 125).

Conclusion : Prof. R

Illustration 21 :

Mr. Brett Lee an Aust Business in Mumbai. 2022 and was in Indi

Solution :

A. Ascertaining w

1. Mr. Brett Lee is
2. He will be a res
   (b) (i) He is in
   between 1-4-2
3. He is in India f
4. He is in India

Conclusion : Mr.

B. Ascertaining

1. Mr. Brett Lee years and is
2. Mr. Brett Lee between 1-4

Conclusion : M

Previous Year	Days	Previous Year	Days
2011-12	188	2016-17	300
2012-13	190	2017-18	195
2013-14	185	2018-19	185
2014-15	200	2019-20	200
2015-16	40	2020-21	

Find out the residential status of Mr. X for the assessment year 2022-23 assuming that he is not person of India origin. ***(T.Y.B.Com., March 2005, adapted)***

Solution :

A. Ascertaining whether a resident

1. Mr. X is not a citizen of India. He is also not a person of Indian origin.
2. He will be a resident if (a) He is in India from 1-4-2021 to 31-3-2022 for 182 days or more; (b) (i) He is in India from 1-4-2021 to 31-3-2022 for 60 days or more; and (b) (ii) He is in India between 1-4-2017 and 31-3-2021 for 365 days or more.
3. He is in India from 1-4-2021 to 31-3-2022 for 168 days (17 + 30 + 31 + 31 + 28 + 31); and
4. He is in India for 680 days between 1-4-2017 and 31-3-2021 (200 + 100 + 185 + 195).

Conclusion : Mr. X is a resident [as he satisfies condition 2(b)].

B. Ascertaining whether an ordinary resident

1. Mr. X will be an ordinary resident if he is a resident for at least 2 out of 10 preceding years and is in India between 1-4-2014 and 31-3-2021 for at least 730 days.
2. Mr. X is a resident for 9 years (WN) and in India for 1,220 days between 1-4-2014 and 31-3-2021.

Conclusion : Mr. X is a resident and an ordinary resident.

Working Note :

Previous Year	Days	R / NR	Previous Year	Days	R / NR
2020-21	200	R	2015-16	40	NR
2019-20	100	R	2014-15	200	R
2018-19	185	R	2013-14	185	R
2017-18	195	R	2012-13	190	R
2016-17	300	R	2011-12	188	R

Illustration 19 : (Resident due to #2)

Mr. Ramesh Shah, an American citizen, staying in Mumbai leaves Mumbai on 16th July, 2021 for joining an American firm as an employee. He was in India since 1st January 2004 till he left for U.S.A. on 16th July 2021 for the purpose of employment. Determine his residential status.

Solution :

A. Ascertaining whether a resident

1. Mr. Ramesh is not a citizen of India.
2. He will be a resident if (a) he is in India from 1-4-2021 to 31-3-2022 for 182 days or more; or (b) (i) he is in India from 1-4-2021 to 31-3-2022 for 60 days or more; and (b) (ii) he is in India between 1-4-2017 and 31-3-2021 for 365 days or more.
3. He is in India from 1-4-2021 to 31-3-2022 for 107 days (30 + 31 + 30 + 16); and
4. He is in India for all the days between 1-4-2017 and 31-3-2021 (365 + 365 + 366 + 365 = 1,461)

Conclusion : Mr. Ramesh is a resident [as he satisfies condition 2(b)].

B. Ascertaining whether an ordinary resident

1. Mr. Ramesh will be an ordinary resident if he is a resident for at least 2 out of 10 preceding years and is in India between 1-4-2014 and 31-3-2021 for at least 730 days.
2. Mr. Ramesh is a resident for all the 10 preceding years as he was in India throughout between 1-4-2005 till 31-3-2021 and was in India for 2556 days i.e. all the days between 1-4-2014 and 31-3-2021.

Conclusion : Mr. Ramesh is a resident and an ordinary resident.

Note : The exception of 182 days is applicable only to Indian citizens leaving India for employment. (The exception for persons of Indian origin applies only when they visit India - not when they leave India).

Illustration 20 : (Non-Indian : R & OR)

Professor Rajendra Bhatt a UK citizen (not a person of Indian origin) is a visiting faculty at JNO University, provides you the details of his visit to India during the last 7 years.

Previous Year	No. of Days Stay in India	Previous Year	No. of Days Stay in India
2021-22	179	2017-18	190
2020-21	195	2016-17	100
2019-20	15	2015-16	125
2018-19	130		

Prior to 1-4-2015 he did not visit India. Find out his Residential status for the Assessment year 2022-23. ***(T.Y.B.Com., Oct. 08, adapted)***

Solution :

A. Ascertaining whether a resident

1. Prof. Rajendra Bhatt is neither a citizen of India nor a person of Indian origin.
2. He will be resident if
   (a) He is in India from 1-4-2021 to 31-3-2022 for 182 days or more; or
   (b) (i) He is in India from 1-4-2021 to 31-3-2022 for 60 days or more; and
   (ii) He is in India between 1-4-2017 and 31-3-2022 for 365 days or more.
3. He is in India from 1-4-2021 to 31-3-2022 for 179 days only and hence does not satisfy condition 2(a).
   He is in India from 1-4-2021 to 31-3-2022 for 179 days (i.e. more than 60 days); and he is in India for 530 days (195 + 15 + 130 + 190).

Conclusion : Prof. Rajendra Bhatt is a resident [as he satisfies condition 2(b)].

B. Ascertaining whether an ordinary resident

1. Prof. Rajendra Bhatt will be an ordinary resident if he is a resident for at least 2 out of 10 preceding years and is in India between 1-4-2014 and 31-3-2021 for at least 730 days.
2. Prof. Rajendra Bhatt is a resident for more than 2 years (stay of 195 days in 2020-21; and 190 days in 2017-18); and he was in India for 755 days between 1-4-2014 and 31-3-2021 (530 + 100 + 125).

Conclusion : Prof. Rajendra Bhatt is a resident and an ordinary resident.

Illustration 21 :

Mr. Brett Lee an Australian Citizen came to India for the first time on 1st April, 2017 and started a Business in Mumbai. He went out of India on 1st April, 2021 and came back to India on 1st January, 2022 and was in India thereafter. Find out his Residential status for Assessment Year 2022-23.

(T.Y.B.Com., Apr. 2010, 2015, adapted)

Solution :

A. Ascertaining whether a resident

1. Mr. Brett Lee is not a citizen of India.
2. He will be a resident if (a) He is in India from 1-4-2021 to 31-3-2022 for 182 days or more; or (b) (i) He is in India from 1-4-2021 to 31-3-2022 for 60 days or more; and (b) (ii) He is in India between 1-4-2017 and 31-3-2021 for 365 days or more.
3. He is in India from 1-4-2021 to 31-3-2022 for 90 days (31 + 28 + 31); and
4. He is in India for 1461 days between 1-4-2017 and 31-3-2021 (365 + 365 + 366 + 365).

Conclusion : Mr. Brett Lee is a resident [as he satisfies condition 2(b)].

B. Ascertaining whether an ordinary resident

1. Mr. Brett Lee will be an ordinary resident if he is a resident for at least 2 out of 10 preceding years and is in India between 1-4-2014 and 31-3-2021 for at least 730 days.
2. Mr. Brett Lee is a resident for 4 years (PY 2017-18 to PY 2020-21) and in India for 1,461 days between 1-4-2014 and 31-3-2021.

Conclusion : Mr. Brett Lee is a resident and an ordinary resident.

4.8 LATEST T.Y.B.COM. EXAMS.

Illustration 22 :

Mr. Yen citizen of USA provides you the details of his visit during last 7 years.

Previous Year	No. of Days Stay in India	Previous Year	No. of Days Stay in India
2015-16	130	2019-20	25
2016-17	95	2020-21	185
2017-18	198	2021-22	180
2018-19	122		

Prior to 1-4-2015 he did not visit India. Find out his residential status for the Assessment year 2022-23. ***(T.Y.B.Com., Oct. 14, adapted)***

Solution :

A. Ascertaining whether a resident

Basic Conditions Sec. 6(1)

1. Stay in India during the P.Y. 2021-22 ≥ 182 days — Not Satisfied (180 days)

Or

2. (a) Stay in India during the preceding 4 P.Y.'s ≥ 365 days — Satisfied (530 days)

And

(b) Stay in India during the P.Y. 2021-22 ≥ 60 days — Satisfied (180 days)

Conclusion : He is a Resident

B. Ascertaining whether an ordinary resident

Additional Conclusions Sec. 6(6)

1. Resident in 2 out of 10 immediately preceding years — Satisfied (Resident in P.Y. 2017-18 and 2021-22)
2. Stay in India during the preceding 7 P.Y.'s ≥ 730 days — Satisfied (755 days)

Conclusion : He is Resident and Ordinary Resident.

Illustration 23 :

Mr. John was born in UK in the year June 1989. He came to India for the first time on 1st April, 2017 and started business in India. He went back to UK on 10th August, 2021.
He again came back to India on 14th November, 2021 and returned to his country UK, on 28th January, 2022. Determine his residential status for the assessment year 2022-23.
(T.Y.B.Com., Oct. 15, adapted)

Solution :

Stay in India in Previous year 2021-22 in days

April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Total
30	31	30	31	10	-	-	17	31	28	-	-	208

Previous Years	Number of days in India	Resident / Non-Resident
2017-18	365	Resident
2018-19	365	Resident
2019-20	366	Resident
2020-21	365	Resident
Total	1461	
2021-22	208	

A. Ascertaining whether a resident

Basic Conditions Sec. 6(1)

1. Stay in India during the P.Y. 2021-22 ≥ 182 days — Satisfied (208 days)

Or

2. (a) Stay in India during the preceding 4 P.Y.'s ≥ 365 days — Not Required

And

(b) Stay in India during the P.Y. 2021-22 ≥ 60 days — Not Required

Conclusion : He is a Resident

4.8 LATEST T.Y.B.COM. EXAMS.

Illustration 22 :

Mr. Yen citizen of USA provides you the details of his visit during last 7 years.

Previous Year	No. of Days Stay in India	Previous Year	No. of D Stay in I
2015-16	130	2019-20	
2016-17	95	2020-21	
2017-18	198	2021-22	
2018-19	122		

Prior to 1-4-2015 he did not visit India. Find out his residential status for the Assessment 2022-23. ***(T.Y.B.Com., Oct. 14, adap***

Solution :

A. Ascertaining whether a resident

Basic Conditions Sec. 6(1)

1. Stay in India during the P.Y. 2021-22 ≥ 182 days — Not Satisfied (180 days)

Or

2. (a) Stay in India during the preceding 4 P.Y.'s ≥ 365 days — Satisfied (530 days)

And

(b) Stay in India during the P.Y. 2021-22 ≥ 60 days — Satisfied (180 days)

Conclusion : He is a Resident

B. Ascertaining whether an ordinary resident

Additional Conclusions Sec. 6(6)

1. Resident in 2 out of 10 immediately preceding years — Satisfied (Resident in P.Y. 2017-18 and 2021-22)
2. Stay in India during the preceding 7 P.Y.'s ≥ 730 days — Satisfied (755 days)

Conclusion : He is Resident and Ordinary Resident.

Illustration 23 :

Mr. John was born in UK in the year June 1989. He came to India for the first time on 1st April, 20 and started business in India. He went back to UK on 10th August, 2021.

He again came back to India on 14th November, 2021 and returned to his country UK, on 28 January, 2022. Determine his residential status for the assessment year 2022-23.

Solution : ***(T.Y.B.Com., Oct. 15, adapted)***

Stay in India in Previous year 2021-22 in days

April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Total
30	31	30	31	10	-	-	17	31	28	-	-	208

Previous Years	Number of days in India	Resident / Non-Resident
2017-18	365	Resident
2018-19	365	Resident
2019-20	366	Resident
2020-21	365	Resident
Total	1461	
2021-22	208	

A. Ascertaining whether a resident

Basic Conditions Sec. 6(1)

1. Stay in India during the P.Y. 2021-22 ≥ 182 days — Satisfied (208 days)

Or

2. (a) Stay in India during the preceding 4 P.Y.'s ≥ 365 days — Not Required

And

(b) Stay in India during the P.Y. 2021-22 ≥ 60 days — Not Required

Conclusion : He is a Resident

B. Ascertaining whether an ordinary resident

Additional Conclusions Sec. 6(6)

1. Resident in India in 2 out of 10 immediately preceding previous years — Satisfied (4 years)

Or

2. Stay in India during 7 previous years immediately preceding P.Y. 2021-22 ≥ 730 days — Satisfied (1,461 days)

Conclusion : He is Resident and Ordinary Resident.

Illustration 24 :

Mr. Becker, German citizen, came to India for the first time on 1st April, 2017 and started a business in Kerala. He went out of India on 1st April, 2021 and came back to India on 1st January, 2022. Determine his Residential Status for Assessment Year 2022-23.

Solution : ***(T.Y.B.Com., Nov. 16, adapted)***

A. Ascertaining whether a resident

Basic Conditions Sec. 6(1)

1. Stay in India during the P.Y. 2021-22 ≥ 182 days — Not Satisfied (91 days)

Or

2. (a) Stay in India during the preceding 4 P.Y.'s ≥ 365 days — Satisfied (1,096 days)

And

(b) Stay in India during the P.Y. 2021-22 ≥ 60 days — Satisfied (91 days)

Conclusion : Mr. Becker is a Resident

B. Ascertaining whether an ordinary resident

Additional Conditions Sec. 6(6)

1. Resident in India in 2 out of 10 immediately preceding previous years — Satisfied (4 years)

Or

2. Stay in India during 7 previous years immediately preceding P.Y. 2021-22 ≥ 730 days — Satisfied (1,096 days)

Conclusion : Mr. Becker is Resident and Ordinary Resident.

Working Notes :

1. Calculation of No. of days stay in P.Y.

Months	No. of Days
April 2021	1
January 2022	31
February 2022	28
March 2022	31
Total Days	91

2. Calculation of No. of days stay in P.P.Y.

Year	No. of Days
2020-21	365
2019-20	366
2018-19	365
2017-18	365
Total Days	1,096

3. Resident in P.P.Y.

Year	Resident or Non-Resident
2020-21	Resident
2019-20	Resident
2018-19	Resident
2017-18	Resident

(c) In this case, if Srinath's total income (excluding income from foreign sources) exceeds ₹ 15 lakh, he would be treated as resident but not ordinarily resident in India for P.Y. 2021-22, since his stay in India is 120 days in the P.Y. 2021-22 and 480 days (i.e., 120 days x 4 years) in the immediately four preceding previous years.

If his total income (excluding income from foreign sources) does not exceed ₹ 15 lakh, he would be treated as non-resident in India for the P.Y. 2021-22, since his stay in India is less than 182 days in the P.Y. 2021-22.

Illustration 27 : (Amendment w.e.f. 1-4-2021)

Determine the residential status in the following different cases for the P.Y. 2021-22 :

Case	A	B	C	D	E	F	G	H
Citizenship	**Foreign**	India	**India**	India	Foreign	Foreign	India	Foreign
Is he person of Indian origin	Yes	Yes	**Yes**	Yes	**Yes**	Yes	Yes	No
Total Income (excluding income from foreign source) exceeds ₹ 15,00,000	Yes	**No**	**Yes**	Yes	**Yes**	Yes	**No**	No
Liable to pay tax in other country	No	No	**No**	**Yes**	No	No	No	No
Stay in India during the previous year	30	30	30	30	**138**	**185**	**85**	**85**
Stay in India during 4 years immediately preceding previous year	380	380	380	380	380	180	380	**380**
Are dual conditions given u/s 6(6) satisfied	Yes	Yes	Yes	Yes	Yes	**Yes**	Yes	Yes
Residential Status	**NR**	**NR**	**NOR**	**NR**	**NOR**	**ROR**	**NR**	**ROR**
Note	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**

Notes :

1. He is not an Indian citizen, hence sec. 6(1A) is not applicable. Further his stay in India during the previous year does not exceed 120 days.
2. His total income does not exceed ₹ 15,00,000.
3. All conditions of sec. 6(1A) are satisfied.
4. He is liable to pay tax in other country.
5. His stay in India exceeds 120 days (but does not exceed 182 days).
6. He has satisfied one condition of sec. 6(1) [i.e. 182 days criterion] and dual conditions of sec. 6(6).
7. He is not satisfying any of the conditions provided in sec. 6(1).
8. He has satisfied one condition of sec. 6(1) [i.e. 182 days criterion] and dual conditions of sec. 6(6).

5. SCOPE OF TOTAL INCOME [S. 5]

5.1 INTRODUCTION

The following points should be noted in regard to scope of income:

(1) While S. 4 makes the total income of the previous year chargeable to tax, S. 5 defines the scope of the total income so chargeable to tax. It determines the extent and scope of income which is chargeable to tax. The term "Scope of Income" means which items of income are included and which items are excluded while computing tax liability.

(2) The scope of income depends upon the residential status of the person. As seen above there are three broad categories of persons: (a) Resident and Ordinary Resident (b) Non-resident and (c) Resident but Not Ordinarily Resident. Section 5 lays down what types of income would be taxable in the case of assessees belonging to each of these categories.

(3) It should be noted that Section 5 specifically states that the income is to be computed "sub the provisions of this Act". Thus, if any item of income is exempt under the provisions of th it is to be excluded from the scope of income.

5.2 RESIDENT & ORDINARY RESIDENT

A Resident and Ordinary Resident is taxable in respect of any income, from whatever source der which : (a) is received, or deemed to be received in India, in the previous year, by or on beh such person; or (b) accrues or arises, or is deemed to accrue or arise to him, in India, duri previous year; or (c) accrues or arises to him outside India, during the previous year. Thus, case of a 'resident and ordinary resident', his total income includes any income received, or ac or arising in India, and any income accruing or arising outside India (or deemed to be so rece accruing or arising, as the case may be). In short, the entire 'world income' (Indian income + F income) of an ordinary resident is to be included in his total income.

5.3 RESIDENT BUT NOT ORDINARY RESIDENT

A person not ordinarily resident in India, is taxable in respect of any income, from whatever s derived, which -

(a) is received, or deemed to be received, in India, in the previous year, by or on behalf of person; or

(b) accrues or arises, or is deemed to accrue or arise to him, in India, during the previous year

(c) accrues or arises to him, outside India, from a business controlled from or a profession set India.

Thus, in the case of a not ordinary resident, while the Indian income is to be included in the T Income, the Foreign income is to be included only if it is derived from a business controlled in profession set up in India. So, the liability of a 'not-ordinary resident' in respect of the For Income is much less as compared with that of the 'ordinary resident'.

5.4 NON-RESIDENT

A person who is a non-resident, is taxable in respect of any income, from whatever source deri which -

(a) is received in India, or is deemed to be received in India, in the previous year, by or on behal such person; or

(b) accrues or arises, or is deemed to accrue or arise to him, in India, during the previous year.

Thus, in the case of a 'non resident' his taxable income includes only his Indian income during th year. The foreign income of a non-resident is not taxable under the Indian Income-tax Act. So, liability of a non-resident is the lowest among all the types of residents under the Income-tax Act

EXHIBIT 2 : RESIDENTIAL STATUS AND TAXABILITY OF INCOME

Nature of Income	*Resident & Ordinary Resident*	*Resident But Not Ordinary Resident*	*Non Resident*
Income received in India	Taxable	Taxable	Taxable
Income which accrues or arises in India	Taxable	Taxable	Taxable
Income deemed to be received in India	Taxable	Taxable	Taxable
Income deemed to accrue in India	Taxable	Taxable	Taxable
Income which accrues and arises outside India from a business controlled from India / profession set up in India.	Taxable	Taxable	*Not Taxable*
Any other Income which accrues or arises outside India.	Taxable	*Not Taxable*	*Not Taxable*

5.5 SUMMARY

(1) Indian income is taxable in all cases, whether of an ordinary resident, or a not-ordinary resident, or a non-resident. Indian income includes income received or accruing or arising in India, or deemed to be received or accruing or arising in India.

(2) Foreign income of an ordinary resident is wholly taxable.

(3) Foreign income of a not-ordinary resident is taxable only if derived from a business controlled in or a profession set up in India.

(4) Foreign income of a non-resident is not taxable at all.

[**Note :** As per S.1, the Act extends to whole of India i.e. it applies to all residents of India and to all income arising in India. Hence all income earned by a resident is taxable (whether arising in or outside India), while all income arising in India is taxable (whether earned by a resident or a non-resident).]

6. RECEIPT AND ACCRUAL OF INCOME

Income which is received in India or which accrues or arises in India is taxable in all cases. The following points will help you to understand the concepts of 'receipt' and 'accrual':

(1) **Receipt and Remittance :** Receipt of income means the first occasion when the money comes under the control or possession of the receiver. After the first occasion of receipt, if money is sent to another place it is a mere remittance of money and not receipt of income.

Illustration : M receives $ 20,000 in USA on July 31, 2021. Out of that, he remits ₹ 1,00,000 to his son R in India on November 9, 2021. In this case, income is received, outside India on July 31, 2021.

(2) **Cash and Kind :** Income may be received in cash or in kind. For example a Doctor may receive a car in lieu of fees from a rich patient; this would be receipt of income in kind and taxable. When income is received in kind, amount of income is taken to be equal to the fair market value of the item on the date of receipt.

(3) **Receipt by Assessee or On His Behalf :** Income directly received by the assessee is no doubt taxable in his hands. But income received on behalf of the assessee by another person is also taxable in his hands. Thus income received on behalf of the assessee by his agent or his bankers is taxable in his hands. If the income is paid to (or diverted to) a third party, under instructions from the assessee, such amount is also taxable in the hands of the assessee.

(4) **Receipt and Accrual :** Income is said to be received when it reaches the assessee; on the other hand, when the right to receive the income becomes vested in the assessee, income is said to accrue or arise. Thus accrual denotes right to receive any income, while receipt denotes actual receipt of income. Generally, income must accrue first. Receipt normally is after such accrual.

(5) **Accrue and Arise :** *'Accrue'* refers to right to receive the income. *'Arise'* refers to the right to enforce recovery of income.

(6) **Accrued and Due :** For example, Salary 'accrues' every day, but may become 'due' on the last day of the month.

(7) **Method of Accounting :** Income 'arises' when it is shown as income in books. If the assessee's accounts are maintained on mercantile basis, income is taxable when it accrues or arises. If the assessee's accounts are maintained on cash basis, income is taxable when it is actually received. However, this is subject to the specific provisions of the Act. Thus the Act provides that Salary is taxable on accrual or receipt whichever is earlier, irrespective of the method of accounting followed by the assessee.

(8) **Deemed Receipt / Accrual :** Receipt or accrual may be actual or deemed. However, income accruing outside India will not be deemed to be received in India merely because it is included in a balance sheet prepared in India (Explanation 1 to S.5). Further, once an income is included in the total income of a person on the basis of accrual, it cannot be included again on the basis of its receipt in subsequent period (Explanation 2 to S.5).

7. ILLUSTRATIONS

Illustration 28 :

Mr. Tom, a British citizen had the following income during the year ended on 31st March, 202

1. Income from house property in India 15,
2. Income from property in Rome 10,
3. Interest from bank account in India 1
4. Income from business in Bangladesh, being controlled from India 16,
5. Interest on bank account in U.S.A. 11
6. Salary earned and received in Tokyo 12
7. Income earned and received in London 13
8. Dividend from British Company received in India 17

Compute his Total Income for the assessment year 2022-23, if he is :

(i) A Resident (ii) A Resident but not ordinary Resident (iii) A Non-Resident.

Solution :

Computation of Income for the assessment year 2022-23

No.	Item of Income	Nature of Income	O.R.	R.N.O.R.	N.R
1.	Income from House property in India	Income arising in India	15,000	15,000	15,
2.	Income from property in Rome	Foreign Income	10,000	--	
3.	Interest from bank A/c in India	Income arising in India	1,200	1,200	1,2
4.	Income from business in Bangladesh, being controlled from India	Foreign Income	16,000	16,000	
5.	Interest on bank A/c in U.S.A.	Foreign Income	11,000	--	
6.	Salary earned and received in Tokyo	Foreign Income	12,000	--	
7.	Income earned and received in London	Foreign Income	13,000	--	
8.	Dividend from British Co. received in India	Income received in India	17,000	17,000	17,00
	Total		95,200	49,200	33,20

Illustration 29 :

Mr. David is a citizen of U.S.A. and non-resident in India during previous year 2021-22. He gives you the following information relating to his Income for P.Y. 2021-22.

(1) Salary earned and received in USA ₹ 75,000.

(2) Interest on Debentures from Indian companies received in India ₹ 25,000.

(3) Interest on Bonds of companies in Germany received in Germany ₹ 30,000.

(4) Professional Fees Received in India ₹ 50,000.

(5) Income from business in London controlled from Mumbai ₹ 70,000.

(6) Interest on bank accounts in USA ₹ 15,000.

Find out the total income taxable in India for Assessment Year 2022-23 according to provisions Sec. 5.

Solution : *(T.Y.B.Com., Oct. 2005, adapted*

NAME OF ASSESSEE : MR. DAVID

PREVIOUS YEAR : 2021-22 **ASSESSMENT YEAR : 2022-23**

No.	Item of Income	Nature of Income	Non-Residen
(1)	Salary from USA	Foreign Income	N
(2)	Interest on Indian Debentures	Indian Income	25,00
(3)	Interest on German Bonds	Foreign Income	N
(4)	Fees Received in India	Indian Income	50,00

7. ILLUSTRATIONS

Illustration 28 :

Mr. Tom, a British citizen had the following income during the year ended on 31st March, 202

1. Income from house property in India
2. Income from property in Rome
3. Interest from bank account in India
4. Income from business in Bangladesh, being controlled from India
5. Interest on bank account in U.S.A.
6. Salary earned and received in Tokyo
7. Income earned and received in London
8. Dividend from British Company received in India

Compute his Total Income for the assessment year 2022-23, if he is :
(i) A Resident (ii) A Resident but not ordinary Resident (iii) A Non-Resident.

Solution :

Computation of Income for the assessment year 2022-23

No.	Item of Income	Nature of Income	O.R.	R.N.O.R.	N.R
1.	Income from House property in India	Income arising in India	15,000	15,000	15,000
2.	Income from property in Rome	Foreign Income	10,000	--	
3.	Interest from bank A/c in India	Income arising in India	1,200	1,200	1,200
4.	Income from business in Bangladesh, being controlled from India	Foreign Income	16,000	16,000	--
5.	Interest on bank A/c in U.S.A.	Foreign Income	11,000	--	--
6.	Salary earned and received in Tokyo	Foreign Income	12,000	--	--
7.	Income earned and received in London	Foreign Income	13,000	--	--
8.	Dividend from British Co. received in India	Income received in India	17,000	17,000	17,000
	Total		95,200	49,200	33,200

Illustration 29 :

Mr. David is a citizen of U.S.A. and non-resident in India during previous year 2021-22. He gives you the following information relating to his Income for P.Y. 2021-22.
(1) Salary earned and received in USA ₹ 75,000.
(2) Interest on Debentures from Indian companies received in India ₹ 25,000.
(3) Interest on Bonds of companies in Germany received in Germany ₹ 30,000.
(4) Professional Fees Received in India ₹ 50,000.
(5) Income from business in London controlled from Mumbai ₹ 70,000.
(6) Interest on bank accounts in USA ₹ 15,000.
Find out the total income taxable in India for Assessment Year 2022-23 according to provisions of Sec. 5.

(T.Y.B.Com., Oct. 2005, adapted)

Solution :

NAME OF ASSESSEE : MR. DAVID

PREVIOUS YEAR : 2021-22 **ASSESSMENT YEAR : 2022-23**

No.	Item of Income	Nature of Income	Non-Resident
(1)	Salary from USA	Foreign Income	Nil
(2)	Interest on Indian Debentures	Indian Income	25,000
(3)	Interest on German Bonds	Foreign Income	Nil
(4)	Fees Received in India	Indian Income	50,000

(5) Income from Business in London controlled from India	Foreign Income	Nil
(6) Interest from Banks in USA	Foreign Income	Nil
Total Income		75,000

Note : Income from business outside India controlled from India would be taxed only if Mr. David was a Resident but not ordinarily resident.

Illustration 30 :

Miss Sanjali, an Indian citizen, furnishes the following information of her income earned during the previous year 2021-22.

(1) Professional fees received in India ₹ 10,000.
(2) Income earned in India but received in France ₹ 15,000.
(3) Dividend on shares of Indian co-operative bank received in India ₹ 7,000.
(4) Salary earned and received in France ₹ 5,000.

You are required to find out her 'Gross Total Income' for assessment year 2022-23 if she is alternatively.

(1) Resident and Ordinarily Resident.
(2) Resident But Not Ordinarily Resident and
(3) Non-Resident.

(T.Y.B.Com., Oct. 06, adapted)

Solution :

NAME OF ASSESSEE : MISS SANJALI **STATUS : INDIVIDUAL**
PREVIOUS YEAR : 2021-22 **ASSESSMENT YEAR : 2022-23**
RESIDENTIAL STATUS : R & OR

Computation of Total Income

No.	*Item of Income*	*Nature of Income*	*R. & O.R.*	*R. but N.O.R*	*N.R.*
1.	Professional fees received in India	Indian Income	10,000	10,000	10,000
2.	Income earned in India but received in France	Indian Income	15,000	15,000	15,000
3.	Dividend on Shares of Indian Co-op. Bank received in India	Indian Income	7,000	7,000	7,000
4.	Salary earned and received in France	Foreign Income	5,000	-	-
	Total Income		37,000	32,000	32,000

Note : R.O.R. = Resident and Ordinary Resident; R but N.O.R. = Resident but Not Ordinarily Resident; N.R. = Non-resident.

Illustration 31 :

Mr. Sandeep has earned the following income during the previous year ended 31st March, 2022.

(1) Professional Fees received in India for 3 months	₹ 18,000
(2) Payment received in U.K. for services rendered in India	₹ 16,000
(3) Income from business in Australia, controlled from India	₹ 14,000
(4) Income from Agriculture in Bangladesh	₹ 12,000
(5) Dividend from a foreign company received in U.K.	₹ 10,000
(6) Amount brought into India out of the past untaxed profits earned in U.S.A.	₹ 18,000

Compute his total Income assuming :

(1) He is Resident and Ordinarily Resident
(2) Non Resident.

(T.Y.B.Com., Oct. 07, adapted)

Solution :

NAME OF ASSESSEE : MR. SANDEEP **STATUS : R. N.O.R.**
PREVIOUS YEAR : 2021-22 **ASSESSMENT YEAR : 2022-23**

No.	*Item of Income*	*Nature of Income*	*O.R.*	*N.R.*
1.	Professional fees	Income received in India	18,000	18,000
2.	Received in U.K. for services in India	Income accruing in India	16,000	16,000
3.	Income from business in Australia, controlled from India	Foreign Income	14,000	Nil

4. Income from agriculture in Bangladesh	Foreign Income	12,000	
5. Dividend received in UK from Foreign Co.	Foreign Income	10,000	
6. Amount brought in India out of past profits	Remittance; not income	Nil	
Total Income		70,000	34

Illustration 32 :

Mr. Abhijit, an Indian citizen, furnishes the following particulars of income earned during the prev year relevant to assessment year 2022-23 :

1. Professional fees received in India 11,
2. Income earned in India but received in Rome 12,
3. Dividend on shares of Indian companies:
   i) Received in India 6,
   ii) Received abroad 4,
4. Salary earned and received in Paris 14,
5. Income from agriculture in Nepal 15,
6. Income from business in U.K. controlled from India 16,

Compute his total income for the assessment year 2022-23 assuming the residential status as

i) Resident and ordinarily resident;
ii) Resident but not ordinarily resident;
iii) Non resident in India.

Solution :

No.	Item of Income	Nature of Income	O.R.	N.O.R.	N.R.
1.	Professional fees	Income received in India	11,000	11,000	11,000
2.	Income earned in India but received in Rome	Income accruing in India	12,000	12,000	12,000
3.	Dividend on shares of Indian companies	Income accruing in India	10,000	10,000	10,000
4.	Salary earned and received in Paris	Foreign Income	14,000	Nil	Nil
5.	Income from agriculture in Nepal	Foreign Income	15,000	Nil	Nil
6.	Income from business in U.K. controlled from India	Foreign Income	16,000	16,000	Nil
	Total Income		78,000	49,000	33,000

Note (1) : O.R. = Ordinary Resident; N.O.R. = Not Ordinary Resident; N.R. = Non-Resident.

Note (2) : Dividend on shares of Indian Companies is taxable, whether received in India or outside India.

EXERCISES

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8. THEORY QUESTIONS [15 MARKS]

8.1 DESCRIPTIVE QUESTIONS [7 OR 8 MARKS]

1. "Income-tax Act extends to the whole of India". - Discuss the implications of the above statement. ***[Ans.: Para 5]***
2. What do you mean by the residential status of a person ? Is it different from the legal status of a person? ***[Ans.: Para 2]***
3. Describe the different categories of assessees according to their residential status. ***[Ans.: Exhibit 1 Para 3]***
4. Define and explain - (a) Resident Individual (b) Non - resident Individual (c) Resident & Ordinarily Resident Individual (d) Resident but Not Ordinarily Resident Individual. ***[Ans.: Para 3]***
5. Explain the distinction between (a) Resident and Non-resident (b) Ordinary Resident and Not Ordinary Resident. (c) Non-resident and Not Ordinary Resident. ***[Ans.: Para 3]***
6. What are the tests of (a) Residence and (b) Ordinary Residence under the Income-tax Act, 1961. ***[Ans.: Para 3.1 and 3.3]***
7. What are the provisions of the Income-tax Act, 1961 for determining the residence of an Individual? ***[Ans.: Para 3]***
8. Explain - "Every Resident Person is not necessarily an ordinarily Resident." ***[Ans.: Para 3]***
9. Describe the circumstances when a Resident Individual becomes an Ordinarily Resident Individual. ***[Ans.: Para 3.3]***
10. What do you mean by 'Scope of total income' ? ***[Ans.: Para 5]***
11. Discuss the scope of income in case of (a) A Resident and Ordinary Resident. (b) A Resident but Not Ordinary Resident. (c) A Non-resident. ***[Ans.: Para 5]***
12. Discuss - "Indian Income is taxable in all cases irrespective of the residential status of the assessee." ***[Ans.: Para 5]***
13. Discuss - "A Resident is taxable in respect of all income whether arising in India or outside India". ***[Ans.: Para 5]***

14. Distinguish between Receipt and Accrual of Income. [Ans.: Pa
15. Explain : (a) Receipt Vs. Remittance (b) Income in cash or kind (c) Income received by Assessee or on his behalf (d) Income and Method of Accounting. [Ans.: Pa

8.2 SHORT NOTES [5 MARKS]

Write a short note on :

1. Resident Individual [Ans.: Par
2. Non-resident Individual [Ans.: Par
3. Resident and ordinarily resident individual [Ans.: Par
4. Resident but not ordinarily resident individual [Ans.: Par
5. Resident and ordinarily resident - Scope of total income [Ans.: Par
6. Resident but not ordinarily resident - Scope of total income [Ans.: Par
7. Non-resident : Scope of total income [Ans.: Par

9. OBJECTIVE QUESTIONS

9.1 MULTIPLE CHOICE QUESTIONS

1. Residential status is to be determined for :
   (a) Previous year (b) Assessment year
   (c) Accounting year (d) None of these
2. Incomes which accrue or arise outside India but are received directly into India are taxable case of
   (a) Resident only (b) Both ordinarily resident and NOR
   (c) Non-resident (d) All the assesses
3. Total Income of a person is determined on the basis of his :
   (a) Residential status in India (b) Citizenship in India
   (c) None of these (d) Both of the above
4. M, a foreign national visited India during previous year 2021-22 for 180 days. Earlier to this h never visited India. M in this case shall be :
   (a) Resident in India (b) Non-resident
   (c) Not ordinarily resident in India (d) None of these
5. M, a foreign national but a person of Indian origin visited India during previous year 2021-22 fo 181 days. During 4 preceding previous years he was in India for 366 days. M shall be
   (a) Resident in India (b) Non-resident in India
   (c) Not-ordinarily resident in India (d) None of the above
6. Income which accrue or arise outside India and also received outside India is taxable in case of
   (a) Resident only (b) Not ordinarily resident
   (c) Both ordinarily resident and NOR (d) None of the above
7. Income which accrue outside India from a business controlled from India is taxable in case of
   (a) Resident only (b) Not ordinarily resident only
   (c) Both ordinarily resident and NOR (d) Non-resident
8. Income deemed to accrue or arise in India is taxable is case of :
   (a) Resident only (b) Both ordinarily resident and NOR
   (c) Non-resident (d) All the assesses
9. Income received in India
   (a) is taxable only for a resident
   (b) is not taxable only for a non-resident
   (c) is taxable for a resident, a resident but not ordinarily resident and a non-resident
   (d) is exempt in all cases
10. Income which accrues in India from a business controlled from India
    (a) is taxable only for a resident
    (b) is not taxable only for a non-resident
    (c) is taxable for a resident, a resident but not ordinarily resident and a non-resident
    (d) is exempt in all cases

11. Income which accrues outside India from a business not controlled from India
(a) is taxable only for a non-resident
(b) is not taxable only for a non-resident
(c) is taxable only for a resident but not ordinarily resident
(d) is exempt in all cases

12. Income accruing in Japan and received there is taxable in India in the case of -
(a) Resident and ordinarily resident only
(b) Both resident and ordinarily resident and resident but not ordinarily resident
(c) Both resident and non-resident
(d) Non-resident

13. M, a person of Indian origin, visited India on 2-10-2021 and plans to stay here for 185 days. During 4 years prior to previous year 2021-22, he was in India for 750 days. Earlier to that he was never in India. For the assessment year 2022-23, he is
(a) a resident and ordinarily resident
(b) a resident but not ordinarily a resident
(c) a non-resident

14. M, a citizen of India, left India for U.S. on 16-8-2021 for booking orders on behalf of an Indian company for exporting goods to U.S. He came back to India on 5-5-2022. He had been resident in India for the past 10 years. For the assessment year 2022-23, he is
(a) a resident and ordinarily resident (b) a resident but not ordinarily a resident
(c) a non-resident

15. Mr. Sameer Khanna, a German citizen, came to India on 23-05-2020 and left India on 30-05-2021. For the assessment year 2022-23, he is
(a) a resident and ordinarily resident (b) a resident but not ordinarily a resident
(c) a non-resident

16. M a foreign national but a person of Indian origin visited India during previous year 2021-22 for 181 days. During 4 preceding previous years he was in India for 400 days. For the assessment year 2022-23, he is
(a) a resident and ordinarily resident (b) a resident but not ordinarily a resident
(c) a non-resident

17. Mr. Sumit Vats a citizen of India has one business in India and he has left India for meeting a foreign supplier for the first time on 01-09-2021 and did not return till 31-3-2022. For the assessment year 2022-23, he is
(a) a resident and ordinarily resident (b) a resident but not ordinarily a resident
(c) a non-resident

18. Mr. Manmohan Sharma goes out of India every year for 274 days. For the assessment year 2022-23, he is
(a) a resident and ordinarily resident (b) a resident but not ordinarily a resident
(c) a non-resident

19. Mr. Rishab Patil, a citizen of Japan, has come to India for the first time on 03-10-2021 for 200 days. For the assessment year 2022-23, he is
(a) a resident and ordinarily resident (b) a resident but not ordinarily a resident
(c) a non-resident

9.2 FILL IN THE BLANKS

1. An individual shall be deemed to be of Indian origin if he or any of his _____ or _____ were born in undivided India.
2. Income which accrue or arise outside India from a business controlled from India is taxable in case of _____ and _____ .
3. M, a person of Indian origin visited India on 11-11-2021 and plans to stay here for 330 days. During 4 years prior to previous year 2021-22, he was in India for 759 days. Earlier to that he was never in India. For assessment year 2022-23, M shall be _____ .
4. Section _____ of the Income-tax Act defines the scope of income.
5. Section _____ of the Income-tax Act defines the residential status of a person.

9.3 MATCH THE FOLLOWING COLUMNS

Column A		Column B	
1.	Foreign Income	(a)	Ordinary resident
2.	Income received in India	(b)	Not ordinary resident
3.	Foreign Business income controlled from India	(c)	Non-resident
4.	Remittance in India	(d)	Taxable for OR, NOR, N
5.	Highest tax liability	(e)	Taxable for OR, NOR
6.	Least tax liability	(f)	Not taxable for non-resi
		(g)	Not taxable

9.4 STATE WHETHER TRUE OR FALSE

1. Once a person is a resident in a previous year he shall be deemed to be resident for sub previous year.
2. Once a person is resident for a source of income in a particular previous year he shall be de to be resident for all other sources of income in the same previous year.
3. A resident in India cannot become resident in any other country for the same assessme
4. Residential status is to be determined on the basis of stay in India during assessment ye
5. Incomes which accrue or arise outside India but are received directly into India are taxabl in case of resident.
6. Income deemed to accrue or arise in India is taxable in case of all the assessees.
7. Income which accrues or arises outside India from a business controlled from India is taxa case of only not ordinarily resident.
8. Income which accrues or arises outside India and also received outside India is taxable in ca of both ordinarily resident and not ordinarily resident.
9. Total income of a person is determined on the basis of his citizenship in India.
10. Residential status of a person may change from year to year.
11. An Indian citizen may be a non-resident in India.
12. Residential status is important in deciding whether indian income of a person is taxable or n
13. A person is deemed to be of "Indian origin", if his father was born in Pakistan.
14. A person is deemed to be of "Indian origin", if his mother was born in Nepal.
15. A person is deemed to be of "Indian origin", if his grand-mother was born in Bangladesh.
16. A person is deemed to be of "Indian origin", if his grand-father was born in Sri Lanka.
17. While counting the number of days for determining residential status, a stay in a cruise bo anchored in the Mumbai Port is treated as stay in India.
18. Indian income is taxable in all cases, whether of an ordinary resident, or a not-ordinary reside or a non-resident.
19. Foreign income of an ordinary resident is wholly taxable.
20. Foreign income of a non-resident is not taxable at all.
21. Income accruing outside India will be deemed to be received in India if it is included in a balanc sheet prepared in India.
22. If an income is included in the total income of a person on the basis of accrual, it may be included again on the basis of its receipt in subsequent period.

9.5 CHECK YOUR ANSWERS

9.1

1.	(a)	4.	(b)	7.	(c)	10.	(b)	13.	(c)	16.	(c)	19.	(c)						
2.	(d)	5.	(b)	8.	(d)	11.	(b)	14.	(a)	17.	(a)								
3.	(a)	6.	(a)	9.	(c)	12.	(a)	15.	(c)	18.	(b)								

Hints :

17. Indian citizen leaving for business, not employment.

18. 729 days in preceding 7 years.

19. Stay in PY 180 days.

9.2 (1) Parents; Grand parents (2) Residents; Not ordinarily residents (3) Non-resident (4) 5 (5) 6
9.3 1 - (f), 2 - (d), 3 - (e), 4 - (g), 5 - (a), 6 - (c)
9.4 **True :** 2, 6, 10, 11, 13, 15, 17, 18, 19, 20
False : 1, 3, 4, 5, 7, 8, 9, 12, 14, 16, 21, 22

4. ***False;*** During Previous Year
5. ***False;*** all the assesses
7. ***False;*** both ordinarily resident and not ordinarily resident
8. ***False;*** resident only
9. ***False;*** residential status in India
12. ***False;*** Residential status is important in deciding whether *foreign* income of a person is taxable or not.
21. ***False;*** Income accruing outside India will not be deemed to be received in India merely because it is included in a balance sheet prepared in India - Explanation 1 to S.5.
22. ***False;*** Once an income is included in the total income of a person on the basis of accrual, it cannot be included again on the basis of its receipt in subsequent period (Explanation 2 to S.5).