

Residential Status and Tax Liability

The scope of total income depends on the residential status of the assessee in the previous year. Therefore, the provisions of the Act relating to the residential status are important.

Determination of Residential Status

On the basis of residential status assessee are divided in three categories.

1. Resident.
2. Not-ordinarily resident.
3. Non-resident.

Residence of an Individual

1.
 - (a) Stay in India for 182 days or more in the previous year.
 - (b) Stay in India for 60 days or more in previous year, and stay in India for 365 days or more in the four preceding previous years.
Note: 60 days in respect of 182 days for following cases-
 - (i) A citizen who leaves India during the previous year for employment outside India or
 - (ii) A citizen person of Indian origin who being outside India, comes to visit to India during the previous year.
2. If he completed condition (1) at least 2 years out of 10 years preceding previous year.
3. If he was in India for at least 730 days in the 7 years preceding previous year.
 - (i) *Resident*: If assessee fulfilled all three conditions, he is called resident.
 - (ii) *Not-Ordinarily Resident*: If assessee completed first condition but not remaining, he is called Not-ordinarily resident.
 - (iii) *Non-Resident*: If assessee not completed first condition, he is called non-resident.

Residence of Hindu Undivided Family

1. Control and management of its affairs is situated wholly or partly in India during the previous year.
2. Its Karta was resident in 2 out of preceding 10 previous years.
3. Karta was in India for at least 730 days in the preceding 7 previous years.
4. *Resident*: If the above all conditions are fulfilled by the assessee, he is called resident.
5. *Not-Ordinarily Resident*: If assessee fulfilled first condition but not remaining, he is called not-ordinarily resident.
6. *Non-Resident*: If assessee not fulfilled first condition, he is called non-resident.

Residence of Firm

Firm always *Resident* except if the control and management of its affairs is situated wholly outside India during the previous.

Residence of Company

- (a) If it is an Indian company.
 - (b) Control and management is situated wholly in India during the previous year.
- (i) *Resident*: If the company fulfills the above conditions, it is called resident.
 - (ii) *Non-Resident*: If none of the above conditions is fulfilled during the previous year, it is called non-resident.
 - (iii) *Any Other Person*: Resident except if the control and management of its affairs is situated wholly outside India during the previous year.

Incidence of Tax on the Basis of Residence

S.No.	Particular of Income	Resident	Not ordinarily Resident	Non-Resident
1.	Income accrued and received in India	Taxable	Taxable	Taxable
2.	Income accrued in India but received outside India.	Taxable	Taxable	Taxable
3.	Income accrued outside India but received in India.	Taxable	Taxable	Taxable
4.	Income accrued and received outside India.	Taxable	Tax Free	Tax Free
5.	Income from business and profession Establish outside India but control in India.	Taxable	Tax Free	Tax Free
6.	Past untaxed foreign Income brought into India previous years.	Tax Free	Tax Free	Tax Free