## JAYOTI VIDYAPEETH WOMEN'S UNIVERSITY, JAIPUR



Government of Rajasthan established Through ACT No. 17 of 2008 as per UGC ACT 1956 NAAC Accredited University

## FACULTY OF LAW AND MANAGEMENT

Date- 24.05.2024

Faculty Name- JV Bhupendra Singh Bisht (Professor & HOD Department Commerce & Management)

Program- B. COM (Hons.) Sem. – IV Subject- Direct Tax (Income Tax) (Assessment Year 2024-25)

Title- Residential Status and Tax Liability (Determination of Residential Status)

## Types of taxes:

- 1. Direct Tax: Tax which is directly paid by the assesses is known direct tax. i. e. Income tax, Gift tax, Wealth tax etc.
- 2. Indirect Tax: Tax which is not paid directly by the assesses is known as indirect tax i. e. GST etc.

# Heads of Income

1.	Income from Salary xx:	
2.	Income from House Property	XXXX
3.	Income from Business Profession xxx	
4.	Income from Capital Gain	XXXX
5.	Income from Other Sources	xxxx
	Gross Total Income	XXXX
	Less: Deductions U/S 80	xxxx
	Total Taxable Income	XXXX

# <u>Assessment of Tax</u>

- Assessment of Individual
- Assessment of Hindu undivided family
- Assessment of Firm
- Tax deduction at source
- Advance Tax
- Tax Refund

# 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 visitto India during the previous year.
- 2. If he completed condition (1) at least 2 years out of 10 years preceding previousyear.
- 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 theprevious 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 calledresident.
- 5. *Not-Ordinarily Resident:* If assessee fulfilled first condition but not remaining, heis 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 previousyear, it is called non-resident.
- (iii) Any Other Person: Resident except if the control and management of its affairs issituated wholly outside India during the previous year.

## Incidence of Tax on the Basis of Residence

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