

Topic: Residential Status

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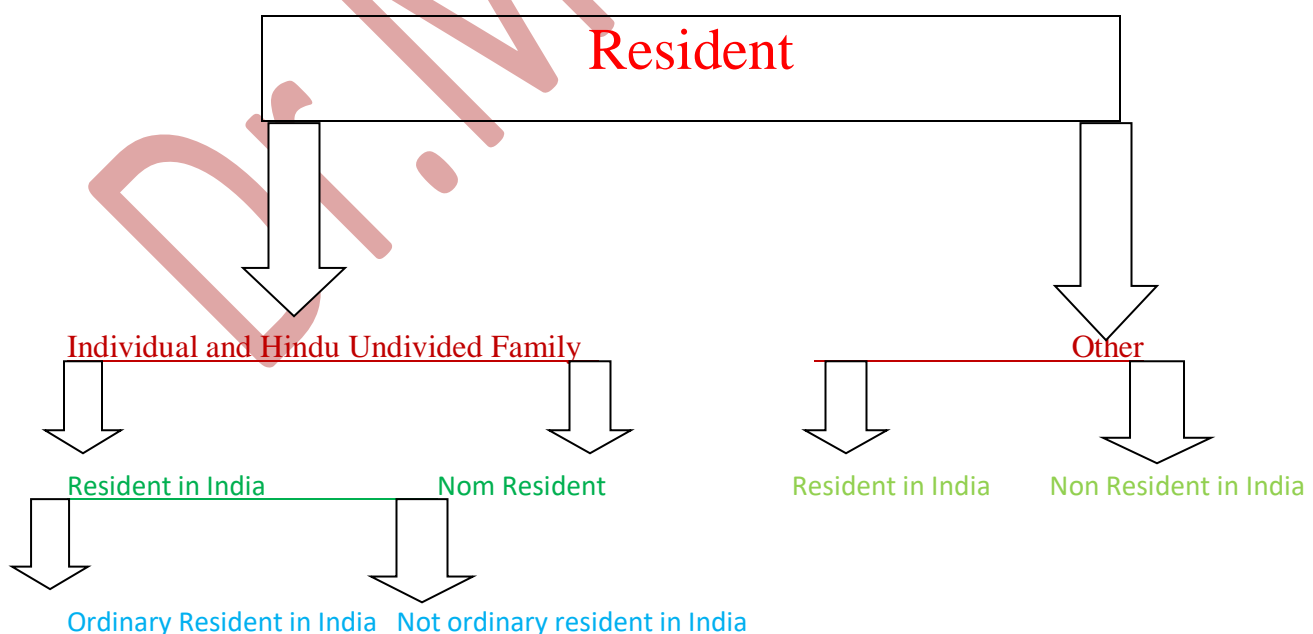
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Introduction

Residential status of an assessee determines the scope of chargeability of his income. Whether a person will be charged to a particular income or not, depends on his residential status. Sec. 6 provides the test for residential status for the persons which can be categorized as under



GENERAL POINTS TO BE KEPT IN MIND REGARDING RESIDENTIAL STATUS OF A PERSON

Different for each previous year: Residential status is determined in respect of each previous year. In other words, residential status of a person may vary from one previous year to another previous year.

Single Status for each source of income: A person can have only one residential status for a previous year i.e. he cannot be a resident for one source of income and non-resident for another source.

Impact of citizenship: Citizenship and residential status are two different concepts. A citizen of India may not be a resident in India for the purpose of income-tax.

Country Specific: A person can have same residential status in more than one country.

DETERMINATION OF RESIDENTIAL STATUS

INDIVIDUAL [SEC. 6(1)]

In the above flow chart it is cleared that first of all, an individual is classified as resident or non-resident and again a resident individual may further be categorized as Ordinarily Resident or Not Ordinarily Resident in India.

Resident in India An individual is said to be a resident in India, if he satisfies any one of the following conditions –

- i) He is in India in the previous year for a period of 182 days or more [Sec. 6(1)(a)];
 - ii) or ii) He is in India for a period of 60 days or more during the previous year and for 365 or more days during 4 previous years immediately preceding the relevant previous year [Sec. 6(1)(c)]
- Tax point: Given Conditions are alternative in nature i.e. assessee needs to satisfy any one condition.

Non-Resident in India

An assessee who is not satisfying sec. 6(1) shall be treated as a non-resident in India for the relevant previous year

Illustration 1

Mr Raman came to India first time during the P.Y. 2019-20. During the previous year, he stayed in India for (i) 50 days; (ii) 183 days; & (iii) 153 days. Determine his residential status for the A.Y. 2020-21.

Solution

- (i) Since Mr. Raman resides in India only for 50 days during the P.Y. 2019-20, he does not satisfy any of the conditions specified in sec. 6(1). He is, therefore, a non-resident in India for the P.Y. 2019-20.

- (ii) (ii) Since Mr.Raman resides in India for 183 days during the previous year 2019-20, he satisfies one of the conditions specified in sec. 6(1). He is, therefore, a resident in India for the P.Y. 2019-20.
- (iii) Mr.Raman resides in India only for 153 days during the previous year 2019-20. Though he resided for more than 60 days during the previous year but in 4 years immediately preceding the previous year (as he came India first time), he did not reside in India. Hence, he does not satisfy any of the conditions specified in sec. 6(1). Thus, he is a non-resident for the P.Y. 2019-20.

Illustration 2

Mr.John, a British national, comes to India for the first time during 2015-16. During the financial years 2015-16, 2016-17, 2017-18, 2018-19 and 2019-20, 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 2020-21.

Solution

During the previous year 2019-20, Mr.John 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	Total No. of days stayed in India
2015-16	55
2016-17	60
2017-18	80
2018-19	160
Total No. of days stayed in India	355

Thus, he does not satisfy Sec.6 (1) & consequently, he is a non-resident in India for the P.Y. 2019-20

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