

CHAPTER 2

RESIDENTIAL STATUS

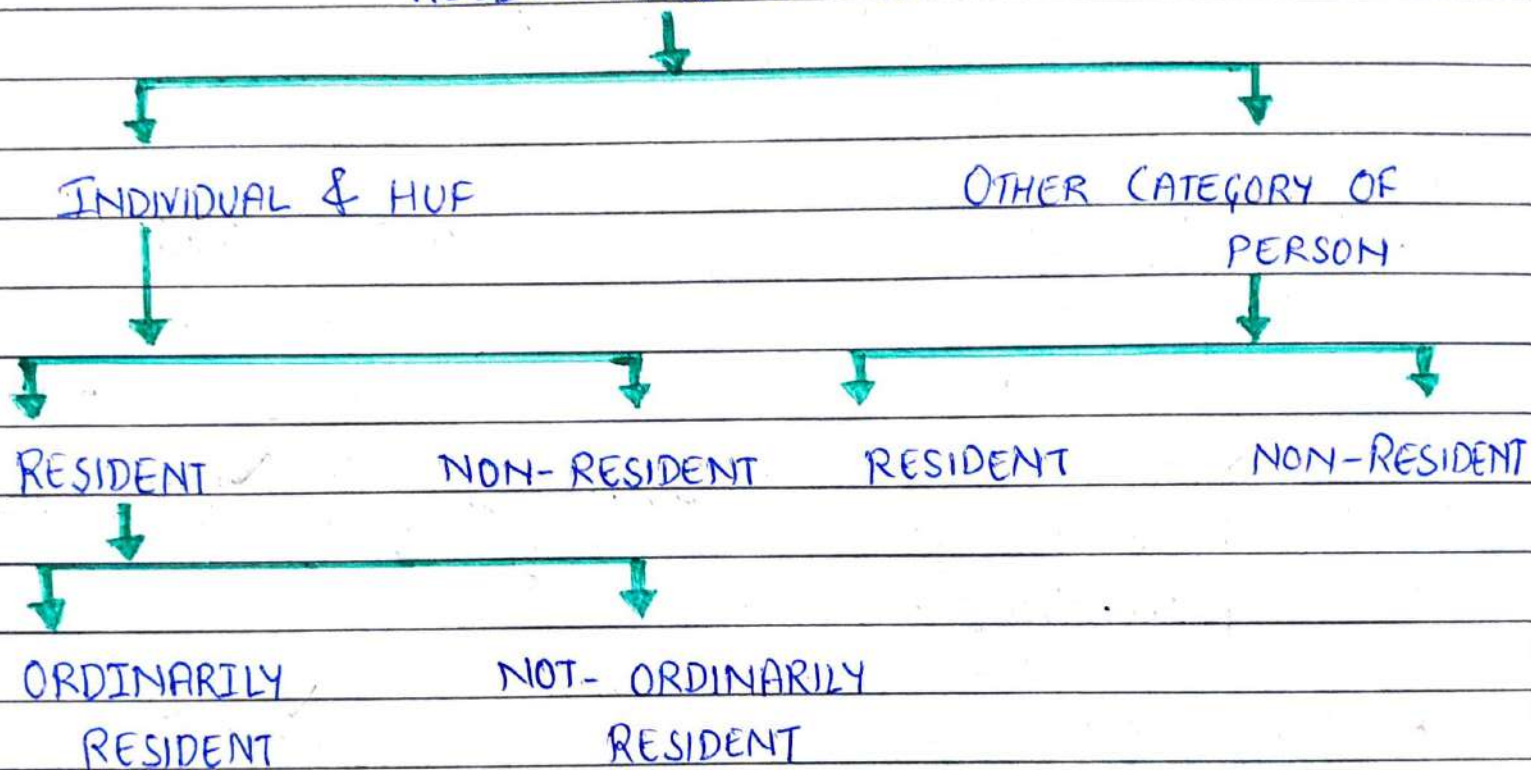
BASIC RULES FOR DETERMINING RESIDENTIAL STATUS OF AN ASSESSEE

- (1) Residential Status is determined for each category of persons separately.
- (2) Residential status is always determined for the previous year.
- (3) Residential status of a person is to be determined for every previous year separately.
- (4) A person may be a resident of more than one country for any previous year.
- (5) Citizenship of a country and residential status of that country are separate concepts.
- (6) Relevant previous year means the previous year for which the residential status is being determined.
- (7) In computing the period of stay in India, it is not necessary that the stay should be for a continuous period and only at one place.

(8) In computing the period of stay in India, the day the individual enters India and the day he leaves India should both be treated as stay in India.

(9) Place and purpose of stay in India is immaterial.

RESIDENTIAL STATUS



RESIDENTIAL STATUS (Period of stay in India in previous year)

TOTAL TAXABLE INCOME (Includes 5 heads)

TAX LIABILITY

RESIDENTIAL STATUS OF AN INDIVIDUAL

[Section 6(1)]

Resident

Non-Resident

[Any one of the following conditions must be fulfilled]

He stayed in India for:

(1) 182 days or more in the relevant previous year. (19-20)

OR

(2) a. 60 days or more in the relevant previous year. (19-20)

AND

15-16 b. 365 days or more during
16-17
17-18 ← 4 previous years immediately
18-19 preceding the relevant previous year.

IF
(CONDITIONS
NOT-
FULFILLED

IF FULFILLED
(MOVE TO (CONDITIONS
OF ORDINARILY
RESIDENT)

* WHEN CONDITION NO. 2 IS NOT APPLIED

- (i) In case of an individual, who is a citizen of India and who leaves India in any previous year for the purpose of employment outside India.
- (ii) In case of an individual, who is a citizen of India and who leaves India in any previous year as a member of the crew of an Indian ship.

(iii) In case of an individual, who is a citizen of India, or is a person of Indian origin, who, being outside India, comes on a visit to India in any previous year.

he,
or either of his parents
or any of his grandparents

RESIDENT

ORDINARILY RESIDENT

NOT ORDINARILY RESIDENT

[Both of the following conditions must be fulfilled]

(1) He has been resident in India for at least 2 out of 10 previous years immediately preceding the relevant previous year.

AND

(2) He has been in India for 730 days or more, during 7 previous years immediately preceding the relevant previous year.

IF
CONDITIONS
NOT-
FULFILLED

19-20 (R.P.Y.)

14-15

09-10

18-19

13-14

17-18

12-13

16-17

11-12

15-16

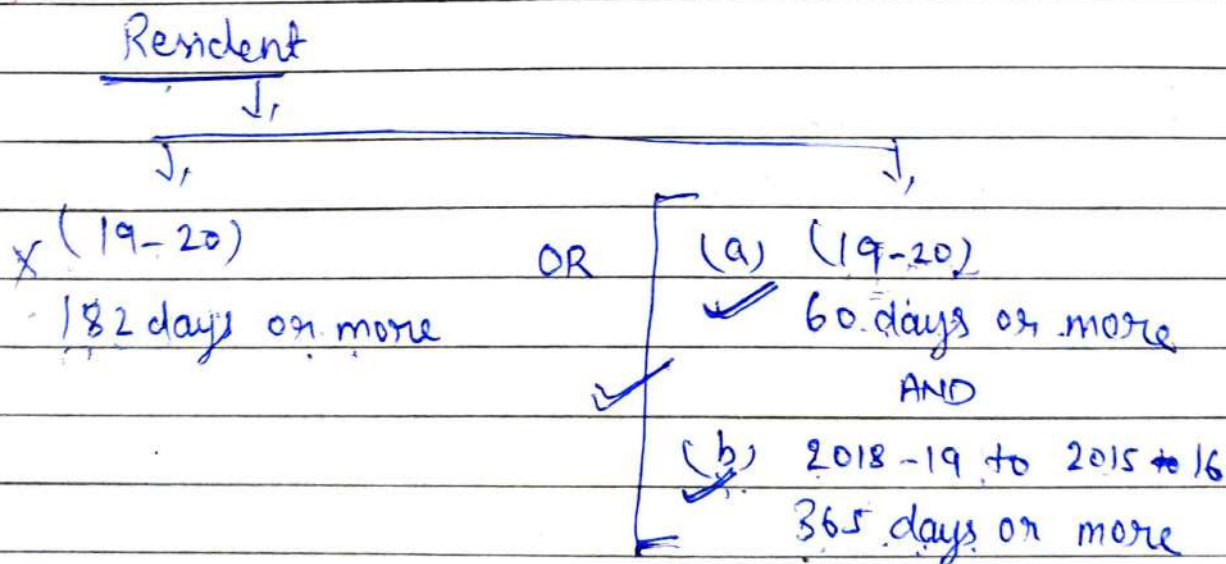
10-11

Ques. During the previous year 2019-20, X, stayed in India for 69 days.

Determine his residential status for the assessment year 2020-21 on the basis of the following information :

- (i) During 2017-18, he was in India for 276 days.
- (ii) During 2016-17, he was present in India for 90 days.
- (iii) During 2013-14 and 2012-13, X was in India for 359 and 348 days respectively.
- (iv) Earlier to 2012-13 he had been regularly coming to India for 100 days every year.

Sol.



2018-19 → NIL

2017-18 → 276

2016-17 → 90

2015-16 → NIL

366 days

✓ Resident

↓

Ordinary

Conditions for ordinary resident in India

✓ 2 out of 10 PY
(Resident)

[ANID]

✓ 7 PY, stay in India
730 days or more

2018-19 → NIL (NR)

2017-18 → 276 days (Resident)

2016-17 → 90 days

2015-16 → NIL

2014-15 → NIL

2013-14 → 359 (Resident)

2012-13 → 348 (Resident)

1073 days

'X' is resident & ordinary resident in India during previous year 2019-20.

RESIDENTIAL STATUS OF HUF

Resident

(Control & Management is wholly or partially in India)

Non-Resident

(Control & management is wholly outside India)

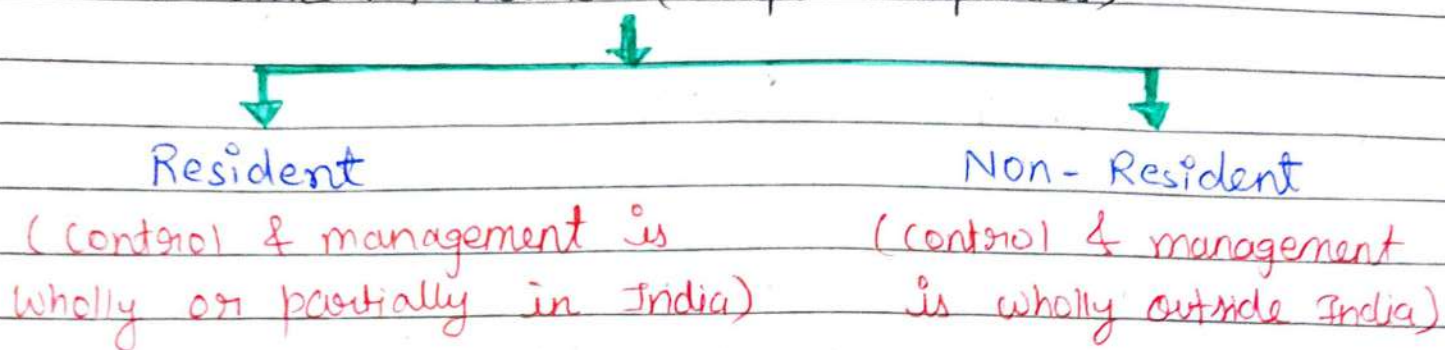
Ordinary

[KARTA]

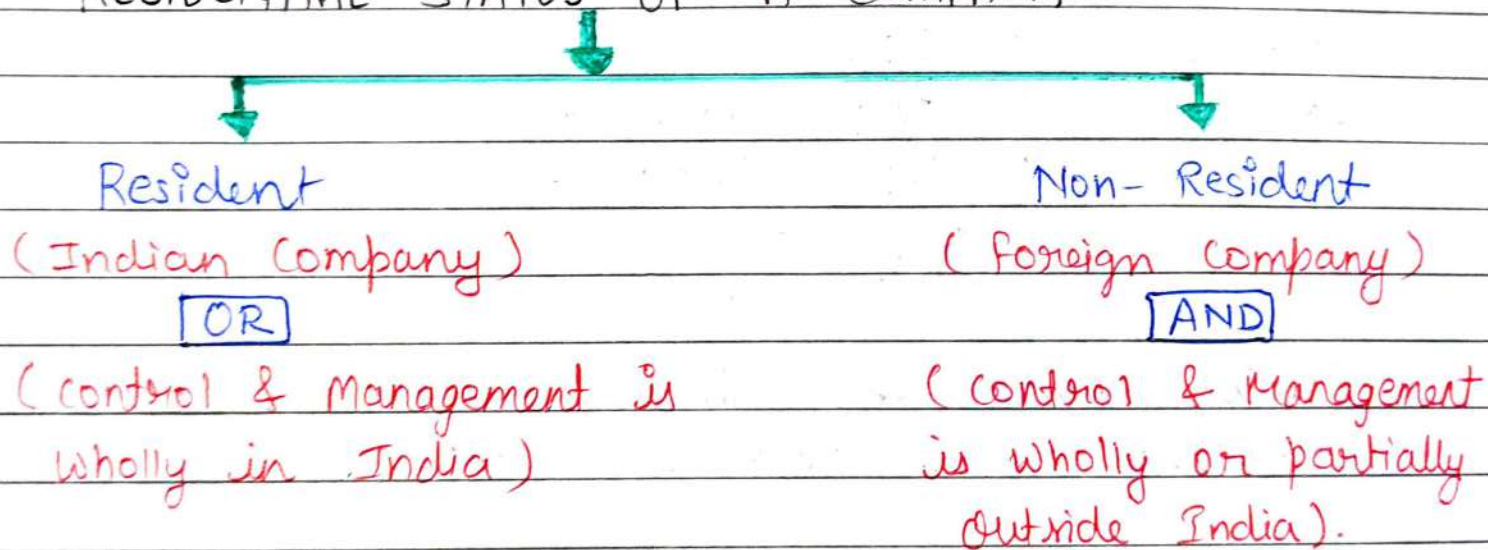
Not-Ordinary

(Same as in case of Individual)

RESIDENTIAL STATUS OF FIRM, AOP, BOI AND OF OTHER PERSONS (except companies)



RESIDENTIAL STATUS OF A COMPANY



2.10 The provisions regarding incidence of tax above may be summarised in the following table:

Particulars of Income	Whether taxable		
	Resident and ordinarily resident	Not-ordinarily Resident	Non-Resident
1. Income received or deemed to be received in India whether earned in India or elsewhere.	Yes	Yes	Yes
2. Income which accrues or arises or is deemed to accrue or arise in India during the previous year, whether received in India or elsewhere.	Yes	Yes	Yes
3. Income which accrues or arises outside India and received outside India from a business controlled from India.	Yes	Yes	No
4. Income which accrues or arises outside India and received outside India in the previous year from any other source.	Yes	No	No
5. Income which accrues or arises outside India and received outside India during the years preceding the previous year and remitted to India during the previous year.	No	No	No

Highlights of provisions of incidence of tax: An analysis of the above provisions would highlight the following:

- Any income which is either received in India or deemed to be received in India is taxable in India, irrespective of the residential status.
- Any income which is either earned in India or is deemed to be earned in India is taxable in India, irrespective of the residential status.
- For a Resident in India (for individual & HUF, resident and ordinarily resident in India) all global income, wherever earned/received is taxable in India.
- For a non-resident, an income is taxable only if it is either earned in India or it is received in India.
- For not ordinarily resident, income earned and received outside India will be taxable, only when it is from a business or profession controlled or set up in India.