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Last updated at May 29, 2018 by Teachoo If control and management wholly outside India, then it is considered Non Resident Otherwise, it is a Resident If Karta ROR : HUF also ROR If Karta RNOR : HUF also RNOR QUESTIONS Q1 The business of a HUF is transacted from Australia and all the policy decisions are taken there. Mr. E, the karta of the HUF, who was born in Kolkata, visits India during the P.Y. 2015- 16 after 15 years. He comes to India on 1.4.2015 and leaves for Australia on 1.12.2015. Determine the residential status of HUF for A.Y. 2016-17 View Answer Since control and management is outside India,HUF is a Non Resident Q2 What if some of the policy decisions taken in Australia and some in India View Answer Step 1 In this case ,since control and management of HUF is partly in India ,it is a Resident. Step 2 Determining ROR OR RNOR Karta has stayed in India for 245 days (i.e. 30+31+30+31+31+30+31+30+1 days) during 2015-16,hence Karta is a Resident But since he has come into Indihe does not satisfy condition for ROR (Resident for atleast 2 years in last 10 years + Stays in India for 730 Days in Last 7 years) Hence Karta is a RNOR Since Karta is an RNOR, HUF is also RNOR -ea- Solve all your doubts with Teachoo Black (new monthly pack available now!) Example : Mr.Dust left India for the first time on November 25, 2015 for meeting his friends. During the calendar year 2016 he came to India on September 1 and stayed for a period of 10 days. During the calendar year 2017, he did not visit India at all but finally came to India on January 16, 2018. Determine the residential status of Mr. Dust for the assessment year 2018-19. Solutions : During the previous year 2017-18, the assessee was in India for 75 days and during the four years preceding the previous year, he was in India for 979 days (10 days during 2016-17, 239 days during 2015-16, 365 days during 2014-15 and 365 days during 2013-14). Thus, he satisfies one of the conditions laid down in section 6(1) for being treated as resident in India. In addition, the assessee also satisfies the two additional conditions laid down in section 6(6) as he was resident in India in 2 years out of 10 years immediately preceding the previous year 2017-18 (during the period 2007-2017 he was resident in India in all the years except 2016-17) and during 7 years immediately preceding the previous year 2017-18, he was in India for more than 730 days. He will, therefore, be treated as Resident and Ordinarily Resident in India for the assessment year 2018-19. Thank you for interesting in our services. We are a non-profit group that run this website to share documents. We need your help to maintenance this website. To keep our site running, we need your help to cover our server cost (about \$400/m), a small donation will help us a lot. Please help us to share our service with your friends. 7 Mins Share The residential status of a taxpayer is important because the income tax department provides for a different tax treatment for its taxpayers. Hence, it is imperative for every taxpayer to determine their residential status before doing their tax planning, computing tax payable, and tax filing. The residential status of an individual taxpayer is different from the citizenship status in the country. The Income Tax Act, 1961 provides detailed prescribed rules for determining the status. A citizen of India may not be a resident of India and a foreign citizen may be a resident of India for the purpose of taxation. The resident determination terms are separate for each taxpayer such as individual, HUF, company, BOU, AOP, firm. Depending on the residential status the following is determined Income tax payableTax exemptionsTax deductionIncome tax return The Income Tax Act, 1961 provides the following types of residential statuses depending on the stay of the individual taxpayer in the country, incorporation, and annual income. ResidentResident Not Ordinarily Resident (RNOR)Non-Resident (NR) An individual taxpayer will be considered as a resident if he/ she fulfills the following conditions: He/ she stays in India for 182 days or more during the financial year, orHe/ she stays in India for 365 days or more during the 4 preceding financial years. In addition, stays for a period of 60 days or more in the relevant financial year Type of IndividualIndividual who leaves India for employmentIndividual who lives abroad but visits IndiaSituationA citizen of India, who leaves India in any financial year as a member of the crew of an Indian ship or for the purposes of employment outside IndiaBeing a citizen of India, or a person of Indian origin being outside India, comes on a visit to India in any financial yearCondition To Be ResidentHe/ she stays in India for 182 days or more during the financial yearHe/ she stays in India for 365 days or more during the 4 preceding financial years. In addition, stays for a period of 182 days or more in the relevant financial yearOther ConditionIf the individual earns a total income exceeding Rs 15 lakhs during the relevant financial year. Such income excludes any income from foreign sources.The following condition to be satisfied to be a resident:He/ she stays in India for 182 days or more during the financial yearHe/ she stays in India for 365 days or more during the 4 preceding financial years. In addition, stays for a period of 182 days or more in the relevant financial year An individual, being a citizen of India, shall be deemed to be a resident of India if he is not liable to tax in any other country or territory. The deemed residential status is applicable if the individual earns total income, other than the income from foreign sources, exceeding fifteen lakh rupees during the relevant financial year. Such non taxability in any other country or territory would be by reason of his domicile or residence or any other criteria of similar nature. The following taxpayers must fulfill the following criteria to be eligible for a residence of India for the purpose of taxation. Type of TaxpayerCondition To Be FulfilledHindu undivided familyResident in India in any financial year in every case except where during that year the control and management of its affairs is situated wholly outside India.Firm or other association of personsResident in India in any financial year in every case except where during that year the control and management of its affairs are situated wholly outside India.CompanyIt is an Indian company; orIts place of effective management, in that year, is in IndiaThe place of effective management means a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance, made. If an individual qualifies to be a resident of India, then he/ she must proceed and find out whether he/ she is a ROR or RNOR. A taxpayer is a "not ordinarily resident" in India in any previous year if such a taxpayer is: TaxpayerCondition To Be FulfilledIndividualSuch individual has been a non-resident in India in 9 out of the 10 previous years preceding the relevant financial yearORSuch individual has during the seven previous years preceding the relevant financial year been in India for 729 days or lessCitizen of India, or a person of Indian originSuch individual has a total income, other than the income from foreign sources, exceeding Rs 15 lakh rupees during the relevant financial yearSuch individual has been in India for 129 days or more but less than one hundred and eighty-two daysCitizen of IndiaSuch an individual who is deemed to be resident in India Important Definitions The income from foreign sources is the income that accrues or arises outside India. However, such income excludes income derived from a business controlled in or a profession set up in India and which is not deemed to accrue or arise in IndiaThe relevant financial year is the year for which the residential status is being determined. Any taxpayer who is neither a resident nor a resident not ordinarily resident is considered as a non resident. Conclusion The residential status depends on the period of stay. The following table will help in understanding the relevance of the number of days of stay. Period of stayTotal Income (Excluding Foreign Income)Residential Status182 days or moreLess than Rs 15 lakhsResident182 days or moreMore than Rs 15 lakhsResident20 days or more but less than 182 daysMore than Rs 15 lakhsResident Not Ordinarily Resident RNOR120 days or more but less than 182 daysLess than Rs 15 lakhsNon ResidentLess than 120 daysMore than Rs 15 lakhsNon ResidentLess than 120 daysLess than Rs 15 lakhsNon Resident Frequently Asked Questions What is my residential status if I live in India? If you are living in India in the relevant financial year for 182 days or more then you are a resident of India. Moreover if you have stayed in India for 365 days or more during the 4 preceding financial years. In addition, stays for a period of 60 days or more in the relevant financial year then as well you are a resident. Who is a non-resident Indian? A non-resident Indian is an individual who is neither a resident nor a resident not ordinarily resident is considered as a non resident. What are the types of residential status? The types of residential statuses are resident, non-resident NR, resident not ordinarily resident RNOR, and resident ordinarily resident ROR. Is residential status relevant for determining the tax liability of the taxpayer? Yes, residential status is relevant for determining the tax liability of the taxpayer. The taxability of any income in the hands of a taxpayer depends on the residential status of the taxpayer as per the Income-tax Law, and the nature of income earned by him. Will a person holding citizenship of India be automatically treated as a resident of India for the purpose of taxation? No, simply by having citizenship of India a taxpayer cannot be considered as a resident. For the purpose of taxation, he/ she must determine the residential status as per Section 6 of the Income tax Act, 1961. Moreover, the taxability differs for each type of residential status. Hence, it is important to know the residential status before filing the income tax return.

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