

# Income tax

# Income Tax Act

- Income Tax Act 1961, came into force from 1<sup>st</sup> April 1962.
- Comprehensive Act with 298 sections and XII schedules.
- Applies to whole of India.

# Assessment

- Procedure by which the income of an assessee is determined by the Assessing Officer.
- Normal Assessment
- Reassessment

## **Assessee [Sec 2(7)]**

- A person by whom any tax or other sum of money is payable.

## **Assessment year [Sec 2(9)]**

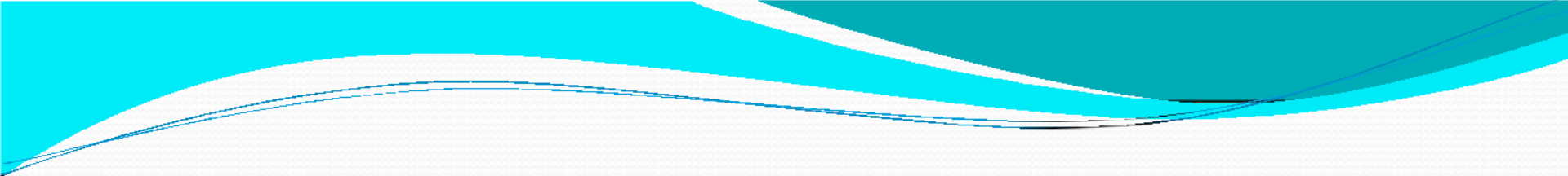
- The period of twelve months beginning from 1<sup>st</sup> April every year and ending 31<sup>st</sup> March of the immediately following year.

## **Previous year [Sec 3]**

- Income earned in a year is taxable in the next year.
- The year in which income is earned is known as Previous year.

# Scope of Income

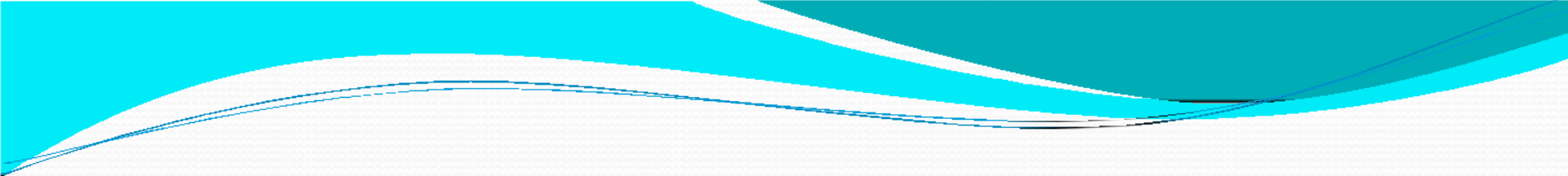
- Income tax is chargeable on 'Income' not on 'every Receipt'.
- Receipts are two types:
  - Revenue Receipts
  - Capital Receipts
- Taxable income is computed by deducting revenue expenses from revenue receipts.

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- **All revenue receipts are taxable** after adjusting allowable revenue expenses **unless** the receipts are **expressly exempt from tax**
  
  - **Capital receipts are usually exempt from tax** unless they are **expressly taxable.**

# Guidelines to distinguish Capital and

## Revenue Receipts:

- 1) **Receipt of income as lump sum** or in instalments will not make any difference in its nature .
- 2) **Nature of Receipt** whether its revenue or capital will be ascertained in the heads of the persons receiving .
- 3) **Quantum, i.e the magnitude** of the amount is **immaterial** in deciding the nature of receipt.
- 4) **Accounting treatment** in the books or **the terms used** by the recipient or payer in their Books of Accounts is also immaterial.

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- 5) The **nature** of receipt shall be decided at the **time of receipt**, Not when it is utilised.
- 6) **Legal obligation** whether the income is voluntary payment or under legal obligation does not make any difference.
- 7) **Disallowance of receipt** – the amount paid even it is not allowed as deduction in payer's assessment. It will not determine the nature of receipt in hands of recipient.



# Features or Characteristics

## Capital Receipts

1. Income referable to fixed asset.
2. Termination of source of income.
3. Compensation on surrender of a right.
4. Receipts as substitute for source of income
5. Fixed capital
6. Insurance receipts relating to capital assets

## Revenue Receipts

1. Receipt relating to a circulating asset.
2. Receipt for substitution of income.
3. Purpose of keeping an article(for sale)
4. Receipt for surrender of future profits
5. Lump sum paid in commutation of periodic payments.
6. Subsidies or grants from govt. In the normal course of operation.
7. Insurance receipt relating to fluctuating assets.

# Residential status or basis of charge Taxable entities

- Individual
- HUF (Hindu Undivided Families)
- AOP (Association of Persons)
- Joint stock company
- Every other person

# Classification of Residential status of Taxable Entities

## Individuals & HUF

- Resident and ordinarily resident in India
- Resident but Not ordinarily resident in India
- Non-Resident in India

Individual Assessee

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graph TD; A[Individual Assessee] --> B[Resident]; A --> C[Non-Resident]; B --> D[Ordinarily Resident]; B --> E[Not Ordinarily Resident];
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Resident

Non-Resident

Ordinarily Resident

Not Ordinarily Resident

# All other Assesseees

[Firms, AOP, JSC and every other person]

➤ Resident in India

or

➤ Non-Resident in India

# Resident

An Individual is said to be **resident in India** if he satisfies **any one of the basic condition.**

a) An individual is in India during the relevant previous year for a period amounting in all to **182 days** or more.

Or

b) An individual is in India for a period or periods amounting in all to **365 days** or more during the **4 years preceding the “relevant previous year”** and he is in India for a period of **60 days or more during the “previous year”**.

## □ **Additional conditions for Ordinarily Resident**

1. He has been resident in India in at least **Two out of the Ten previous years** preceding the relevant previous year.
2. He has been in India for at least **730 days in all during the Seven previous years** preceding the relevant previous year.

# Resident but not Ordinarily Resident

- ✓ Satisfying any one the basic condition

and

- ✓ One or none of the two additional condition.





## Non- Resident

If an Individual not satisfy any  
basic condition – **NON**  
**RESIDENT**

## **Resident and Ordinarily resident:**

- 1. Mr.Rajan left for Singapore on 15-3-2017 after staying in India for 15years. He returned India on 31-8-2019. what will be his residential status for the assessment year 2020-2021?**

## Solution:

Determination of Residential status of Mr.Rajan:

Assessment year : 2020-2021

Previous year : 2019-20

Staying in India during the previous year: 31.08.2019 – 31.03.2020

= 30+31+30+31+31+29+31

= 213 days.

**A) First Basic condition** under Sec 6(1) of 182 days or more stay is satisfied.

Mr.Rajan is 'Resident'.

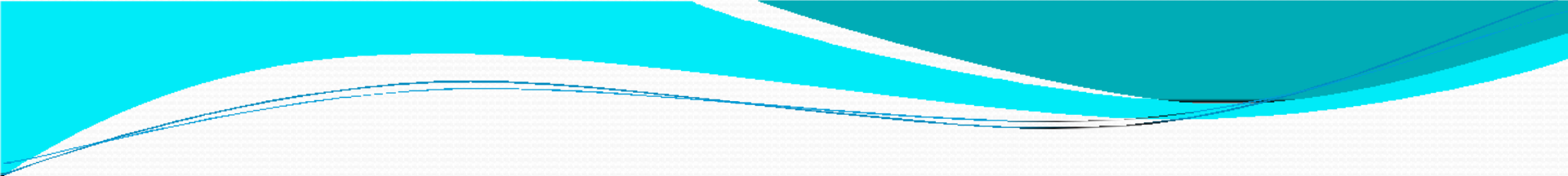
**B) Addition conditions for 'Ordinarily Resident':**

i) Addition condition (i) of being resident for 2 years out of 10 years preceding the previous year.

ii) Stay in India for 730 days during 7 years preceding the previous year is satisfied.

## Conclusion:

Mr.Rajan is 'Resident' and 'Ordinarily Resident' under Sec 6(1) for the assessment year 2020-2021.



Mr.Rajendran left for U.S.A along with his family, for the first time, on 14-10-2019. He returned India on 31-5-2020. Determine his residential status for the assessment year 2020-2021.

## SOLUTION:

Assessment year : 01.04.2020 – 31.03.2021

Previous year : 01.04.2019 – 31.03.2020

Stay in India during the P.Y

From : 1.4.2019 – 14.10.2019

$$= 30+31+30+31+31+30+14$$

$$= 197 \text{ days}$$

First Basic condition under **Sec 6(i) of 182 days** or more stay is **satisfied**. So Mr.Rajendran is 'Resident'.

## Additional conditions:

- (i) Additional condition (1) of being resident for 2 out of 10 years preceding the previous year is satisfied. Because he left India for the First time on 14.10.2019.
- (ii) Additional condition (ii) of stay for 730 days during 7 years preceding the previous year is also satisfied.

## Conclusion:

Mr.Rajendran is **‘Resident’ and ‘Ordinarily Resident’** under sec.6(1) for the assessment year 2020-2021.



2. Mr. X an Indian citizen and a businessman left India on 1-7-2019 on a business trip to Canada. In the past four years his stay in India was as follows:

- Previous year 2018-19: 1<sup>st</sup> Aug 2018 to 5<sup>th</sup> Feb 2019
- Previous year 2017-18: 1<sup>st</sup> Sept 2017 to 10<sup>th</sup> March 2018
- Previous year 2016-17: 1<sup>st</sup> June 2016 to 31<sup>st</sup> Dec 2017
- Previous year 2015-16: 1<sup>st</sup> May 2015 to 5<sup>th</sup> Dec 2016

He was never out of India prior to 2015-2016. Determine the residential status of Mr. X for the A.Y.- 2020-2021.

## Solution :

### Determination of Residential status of Mr.X:

**Assessment year: 2020 – 2021**

**Previous year: 2019 – 2020**

Stay in India during the previous year:-

left : 1.07.2019

P.Y : 1.4.2019 – 1.07.2019

= 30+31+30+1

= 92 days

2018-2019 = 1.08.2018 – 5.2.2019

= [31+30+31+30+31+31+5] = 189 days.

2017-2018 = 1.09.2017 – 10.03.2018

= [30+31+30+31+31+28+10] = 191 days.

2016-2017 = 1.06.2016 – 31.12.2016

= [30+31+30+31+30+31+31] = 214 days.

2015-2016 = 1.05.2016 – 5.12.2016

= [31+30+31+31+30+31+30+5] = 219 days.

**Total = 813 days.**



**Basic condition** under Sec 6(ii) for 60 days stay in India preceding P.Y and 365 days in 4 years is satisfied.

So, he is 'Resident'.

**Addition conditions for 'Ordinarily Resident':**

- i) Addition condition (i) of being resident for 2 years out of 10 years preceding the previous year.
- ii) Stay in India for 730 days during 7 years preceding the previous year is satisfied.

**Conclusion:**

Mr. Rajan is 'Resident' and 'Ordinarily Resident' under Sec 6(1) for the assessment year 2020-2021.

# Resident but Not Ordinarily Resident:

- 3. Mr. Arun is an Indian citizen. What is his residential status for Assessment year 2020-2021?

□ Mr. Arun's stay in India as follows:

Previous year	Presence in India
2019-2020	185 days
2018-2019	15 days
2017-2018	26 days

10 years prior to 2017-2018, he was in India for 20 days.

## **Solution:**

### **Determination of Residential status of Mr.Arun:**

Mr.Arun stay in India 185 days in current previous year.

**First basic condition** of stay in India 182 days or more is satisfied.

So, Mr.Arun is 'Resident'.

Addition conditions for Ordinarily Resident:

Year	No.of.days present in India	Residential status	Minimum no.of.days stay to become resident
2018-2019	15 days	Non resident	182
2017-2018	26 days	Non resident	182
2016-2017	20 days	Non resident	182

Both the additional conditions are not satisfied. Since he is non-resident in previous 10 years.

So, he is 'Resident' but 'Not-Ordinarily resident'.



4. William a foreign national came to India for the first time on 13<sup>th</sup> September 2019. He leaves India on 27<sup>th</sup> April 2020. Determine his residential status for the P.Y- 2019-2020.

## Solution:

### Determination of Residential status of Mr. William:

Assessment year: 2020-2021

Previous year: 2019-2020

Visit India from Foreign: 13.09.2019

Return to Foreign: 27.04.2020

= 13.09.2019 – 31.03.2020.

= 18+31+30+31+31+29+31

= 201 days.

A) First condition is satisfied. Because he was stayed in India for more than 182 days.

So, he is **'Resident'**.

B) An additional conditions are not satisfied. Because he came to India for first time.

So, he is a Resident. But **Not 'Ordinarily resident'**.

## Non-Resident:

5) Mr. Subramani left India for the first time on 20.05.2017. During the financial year 2019-2020. He comes to India on May 27 and stayed for a period of 53 days in India. Determine his residential status for the previous year 2019-2020.

Solution:

**Determination of Residential status of Mr.Subramani:**

Assessment year: 2020-2021

Previous year: 2019-2020

Left India in first time: 20.05.2017

Return to India: 27.05.2019

Stayed in India: **53 days**

Basic condition under Sec 6(1) is not satisfied. Because Mr.Subramani has **not stayed in India for 182 days** in Previous year.

So, he is a **'Non-Resident'**.