

2. RESIDENTIAL STATUS - I**PROBLEM NO - 1**

Computation of total income of Mr. Ramesh & Mr. Suresh for the A.Y. 2017-18

S.No.	Particulars	Mr. Ramesh (Non-Resident) (Rs.)	Mr. Suresh (Resident) (Rs.)
1.	Interest on Canada Development Bond (See Note 2)	17,500	40,000
2.	Dividend from British Company received in London (See Note 3)	-	20,000
3.	Profit from a business in Nagpur but managed directly from London (See Note 2)	1,00,000	1,40,000
4.	Short term capital gain on sale of shares of an Indian company received in India (See Note 2)	60,000	90,000
5.	Income from a business in Chennai (See Note 2)	80,000	70,000
6.	Fees for technical services rendered in India, but received in Canada (See Note 2)	1,00,000	-
7.	Interest on savings bank deposit in UCO Bank, Delhi (See Note 2)	7,000	12,000
8.	Agricultural income from a land in Andhra Pradesh (See Note 4)	-	-
9.	Income from house property at Bhopal (See Note 5)	70,000	42,000
	Gross Total income	4,34,500	4,14,000
	Less: Deduction under chapter VIA- Section 80C-Life insurance premium paid Section 80TTA (See Note 6)	- 7,000	30,000 10,000
	Total Income	4,27,500	3,74,000

Notes:

- Mr. Ramesh is a non-resident since he has been living in Canada since 1995. Mr. Suresh, who is settled in Delhi, is a resident.
- In case of a resident, his global income is taxable as per section 5(1). However, as per section 5(2), in case of a non-resident, only the following incomes are chargeable to tax:
 - Income received or deemed to be received in India; and
 - Income accruing or arising or deemed to accrue or arise in India.

Therefore, fees for technical services rendered in India would be taxable in the hands of Mr. Ramesh, even though he is a non-resident.

The income referred to in Sl. No. 3,4,5 and 7 are taxable in the hands of both Mr. Ramesh and Mr. Suresh since they accrue or arise in India.

Interest on Canada Development Bond would be fully taxable in the hands of Mr. Suresh, whereas only 50% which is received in India is taxable in the hands of Mr. Ramesh.
- Dividend received from British company in London by Mr. Ramesh is not taxable since it accrues and is received outside India. However, dividend received by Mr. Suresh is taxable, since he is a resident. Exemption under section 10(34) would not be available in respect of dividend received from a foreign company.
- Agricultural income from a land situated in India is exempt under section 10(1) in the case of both non-residents and residents.

5. Income from house property-

	Mr. Ramesh (Rs.)	Mr. Suresh (Rs.)
Rent received	1,00,000	60,000
Less: Deduction under section 24 @ 30%	30,000	18,000
Net income from house property	70,000	42,000

The net income from house property in India would be taxable in the hands of both Mr. Ramesh and Mr. Suresh, since the accrual and receipt of the same are in India.

6. In case of an individual, interest up to Rs. 10,000 from savings account with, *inter alia*, a bank is allowable as deduction under section 80TTA.**PROBLEM NO - 2**

Mr. Dey is a resident in A.Y.2016-17 and A.Y.2017-18 since he has stayed in India for a period of 365 days (more than 182 days) during the P.Y.2015-16 and P.Y.2016-17, respectively.

As per section 6(6), a person will be "Not ordinarily Resident" in India in any previous year, if such person:

- has been a non-resident in 9 out of 10 previous years preceding the relevant previous year; or
- Has during the 7 previous years immediately preceding the relevant previous year been in India for 729 days or less.

If he does not satisfy either of these conditions, he would be a resident and ordinarily resident.

In the instant case, applying the above, the status of Mr. Dey for the previous year 2015-16 (A.Y. 2016-17) will be "Resident but not ordinarily resident".

For the previous year 2016-17 (A.Y. 2017-18) his status would continue to be Resident but not ordinarily resident since he was non-resident in 9 out of 10 previous years immediately preceding the previous year and also had stayed for less than 729 days in 7 previous years immediately preceding the previous year.

Therefore his status for

A.Y. 2016-17 – "Resident but not ordinarily resident"

A.Y. 2017-18 – "Resident but not ordinarily resident"

PROBLEM NO - 3

As per section 6(1), Mr. David is a non-resident for the A.Y. 2017-18, since he was not present in India at any time during the previous year 2016-17. As per section 5(2), a non-resident is chargeable to tax in India only in respect of following incomes:

- Income received or deemed to be received in India; and
- Income accruing or arising or deemed to accrue or arise in India.

In view of the above provisions, income from agriculture in Pakistan and income from house property in Pakistan would not be chargeable to tax in the hands of David, assuming that the same were received in Pakistan.

Income from „Salaries" payable by the Government to a citizen of India for services rendered outside India is deemed to accrue or arise in India as per section 9(1)(iii). Hence, such income is taxable in the hands of Mr. David, even though he is a non-resident. It has been assumed that Mr. David is a citizen of India.

However, allowances or perquisites paid or allowed as such outside India by the Government to a citizen of India for rendering service outside India is exempt under section 10(7). Hence, foreign allowance of ` 4,00,000 is exempt under section 10(7).

Gross Total Income of Mr. David for A.Y. 2017-18

Particulars	Rs.
Salaries	5,00,000
Income from other sources (Interest on fixed deposit in India)	1,00,000
Gross Total Income	6,00,000

PROBLEM NO - 4

Computation of total income of Mr. Anirudh for the A.Y. 2017-18

Particulars	Resident & ordinary Resident	Resident but not ordinarily Resident	Non-Resident
1. Short term capital gain on sale of shares of an Indian company, received in Germany	15,000	15,000	15,000
2. Dividend from a Japanese company, received in Japan	10,000	-	-
3. Rent from property in London deposited in a bank in London [See Note (i) below]	52,500	-	-
4. Dividend from RP Ltd., an Indian Company [See Note (ii) below]	-	-	-
5. Agricultural income from land in Gujarat [See Note (iii) below]	-	-	-
Total income	77,500	15,000	15,000

Notes:

- i. It has been assumed that the rental income is the gross annual value of the property. Therefore, deduction @ 30% under section 24, has been provided and the net income so computed is taken into account for determining the total income of a resident and ordinarily resident.

Rent received (assumed as gross annual value)	75,000
Less: Deduction under section 24 (30% of Rs.75,000)	22,500
Income from house property	52,500

- ii. Dividend from Indian company is exempt under section 10(34).
- iii. Agricultural income is exempt under section 10(1).

PROBLEM NO - 5

- a) **True:** A person is said to be "not-ordinarily resident" in India if he satisfies either of the conditions given in sub-section (6) of section 6. This sub-section relates to only individuals and Hindu Undivided Families. Therefore, only individuals and Hindu Undivided Families can be resident, but not ordinarily resident in India. All other classes of assesseees can be either a resident or non-resident for the purpose of income-tax. Firms and companies can, therefore, either be a resident or non-resident.
- b) **True:** *Explanation* below section 9(2) clarifies that income by way of interest, royalty or fee for technical services which is deemed to accrue or arise in India by virtue of clauses (v), (vi) and (vii) of section 9(1), shall be included in the total income of the non-resident, whether or not
- non-resident has a residence or place of business or business connection in India; or
 - the non-resident has rendered services in India
- c) **True:** A HUF is considered to be a non-resident where the control and management of its affairs are situated wholly outside India. In the given case, since all the policy decisions of HUF are taken from UK, the HUF is a non-resident.

THE END