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Residential Status of a Person

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Topic covered

- Importance of residential status
- Types of residential status
- Different types of person
- Rules for determining residential status
- Rule for determining residential status of ROR & RNOR

Importance of Residential Status

- Every country has its right to tax all income of its residents.
- Every country has right to tax only such income of non residents that is some way are connected to that country and not all income.

Rationale for Country to levy tax

- Country provides an opportunity to earn income for non residents and in return expect non residents to pay tax on income earned from that country.
- Country provides welfare, security, basic amenities , infrastructure and other benefits to residents and in return expects residents to pay tax.

Importance of Residential Status for Tax

Only after determining the residential Status of a person one can decide what Income is taxable in that country

- *First step* is to determine whether income or not.
- *Second step* is to determine whether person resident or non resident.
- *Third step* is to determine what income is liable for tax in that country.

Criteria to Determine Residential Status

- Different countries use different criteria to determine residential status
- Some of the criteria's used are:
 - Citizenship
 - No. of days stay in that country
 - Having home in that country
 - Registered / Incorporated in that country
 - Having Place of management in that country

Criteria used in India

- In India, the following criteria is used for determining residential Status:
 - No of Days Stay
 - Place of Control & Management
- Different criteria used for different categories of persons.

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Criteria Vs. Category of Person

In case of **individual**

- No of days stay in India

In case of **others**

- Place of control & management

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Types of Residential Status

For tax purpose all tax payers are classified into following two broad categories based on residential Status:

- RESIDENTS and
- NON RESIDENTS

Residents are in few cases sub classified into following two categories:

- RESIDENT AND ORDINARILY RESIDENT (ROR)
- RESIDENT BUT NOT ORDINARILY RESIDENT (RNOR).

References:

- Dr. V.K. Singhania & Dr. Monica Singhania, “Direct Tax Law & Practice”, 49th Edition, 2017-18, Taxmann Publications Pvt. Ltd., New Delhi
- Kanga, Palkiwala and Vyas, “The Law and Practice of Income Tax”, 10th Edition, Vol. I & II, Lexis Nexis Butterworths, 2014.

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