

RESIDENTIAL STATUS

Q. 1. Mr. B comes to India for 100 days every year. Determine his residential status for the assessment year 2023-24.

Sol. Mr. B was in India for 100 days during the previous year 2022-23 and for $(100 \times 4) = 400$ days during 4 years immediately preceding previous year. Thus he is resident in India.

Now Look for additional conditions:

Mr. B was in India $7 \times 100 = 700$ days during the 7 years immediately preceding previous year. Since he does not qualify the first additional condition, we do not need to check second additional condition. Thus Mr. B is resident but not ordinarily resident in India.

Q. 2. Mr. K an Indian citizen, leaves India on 22.09.2022 for the first time, to work as an officer of a company in Japan. Find out his residential status for the assessment year 2023-24.

Sol. Mr. K is covered by the exception as he left India for the purpose of employment outside India. Thus, to be resident in India his stay in India during the previous year should be for a minimum period of 182 days. But he stayed only for $(30 + 31 + 30 + 31 + 31 + 22) = 175$ days. So he is non-resident in India for Assessment Year 2023-24.

Q. 3. Mr. X a Government Employee, went to Germany in 2010. Every year, he visits India for a period of 70 days. Determine his residential status for assessment year 2023-24.

Sol. Mr. X is covered by the exception as he left India for employment purpose. Thus, to be resident in India, his stay in India during the previous year should be for a minimum period of 182 days, but he stayed only for 70 days. So he is non-resident in India for Assessment Year 2023-24.

Q. 4. Mr. P was born in U.S.A., his father was born in Burma and his grandfather was born in Lahore (situated in Pakistan) before partition of India. Mr. P visits India for 175 days during the previous year 2022-23. Will he be a resident in India?

Sol. Mr. P is a person of Indian origin, hence he is covered by one of the exceptional cases. Thus to be resident in India his stay in India during previous year should be for a minimum period of 182 days. But he stayed only for 175 days. So he is non-resident in India for the Assessment Year 2023-24.

Q. 5. The head office of XY and Sons a HUF family, is situated in Canada; The family is managed by A (since 1987) who is resident in India in 3 out of 10 immediately preceding previous year 2022-23 and who is present in India for more than 730 days in 7 years.

Find out the residential status of the family for the assessment year 2023-24, if affairs of the business are:

- (a) Wholly controlled from Canada.
- (b) Partly controlled from India.

Sol. (a) The affairs of the HUF for the assessment year 2023-24 are being wholly controlled from Canada (*i.e.*, from outside India). Therefore, it will be treated as non-resident in India.

- (b) During the previous year 2022-23, the affairs of XY and Sons, the HUF are managed partially from India. So it will be resident in India. Mr. A is the *Karta* of HUF is ordinarily resident because he fulfills both additional conditions. Thus, HUF is resident and ordinarily resident in India.

Q. 6. Indian citizen and businessman Shri R.J. who resides in Delhi, went to Canada for purposes of employment on 25.08.2022 and came back to India on 10.11.2023. He has never been out of India in the past.

- (a) Determine residential status of Shri R.J. for the assessment year 2023-24.
- (b) Will your answer be different if he had gone on a leisure trip?

Sol. (a) The previous year for the assessment year 2023-24 is 2022-23. During this period he was in India for 147 days $(30 + 31 + 30 + 31 + 25 \text{ i.e., from 1.4.2022 to 25.8.2022})$. As he is not in India for 182 days, he does not satisfy the first condition of category (A).

The second condition of category (A) is not applicable in his case as he is a citizen of India and leaves India during the previous year for employment outside India.

Therefore, he is a non-resident. Conditions of category (B) need not be examined.

- (b) *When he had gone for a leisure trip:* In this case, although he does not satisfy the first condition of category (A), he satisfies the second condition as he was in India for more than 60 days in the relevant previous year *i.e.*, 2022-23 and was also here for more than 365 days during four preceding previous years (*i.e.*, previous year

2018-19 to 2021-22). He is therefore, resident in India. The exception will not be applicable to him because he did not leave India for the purpose of employment. He satisfies both the conditions of category (B) because he has always been in India before 25.8.2022.

The status of the assessee for the Assessment Year 2021-22 will in this case be resident and ordinarily resident in India.

Q. 7. Mr. R left India for the first time on 22 September 2022 for taking up a job in Sri Lanka. He did not come back till 31st March 2023. Determine his residential status for the assessment year 2023-24. Will it make any difference if he had gone for a leisure trip?

Sol. Mr. R is covered by the exceptions as he left India during the previous year for the purpose of employment outside India. Thus, to be a resident in India his stay in India during the previous year should be for a minimum period of 182 days. But he stayed only for 175 days (*i.e.*, from 01.04.2022 to 22.09.22). So he is a non-resident in India for the Assessment Year 2023-24.

If Mr. R. had gone for a leisure trip, he would not have been covered by the exceptional cases and would have been considered an ordinarily resident in India for the assessment year 2021-22 because he satisfies one of the basic conditions (second basic condition) and both the additional conditions during the previous year 2022-23.

Q. 8. Y, an individual is resident but not ordinarily resident in India for the assessment year 2022-23 (previous year 2021-22). During the previous 2022-23, the affairs of Y & sons (HUF), a Hindu undivided family, are partly managed from U.K. and partly from Jaipur. Determine the residential status of Y & sons (HUF) for the assessment year 2023-24, assume Karta does not satisfied both additional conditions.

Sol. As during the previous year 2022-23, the affairs of Y's Sons (HUF) are partly managed from India, the family will be treated as resident in India. A resident family may be ordinarily resident if *karta* of the family satisfies the following two additional conditions laid down in Section 6(6)(b):

- (a) He has been resident in India in at least 2 out of 10 years immediately preceding the relevant previous year; and
- (b) He is in India for at least 730 days during 7 years immediately preceding the relevant previous year.

If *karta* does not satisfy these additional conditions, a resident Hindu Undivided Family is treated as resident but not ordinarily resident in India. In question it is mention Y (Karta) does not Satisfied both additional conditions, therefore Y's Sons (HUF) is resident but not ordinarily resident in India for the A.Y. 2023-24.

Q. 9. Mr. X left India for the first time on 4th July, 2022 and came back an 2nd January, 2023. Determine his residential status for the assessment year 2023-24.

Sol. Mr. X was in India during the previous year 2022-23 for a period of 184 days (April 30 + May 31 + June 30 + July 4 + Jan 30 + Feb 28 + March 31). He satisfies the basic condition of 182 days or more stay in India. Thus, he is a resident in India. Now to determine whether he is ordinarily or not ordinarily resident, look for additional conditions. He has left India for the first time during the previous year, so he was resident in all 10 years immediately preceding the previous year and his stay was for more than 730 days during 7 years immediately preceding the previous year. So he satisfies both the additional conditions. Thus, Mr. X is a resident and ordinarily resident in India for the Assessment Year 2023-24.

Q. 10. MN Ltd. is an Indian company. It has 15 shareholders who are foreign citizens and non-resident in India. The business of the company is fully controlled from outside India. Find out the residential status of MN Ltd. for the assessment year 2023-24.

Sol. MN Ltd. is an Indian company. An Indian company is always resident in India. This rule is equally applicable even if shareholders are foreign citizens as well as non-resident or even if business is controlled from outside India.

Q. 11. X Ltd. is a company incorporated in London (turnover more than ₹ 80 crore). It has 12 shareholders who are Indian citizens and resident in India. The company has active business outside India and is controlled wholly from outside India by a team of professionals. What is the residential status of X Ltd. for assessment year 2023-24.

Sol. X Ltd. is a foreign company. Gross turnover of the company for the relevant previous year is ' 80 crore. A foreign company (whose turnover/gross receipts is not more than ₹ 50 crore) is treated as non-resident in India. This rule is applicable from the Assessment Year 2019-2020.

Q. 12. X Ltd. is incorporated in Kenya. It has 25 shareholders (15 are Indian citizens and resident in India). The company has no active business in Kenya. Gross annual turnover of the company for the previous year 2022-23 is ₹ 46 crore

mainly from operations conducted from Korea and India. The company is managed by a team of professionals from India. Find out the residential status of X Ltd. for the assessment year 2023-24.

Sol. X Ltd. is a foreign company. It is controlled wholly from outside India. It is, therefore, non-resident in India for the Assessment Year 2023-24. Residential status of shareholders is irrelevant. Likewise, the nationality of shareholders is not taken into consideration.

Q. 13. Mr. H is an Indian citizen and a member of the crew of a Singapore based Indian ship engaged in international traffic departing from Chennai port on 7th June 2022, and came back to India on 10th December 2022. Determine the residential status of Mr. H for the assessment year 2023-24.

Sol. *Computation of residential status of Mr. H for the assessment year 2023-24:*

Mr. H is an Indian citizen and member of the crew. He is covered by one of the exceptional case. Thus to be resident in India his stay in India during the previous year should be for a minimum period of 182 days. But he stays only for 180 days (April 30 days + May 31 days + June 7 days + Dec 22 days + January 31 days + Feb 28 days + March 31 days). So he is non-resident in India for the Assessment Year 2023-24.

Q. 14. During the previous year 2022-23, A and Sons, a HUF was partly controlled from India by its Karta. A who is citizen of India but stays outside India. For the purpose of managing the affairs of the HUF, A has been regularly visiting India. Determine the residential status of the HUF for the assessment year 2023-24, if:

- (i) A has been visiting India for 96 days every year for the last 12 years.
- (ii) A has been visiting India for 115 days every year for the last 12 years.
- (iii) A has been visiting India for the last 12 years. During the immediately preceding 4 previous years he was in India for 60 days every year and prior to that for 250 days every year.

Ans. During the previous year 2022-23, the control and management of the affairs of the HUF was partly situated in India, Hence the HUF is resident for the Assessment Year 2023-24.

It is further to be examined whether the HUF can be said to be “resident and ordinarily resident in India”. For this purpose, the *karta* should satisfy both the following conditions:

- (a) He (*karta*) has been resident in India in at least 2 out of 10 previous years immediately preceding the relevant previous year; and
- (b) He has been in India for a period of 730 days or more in 7 previous years immediately preceding the relevant previous year.

In case (i), A neither satisfies the first condition nor the second condition mentioned above as *Karta* is a citizen of India. Where an individual is a citizen of India and who is outside India makes a visit to India he shall be said to be resident in India only when he was in India in the relevant previous year for 182 days as the condition of 60 days along with 365 days in the 4 preceding previous years shall not apply. Therefore, the HUF is resident but not ordinarily resident in India.

In case (ii), A although satisfies condition (b) mentioned above as he was here for 805 days in the past 7 years but he does not satisfy condition (a) above as he not a resident in India in at least two out of ten preceding previous years as *Karta* is a citizen of India and visiting India only for 115 days each year. Therefore, the HUF, is resident but not ordinarily resident in India.

In case (iii), A was non-resident for 4 preceding previous years but prior to that he was resident, hence, the first condition of category (B), being resident in at least 2 out of 10 preceding years is satisfied. Further, he has been in India for 990 days ($60 \times 4 + 250 \times 3$) during 7 years preceding the relevant previous year. Therefore, the second condition of being in India for 730 days or more is also satisfied. Hence, the HUF is resident and ordinarily resident in India.

Q. 15. Mrs. R furnishes the following details of her income for the previous year 2022-23:

- (i) Income from profession in Myanmar received there. The profession was set up in India ₹ 22,000.
- (ii) Income from agriculture in Bangladesh received and spent there only ₹ 26,000.
- (iii) Income accrued in London but received in India ₹ 29,000.
- (iv) Gift in foreign currency from a relative received in India ₹ 50,000.
- (v) Income accrued in India but received in China ₹ 24,000.
- (vi) Interest in USA Govt. Securities 1/3 of which received in India, ₹ 30,000.
- (vii) Income earned outside India in preceding year but remitted in India during previous year ₹ 38,000.
- (viii) Salary received in India for services rendered in Indonesia ₹ 38,000.

Compute the total income of R for the Assessment Year 2023-24 if she is: (a) Ordinarily Resident, (b) Not ordinarily resident and (c) Non-resident.

Sol. Computation of Total Income of Mrs. R for the Assessment Year 2021-22

Types of Income	OR (₹)	NOR (₹)	NR (₹)
(i) Income from profession in Myanmar received there the profession was set up in India	22,000	22,000	—
(ii) Income from agriculture in Bangladesh received and spent there only	26,000	—	—
(iii) Income accrued in London but received in India	29,000	29,000	29,000
(iv) Gift in foreign currency from a relative received in India	—	—	—
(v) Income accrued in India but received in China	24,000	24,000	24,000
(vi) Interest on USA Government securities 1/3 of which received in India	30,000	10,000	10,000
(vii) Income earned outside India in preceding years but remitted in India during previous year	—	—	—
(viii) Salary received in India for services rendered in Indonesia	38,000	38,000	38,000
Gross Total / Total Income	1,69,000	1,23,000	1,01,000

Q. 16. Mr. K furnished the following particulars of his income for the previous year 2022-23:

- (i) Income from agriculture in Sri Lanka (received there but later on ₹ 80,000 remitted to India) ₹ 2,80,000.
- (ii) Dividend paid by an Indian company received in U.S.A. ₹ 86,000.
- (iii) Interest on U.K. development bonds ₹ 80,000. (2/5th is received in India).
- (iv) Past untaxed profit ₹ 2,05,000 brought to India during 2022-23.
- (v) Pension from Indian company received in Dubai ₹ 56,000.
- (vi) Gift in cash from a relative received in India ₹ 90,000.
- (vii) Profit on sale of building in Mangaluru but received in Dubai ₹ 2,48,000.
- (viii) Profit from business in Patna but controlled from China ₹ 92,000.
- (ix) Income from business in Canada which is controlled from Delhi (₹ 28,000 received in Delhi) ₹ 98,000.

Find out Mr. K's Gross Total Income for the Assessment Year 2023-24 if he is, (a) Resident and ordinarily resident, (b) Resident but not ordinarily resident, and (c) Non-resident.

Sol. Computation of Gross Total Income of Mr. K for the Assessment Year 2023-24

Types of Income	OR (₹)	NOR (₹)	NR (₹)
(i) Income from agriculture in Sri Lanka	2,80,000	—	—
(ii) Dividend paid by an Indian company received in USA	86,000	86,000	86,000
(iii) Interest on UK development bonds	80,000	32,000	32,000
(iv) Past untaxed profit brought to India during 2022-23	—	—	—
(v) Pension from Indian Company received in Dubai	56,000	56,000	56,000
(vi) Gift in cash from a relative received in India	90,000	90,000	90,000
(vii) Profit on sale of building in Mangaluru but received in Dubai	2,48,000	2,48,000	2,48,000
(viii) Profit from business in Patna but controlled from China	92,000	92,000	92,000
(ix) Income from business in Canada which is controlled from Delhi	98,000	98,000	28,000
Gross Total Income	10,30,000	7,02,000	6,32,000

Q. 17. Following are the taxable Income of Mr. X for the assessment year 2023-24:

- (i) Income from transfer of a long-term capital asset situated in India ₹ 70,000.
- (ii) Interest on debentures of a company at England which was received in India ₹ 28,000.
- (iii) Interest received from John a non-resident, on the loan provided to him for a business carried on in India ₹ 25,000.
- (iv) Royalty received in Iran from K a resident in India for technical services provided for a business carried in Iran ₹ 70,000.
- (v) Fees from an Indian Company, carrying on a business at USA from technical services rendered at USA having been directly deposited by the company in his Bank A/c in India ₹ 80,000.
- (vi) Profit from business in UK. This business is controlled from Mumbai (60% of the profit deposited in a Bank there and 40% is remitted to India) ₹ 60,000.

Compute Mr. X, Total Income for the assessment year 2023-24 if he is: (a) Ordinarily Resident and (b) Non-Resident.

Sol. Computation of Gross Total Income of Mr. X for the Assessment Year 2023-24

<i>Different Types of Income</i>	<i>Resident (₹)</i>	<i>Non-Resident (₹)</i>
(i) Income from transfer of a long-term capital asset situated in India	70,000	70,000
(ii) Interest on debentures of a company at England which was received in India	28,000	28,000
(iii) Interest received from John a non-resident on the loan provided to him for a business carried on in India	25,000	25,000
(iv) Royalty received in Iran from K, a resident in India for technical service provided for a business carried on in Iran	70,000	—
(v) Fees from an Indian Co., carrying on business at USA for technical services rendered at USA direct deposited in a bank A/c in India	80,000	80,000
(vi) Profit from business in UK	60,000	—
Gross Total Income / Total Income	3,33,000	2,03,000

Q. 18. Following are the particulars of taxable income of Mr. X for the previous year ending on 31st March, 2022:

- Income from house property in London ₹ 60,000 which was deposited in a bank in London. Out of this ₹ 44,000 were remitted to India.
- Royalty received in India ₹ 54,000.
- Income from business in Germany ₹ 45,000 of which ₹ 25,000 were received in India. The business is controlled from India.
- Income from investment in Canada ₹ 30,000.
- Interest received from a non-resident ₹ 15,000 against a loan given to him to run a business in India.
- Royalty received from A, a resident, for technical services given to run a business outside India ₹ 50,000.
- Income from business in India ₹ 60,000. This business is controlled from U.K.
- Income from sale of house property in Agra ₹ 20,000.

Calculate the Total Income of Mr. X for the Assessment Year 2023-24, if he is (a) Ordinarily Resident, (b) Non-ordinarily resident and, (c) Non-resident in India.

Sol. Computation of Total Income of Mr. X for the Assessment Year 2023-24

<i>Types of Income</i>	<i>OR (₹)</i>	<i>NOR (₹)</i>	<i>NR (₹)</i>
(i) Income from House Property in London (Foreign income)	60,000	—	—
(ii) Royalty received in India	54,000	54,000	54,000
(iii) Income from business in Germany			
(a) Received in India	25,000	25,000	25,000
(b) Business controlled from India	20,000	20,000	—
(iv) Income from investment in Canada (Foreign income)	30,000	—	—
(v) Interest on loan (to run a business in India)	15,000	15,000	15,000
(vi) Royalty for technical services (to run a business outside India)	50,000	—	—
(vii) Income from business in India	60,000	60,000	60,000
(viii) Capital gains on sale of House Property in Agra	20,000	20,000	20,000
Total Income	3,34,000	1,94,000	1,74,000

Q. 19. The following are the Incomes of Mr. X for the previous year 2022-23: *Amount (₹)*

- Profit from business in Paris deposited in a bank there, this business is controlled from India 50,000
- Interest received from a non-resident Mr. R, on the loan provided to him for a business carried on in India 15,000
- Share of income from Indian partnership firm 25,000
- Dividend from Indian company 40,000
- Profit from business in Korea received in India 22,000
- Income from house property in India received in Bangladesh (calculated) 32,000
- Capital gain on sale of agricultural land situated in Mysore (urban area) 18,000
- Interest on debentures of an Indian company received in Dubai 25,000
- Profit from business in Noida (Controlled by U.K. Head Office) 21,000
- Foreign income brought in India 28,000

Compute Mr. X Total Income for the Assessment Year 2023-24, if he is:

- (i) Ordinarily Resident,
- (ii) Not Ordinarily Resident, and
- (iii) Non-resident

Sol. Computation of Total Income of Mr. X for the Assessment Year 2021-22

<i>Types of Income</i>	<i>OR (₹)</i>	<i>NOR (₹)</i>	<i>NR (₹)</i>
(i) Profit from business in Paris – Business controlled from India	50,000	50,000	–
(ii) Interest from non-resident – Business carried on in India	15,000	15,000	15,000
(iii) Share of income from Indian partnership firm – Exempt	–	–	–
(iv) Dividend from Indian Company	40,000	40,000	40,000
(v) Profit from business in Korea – Received in India	22,000	22,000	22,000
(vi) Income from house property in India	32,000	32,000	32,000
(vii) Capital gain on sale of agriculture land situated in Mysore (Urban area)	18,000	18,000	18,000
(viii) Interest on debentures of an Indian Company	25,000	25,000	25,000
(ix) Profit from business in Noida – Income accrued in India	21,000	21,000	21,000
(x) Foreign income brought in India	28,000	–	–
Taxable Income	2,51,000	2,23,000	1,73,000

Q. 20. Following are the taxable incomes of Mr. X for the previous year 2022-23:

	<i>Amount (₹)</i>
(i) Profit of a hotel business at Singapore	50,000
(ii) Income from transfer of a long-term capital asset in India	25,000
(iii) Income received from Mr. Philip, a non-resident, on the loan provided to him for a business carried on in India	15,000
(iv) Income from salary accrued and received in India	50,000
(v) Interest on debentures of a company at England, which was received in India	26,000
(vi) Royalty received in Canada from Mr. Kishore a resident in India for technical services provided for a business carried on in Canada	30,000
(vii) Fees from an Indian company carrying on business at Dubai for technical services rendered at Dubai having been directly deposited by the company in his bank account in India	50,000
(viii) Dividend declared in Kenya but received in India	14,000

Compute Mr. X Total Income for the Assessment Year 2023-24, if he is:

- (i) Ordinarily Resident,
- (ii) Not Ordinarily Resident, and
- (iii) Non-resident

Sol. Computation of Total Income of Mr. X for the Assessment Year 2023-24

<i>Types of Income</i>	<i>Resident (₹)</i>	<i>Not Ordinarily Resident (₹)</i>	<i>Non-Resident (₹)</i>
(i) Profit of hotel business at Singapore	50,000	–	–
(ii) Income from capital gains from transfer of asset in India	25,000	25,000	25,000
(iii) Interest received from a non-resident on loan provided to him for a business carried on in India	15,000	15,000	15,000
(iv) Income from Salary accrued and received in India	50,000	50,000	50,000
(v) Interest on Debentures of a company at England, but received in India	26,000	26,000	26,000
(vi) Royalty received in Canada from a resident of India for technical services provided for a business carried on in Canada	30,000	–	–
(vii) Fees from an Indian company carrying on business at Dubai for technical services rendered at Dubai directly deposited in a bank account in India	50,000	50,000	50,000
(viii) Dividend declared in Kenya but received in India	14,000	14,000	14,000
Total Income	2,60,000	1,80,000	1,80,000

- Q. 21.** X has furnished the following details of his income in the previous year, on the basis of which compute his total income for Assessment Year 2023-24, if he is an ordinarily resident, not ordinarily resident, or non-resident:

	Amount (₹)
(i) Dividend from foreign companies (50% received in India)	70,000
(ii) Interest on debentures from Indian company received outside India	30,000
(iii) Salary from Indian Government received in France	60,000
(iv) Income from house property in France	50,000
Ans. Ordinarily Resident ₹ 2,10,000; NOR and NR ₹ 1,25,000	

Sol. **Computation of Total Income of Mr. X for the Assessment Year 2021-22**

Types of Income	Ordinarily Resident (₹)	Not Ordinarily Resident (₹)	Non-Resident (₹)
(i) Dividend from foreign Company (50% received in India)	70,000	35,000	35,000
(ii) Interest from debenture from Indian company	30,000	30,000	30,000
(iii) Salary on Indian Government	60,000	60,000	60,000
(iv) Income from House Property in France	50,000	—	—
Total Income	2,10,000	1,25,000	1,25,000

- Q. 22.** Mr. Devin a citizen of USA furnishes the following particulars of his income relevant for the previous year: 2022-23.

- (i) Agriculture Income from USA ₹ 3,00,000
- (ii) Profit on sale of building in Delhi, three-fourth received in USA ₹ 6,00,000
- (iii) Dividend received from foreign company and entire amount received in USA ₹ 90,000
- (iv) Profit from software business in Paris received in Sri Lanka controlled from India ₹ 3,20,000
- (v) Profit on sale of car in USA and amount received in Pune ₹ 1,20,000
- (vi) Interest on deposit with an Indian company ₹ 2,000

Compute his taxable income if he is: (a) Ordinarily resident, (b) Not-Ordinarily resident, or (c) Non-resident for the Assessment Year 2023-24.

Sol. **Computation of Total Income of Mr. Devin for the Assessment Year 2021-22**

Types of Income	Ordinarily Resident (₹)	Not Ordinarily Resident (₹)	Non-Resident (₹)
(i) Agricultural income from USA	3,00,000	—	—
(ii) Profit on sale of building in Delhi	6,00,000	6,00,000	6,00,000
(iii) Dividend received from foreign Company	90,000	—	—
(iv) Profit from software business controlled from India	3,20,000	3,20,000	—
(v) Profit on sale of car	1,20,000	1,20,000	1,20,000
(vi) Interest on deposit	2,000	2,000	2,000
Total Income	14,32,000	10,42,000	7,22,000