

**RELEVANT PROVISIONS OF
INCOME-TAX ACT, 1961**
[AS AMENDED BY TAXATION AND OTHER LAWS
(RELAXATION AND AMENDMENT OF
CERTAIN PROVISIONS) ACT, 2020]

SECTION 6

Residence in India.

¹6.² For the purposes of this Act,—

- (1) An individual is said to be resident in India in any previous year, if he—
- (a) is in India in that year for a period or periods amounting in all to one hundred and eighty-two days or more ; or
 - (b) ³[***]
 - (c) having within the four years preceding that year been in India for a period or periods amounting in all to three hundred and sixty-five days or more, is in India for a period or periods amounting in all to sixty days or more in that year.

⁴[*Explanation 1.*]—In the case of an individual,—

- (a) being a citizen of India, who leaves India in any previous year⁶⁷[as a member of the crew of an ⁸Indian ship as defined in clause (18) of section 3 of the Merchant Shipping Act, 1958 (44 of 1958), or] for the purposes of employment⁶ outside India, the provi-

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1. For relevant case laws, *see* Taxmann's Master Guide to Income-tax Act.
 2. *See* also Circular No. 6/2017, dated 24-1-2017, Circular No. 8/2017, dated 23-2-2017 and Circular No. 25/2017, dated 23-10-2017 [Guiding principles for determination of Place of Effective Management (POEM) of a Company]. For details, *see* Taxmann's Master Guide to Income-tax Act.
 3. Omitted by the Finance Act, 1982, w.e.f. 1-4-1983.
 4. Substituted by the Direct Tax Laws (Second Amendment) Act, 1989, w.e.f. 1-4-1990. Original *Explanation* was inserted by the Finance Act, 1978, w.e.f. 1-4-1979 and later amended by the Finance Act, 1982, w.e.f. 1-4-1983.
 5. *Explanation* renumbered as *Explanation 1* by the Finance Act, 2015, w.e.f. 1-4-2015.
 6. For the meaning of the expressions "previous year" and "for the purposes of employment", *see* Taxmann's Direct Taxes Manual, Vol. 3.
 7. Inserted by the Finance Act, 1990, w.e.f. 1-4-1990.
 8. For definition of "Indian ship" under section 3(18) of the Merchant Shipping Act, 1958, *see* **Appendix**.

sions of sub-clause (c) shall apply in relation to that year as if for the words “sixty days”, occurring therein, the words “one hundred and eighty-two days” had been substituted;

- (b) being a citizen of India, or a person of Indian origin within the meaning of *Explanation* to clause (e) of section 115C, who, being outside India, comes on a visit to India in any previous year, the provisions of sub-clause (c) shall apply in relation to that year as if for the words “sixty days”, occurring therein, the words “one hundred and ⁹[eighty-two] days” had been substituted ¹⁰[*and in case of* ¹¹[*the citizen or person of Indian origin*] *having total income, other than the income from foreign sources, exceeding fifteen lakh rupees during the previous year, for the words “sixty days” occurring therein, the words “one hundred and twenty days” had been substituted*].]

¹²[*Explanation 2.*—For the purposes of this clause, in the case of an individual, being a citizen of India and a member of the crew of a foreign bound ship leaving India, the period or periods of stay in India shall, in respect of such voyage, be determined in the manner and subject to such conditions as may be prescribed.¹³]

Following clause (1A) shall be inserted after clause (1) of section 6 by the Finance Act, 2020, w.e.f. 1-4-2021 :

- (1A) *Notwithstanding anything contained in clause (1), an individual, being a citizen of India, having total income, other than the income from foreign sources, exceeding fifteen lakh rupees during the previous year shall be deemed to be resident in India in that previous year, if he is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature.*

Following *Explanation* shall be inserted after clause (1A) of section 6 by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, w.e.f. 1-4-2021 :

Explanation.—*For the removal of doubts, it is hereby declared that this clause shall not apply in case of an individual who is said to be resident in India in the previous year under clause (1).*

9. Substituted for “fifty” by the Finance Act, 1994, w.e.f. 1-4-1995.

10. Italicised words shall be inserted by the Finance Act, 2020, w.e.f. 1-4-2021.

11. Words “such person” shall be substituted for “the citizen or person of Indian origin” by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, w.e.f. 1-4-2021.

12. Inserted by the Finance Act, 2015, w.e.f. 1-4-2015.

13. See rule 126.

- (2) A Hindu undivided family, firm or other association of persons is said to be resident in India in any previous year in every case except where during that year the control and management¹⁴ of its affairs¹⁴ is situated wholly¹⁴ outside India.
- ¹⁵[(3) A company is said to be a resident in India in any previous year, if—
- (i) it is an Indian company; or
 - (ii) its place of effective management, in that year, is in India.
- Explanation.*—For the purposes of this clause “place of effective management” means a place where key management and commercial decisions that are necessary for the conduct of business of an entity as a whole are, in substance made.]
- (4) Every other person is said to be resident in India in any previous year in every case, except where during that year the control and management of his affairs is situated wholly outside India.
- (5) If a person is resident in India in a previous year relevant to an assessment year in respect of any source of income, he shall be deemed to be resident in India in the previous year relevant to the assessment year in respect of each of his other sources of income.
- ¹⁶[(6) A person is said to be “not ordinarily resident” in India in any previous year if such person is—
- (a) an individual who has been a non-resident in India in nine out of the ten previous years preceding that year, or has during the

14. For the meaning of the terms/expressions “control and management”, “affairs” and “wholly”, see Taxmann’s Direct Taxes Manual, Vol. 3.

15. Substituted by the Finance Act, 2016, w.e.f. 1-4-2017. Prior to its substitution, clause (3) read as under :

- “(3) A company is said to be resident in India in any previous year, if—
- (i) it is an Indian company ; or
 - (ii) during that year, the control and management of its affairs is situated wholly in India.”

Amendment to section 6(3) by the Finance Act, 2015, w.e.f. 1-4-2016 was omitted by the Finance Act, 2016, w.e.f. 1-4-2016.

16. Substituted by the Finance Act, 2003, w.e.f. 1-4-2004. Prior to its substitution, clause (6) read as under :

- ‘(6) A person is said to be “not ordinarily resident” in India in any previous year if such person is—
- (a) an individual who has not been resident in India in nine out of the ten previous years preceding that year, or has not during the seven previous years preceding that year been in India for a period of, or periods amounting in all to, seven hundred and thirty days or more; or
 - (b) a Hindu undivided family whose manager has not been resident in India in nine out of the ten previous years preceding that year, or has not during the seven previous years preceding that year been in India for a period of, or periods amounting in all to, seven hundred and thirty days or more.’

seven previous years preceding that year been in India for a period of, or periods amounting in all to, seven hundred and twenty-nine days or less; or

- (b) a Hindu undivided family whose manager has been a non-resident in India in nine out of the ten previous years preceding that year, or has during the seven previous years preceding that year been in India for a period of, or periods amounting in all to, seven hundred and twenty-nine days or less¹⁷; or
- (c) *a citizen of India, or a person of Indian origin, having total income, other than the income from foreign sources, exceeding fifteen lakh rupees during the previous year, as referred to in clause (b) of Explanation 1 to clause (1), who has been in India for a period or periods amounting in all to one hundred and twenty days or more but less than one hundred and eighty-two days; or*
- (d) *a citizen of India who is deemed to be resident in India under clause (1A).*

Explanation.—For the purposes of this section, the expression “income from foreign sources” means income which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India)¹⁸[and which is not deemed to accrue or arise in India]].]

17. Italicised words shall be inserted by the Finance Act, 2020, w.e.f. **1-4-2021**.

18. Italicised words shall be inserted by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, w.e.f. **1-4-2021**.