

## Section - 6, Income-tax Act, 1961 - 2015

### Residence in India.

<sup>90</sup> 6. 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) <sup>91</sup>[\* \* \*]
- (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.

<sup>92</sup>[<sup>92a</sup>*Explanation. 1*—In the case of an individual,—

- (a) being a citizen of India, who leaves India in any previous year<sup>92b93</sup>[as a member of the crew of an <sup>94</sup>Indian ship as defined in clause (18) of section 3 of the Merchant Shipping Act, 1958 (44 of 1958), or] for the purposes of employment<sup>92b</sup> outside India, 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 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 <sup>95</sup>[eighty-two] days" had been substituted.]

<sup>95a</sup> [*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.*]

- (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 management<sup>96</sup> of its affairs<sup>96</sup> is situated wholly<sup>96</sup> outside India.
- (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<sup>96</sup> of its affairs<sup>96</sup> is situated wholly<sup>96</sup> in India.

**Following clause (3) shall be substituted for the existing clause (3) of section 6 by the Finance Act, 2015, w.e.f. 1-4-2016 :**

- (3) A company is said to be 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 the 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.

97-98[(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 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 less.]

90. For relevant case laws, *see* Taxmann's Master Guide to Income-tax Act.

91. Omitted by the Finance Act, 1982, w.e.f. 1-4-1983.

92. 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.

92a. Existing *Explanation* renumbered as *Explanation 1* by the Finance Act, 2015, w.e.f. **1-4-2015**.

92b. For the meaning of the expressions "previous year" and "for the purposes of employment", *see* Taxmann's Direct Taxes Manual, Vol. 3.

93. Inserted by the Finance Act, 1990, w.e.f. 1-4-1990.

94. Clause (18) of section 3 of the Merchant Shipping Act, 1958, defines "Indian ship" as follows :

'(18) "Indian ship" means a ship registered as such under this Act and includes any ship registered at any port in India at the commencement of this Act which is recognised as an Indian ship under the proviso to sub-section (2) of section 22;'

95. Substituted for "fifty" by the Finance Act, 1994, w.e.f. 1-4-1995.

95a. Inserted by the Finance Act, 2015, w.e.f. **1-4-2015**.

96. For the meaning of the terms/expressions "control and management", "affairs" and "wholly", *see* Taxmann's Direct Taxes Manual, Vol. 3.

97-98. 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.'