

## 2. RESIDENTIAL STATUS & SCOPE OF TOTAL INCOME

- The **Incidence of Tax** of any Assessee **depends** upon his **residential status** under the Act.
- Taxability of Income would depend not only on its Nature & Place of its Accrual/Receipt but also upon the Assessee's Residential Status.
- **Residential status** of the assessee must be **determined separately** for **each Previous Year**.

To determine whether a particular Income is taxable in the hands of Assessee or not, we have to determine the residential status of the assessee.

### TYPES OF RESIDENTIAL STATUS



#### Point to Remember:

- ❖ **Only Individuals & HUF** can be resident & ordinarily resident (**ROR**).
- ❖ All **other classes of assesseees** can be either a **Resident or Non-Resident**.

### **DETERMINATION OF RESIDENTIAL STATUS OF DIFFERENT ASSESSEES**

| 1. INDIVIDUAL               |  |
|-----------------------------|--|
| <b>BASIC CONDITIONS</b>     | <p>An Individual is <b>Resident</b> in India if he <b>satisfies ANY ONE</b> of the following Basic Conditions:</p> <p><b>(a)</b> He has been in India for <b>total period of 182 days</b> or more during PY <b>OR</b></p> <p><b>(b) (i)</b> He has been in India for at least <b>60 days</b> in the relevant PY <b>AND</b></p> <p><b>(ii)</b> He has been in India for at least <b>365 days</b> during <b>Last 4 PYs</b>.</p> <p><b>CRUX:</b></p> <p>→ Individual satisfy <b>ANY 1</b> Condition → <b>Resident</b> ✓ [Additional Conditions].</p> <p>→ If <b>Both</b> conditions are <b>NOT</b> satisfied → <b>Non-Resident</b> ✓.</p> |
| <b>EXCEPTIONS</b>           | <p>Following Individuals will be Resident only if Period of Stay during PY is 182 days or more. [2<sup>nd</sup> Condition → NA in the following cases]</p> <p><b>(i) Indian Citizen</b> who leaves India <b>during PY</b> as a <b>Member of Crew of Indian ship</b> or for <b>employment outside</b> India;</p> <p><b>(ii) Indian Citizen</b> or <b>Person of Indian Origin</b> who comes on <b>visit to India</b> in PY. [Such Person must be engaged in <b>employment/business o/s India</b>]</p>  |
| <b>ADDITIONAL CONDITION</b> | <p><b>Resident Individual can be ROR or RNOR:</b> To determine whether Individual is ROR/RNOR, we need to check 2 Additional conditions.</p> <p><b>(i)</b> His <b>Total Stay</b> in India in <b>Last 7 years is 730 days</b> or more <b>AND</b></p> <p><b>(ii)</b> He is a <b>Resident</b> in <b>Any 2 out of Last 10 years</b></p> <p><b>CRUX:</b> If an Individual Satisfy:</p> <p>→ <b>Both</b> Additional conditions → He is <b>ROR</b>.</p> <p>→ <b>None or one</b> of the Additional conditions → He is <b>RNOR</b>.</p>   |

**Person of Indian Origin:** If the person or his parents or his grandparents were born in **UNDIVIDED INDIA**. Grandparents include both maternal & paternal grandparents.

**Points to Remember:**

- ❖ Stay in India → Includes **Stay in TWI**.
- ❖ **Continuous Stay** in India → **Not Necessary**.
- ❖ **Date of Arrival & Departure** → **Considered** to be **in India** for counting days stayed in India.
- ❖ **Individual can be resident in more than 1 country, but he can be citizen in ONLY ONE Country.**

**SOME CONCEPTUAL QUESTIONS**

**CQ1.** Mr. B, a Canadian citizen, comes to India for the first time during PY 2014-15. During FYs 2014-15, 2015-16, 2016-17, 2017-18 & 2018-19, he was in India for 55 days, 60 days, 90 days, 150 days & 70 days, respectively. Determine his residential status for the AY 2019-20.

**Solution:** During PY 2018-19, Mr. B was in India for 70 days & during Last 4 years, he was in India for 355 days (i.e. 55 + 60 + 90 + 150 days). Thus, he does not satisfy ANY of the basic condition. Thus he is a NR.

**CQ2.** Mr. D, an Indian citizen, leaves India on 22.9.2018 for the first time, to work as an officer of a company in France. Determine his residential status for the AY 2019-20.

**Solution:** During PY 2018-19, Mr. D was in India for 175 days (30+31+30+31+31+22 days). He does not satisfy the minimum criteria of 182 days. Also, since he is an Indian citizen leaving India for the purposes of employment, the second basic condition is not applicable to him. Therefore, Mr. D is NR.

**CQ3.** R was born in Dhaka in 1945. He has been staying in Canada since 1974. He comes to visit India on 13.10.2018 & returns on 29.3.2019. Determine his residential status for AY 2019-20.

**Solution:** His stay in India during the PY 2017-18 is 168 days. He does not satisfy 1<sup>st</sup> Basic condition & 2<sup>nd</sup> Basic condition is NA as he is a person of Indian origin. Thus he is non-resident in India for PY 2018-19.

**CQ4.** X is a citizen of Nepal. His grandfather was born near Multan (Now in Pakistan) in 1945. He came to India for the first time since 1986 on 2.10.2018 for a visit of 294 days. Find his residential status for AY 2019-20.

**Solution:** X's stay in India during PY 2018-19 is 181 days. Thus he does not satisfy 1<sup>st</sup> Basic Condition. He is a person of Indian origin because his grandfather was born in undivided India & thus 2<sup>nd</sup> basic condition is not applicable in his case. Therefore He is NR.

**CQ5.** R is a foreign national. During PY 2018-19, he comes to India for 91 days. Determine his residential status for AY 2019-20 if during PY 2005-2006 to PY 2017-18, he was present in India as follows:

|         |          |         |          |         |          |         |          |         |          |
|---------|----------|---------|----------|---------|----------|---------|----------|---------|----------|
| 2005-06 | 315 days | 2008-09 | 72 days  | 2011-12 | 22 days  | 2014-15 | 307 days | 2017-18 | 134 days |
| 2006-07 | 16 days  | 2009-10 | 179 days | 2012-13 | 359 days | 2015-16 | 67 days  |         |          |
| 2007-08 | 40 days  | 2010-11 | 362 days | 2013-14 | 180 days | 2016-17 | 12 days  |         |          |

**Solution:** During PY 2018-19, R is in India for 91 days & during Last 4 years, he is in India for 520 days (134+12+67+307 days). Thus, he satisfies 2<sup>nd</sup> basic condition & **thus he is Resident**.

**Additional conditions:**

| PY      | Stay in India                |  |
|---------|------------------------------|--|
| 2017-18 | 134 (566 days in last 4 PYs) | Resident   |
| 2016-17 | 12 (866 days in last 4 PYs)  | Non-resident   |
| 2015-16 | 67 (868 days in last 4 PYs)  | <b>Resident (for 2<sup>nd</sup> time)</b>                  |
| 2014-15 | 307                          | Not necessary to determine further as resident for 2 years |
| 2013-14 | 180                          |  |
| 2012-13 | 359                          |  |
| 2011-12 | 22                           |  |

**Total stay in 7 preceding PY is 1081 days. Thus R satisfies both the additional conditions.**

R satisfies one of the basic conditions & two additional conditions. Thus he is ROR in India for AY 2019-20.

**CQ6.** R comes to India, for first time on 14.4.2016. During his stay in India up to 3.10.2018, he stays at Mumbai up to 8.4.2017 & then stays in Delhi till his departure from India. Determine his residential status for AY 2019-20.

**Solution:** During PY 2018-19, R was in India for 186 days (1.4.2018 to 3.10.2018). Since, he satisfies 1<sup>st</sup> basic condition, he is a Resident. To determine whether he is ROR/RNOR, we need to check additional conditions.

(1) R is resident in India for PYs 2016-17 & PY 2017-18 since his stay was more than 182 days.

(2) R is in India from 14.4.2016 to 31.3.2018 (i.e. 717 days).

R satisfies one of the basic conditions & only one of the two additional conditions. Thus R is RNOR.

**RULE 126:** Clarification regarding **FOREIGN BOUND SHIPS** where destination of the voyage is outside India [**Explanation 2 to Section 6(1)**]

- In case of Individual being **Citizen of India & Member of Crew** of Foreign Bound ship leaving India, **period of stay in India shall not include following period** in respect of an eligible voyage:

| <b>Period Commencing from</b>                     | <b>Ending on</b>                                   |
|---|--|
| Date entered into CDC for <b>joining</b> the ship | Date entered into the CDC for <b>signing off</b> . |

**Continuous Discharge Certificate (CDC):** It has the meaning assigned in Merchant Shipping (CDS-cum Seafarer's Identity Document) Rules, 2001 made under Merchant Shipping Act, 1958.

**Eligible voyage:** A voyage by a ship engaged in carriage of passengers/freight in international traffic:

- (a) For voyage having originated from any port in India → Destination should be any port o/s India.  
 (b) For voyage having originated from any port o/s India → Destination should be any port in India.

**CQ7.** Mr. Raja is an Indian citizen & a member of the crew of a Singapore bound Indian ship engaged in carriage of passengers in international traffic departing from Chennai port on 6<sup>th</sup> June 2018. From the following details for PY 2018-19, determine the residential status of Mr. Raja for AY 2019-20, assuming that his stay in India in last 4 PYs is 400 days & last 7 PYs is 750 days:

|  |                           |
|--|---------------------------|
| Date entered into CDC in respect of joining the ship by Mr. Raja     | 6 <sup>th</sup> June 2018 |
| Date entered into CDC in respect of signing off the ship by Mr. Raja | 9 <sup>th</sup> Dec 2018  |

**Solution:** Voyage is undertaken by Indian ship engaged in carriage of passenger in international traffic originating from port in India (Chennai) & having its destination at port o/s India (Singapore). Hence it is an eligible voyage. Therefore, period beginning from 6<sup>th</sup> June 2018 & ending on 9<sup>th</sup> Dec 2018, has to be excluded for computing the period of his stay in India. Accordingly, 187 days [25+31+31+30+31+30+9] have to be excluded from period of his stay in India. Thus Mr. Raja's period of stay in India during PY 17-18 would be 178 days [i.e., 365 days – 187 days]. Since his period of stay in India during PY 2018-19 is less than 182 days, **he is a NR for AY 2019-20.**

|                                 |  |
|---------------------------------|--|
| <b>2. HUF</b>                   | <p>➤ F</p> <p style="text-align: center;"><b><u>DETERMINATION OF ROR/RNOR</u></b></p> <p>➤ <b>Status of KARTA</b> will determine whether <b>HUF</b> is <b>ROR/RNOR</b>.</p> <ul style="list-style-type: none"> <li>☞ If KARTA is ROR → HUF is ROR &amp;</li> <li>☞ If KARTA is RNOR → HUF is RNOR.</li> </ul>  |
| <b>3. FIRMS/<br/>AOP/LA/AJP</b> |  |
| <b>4. COMPANY</b>               | <p>➤ A Company shall be Resident in India if:</p> <ol style="list-style-type: none"> <li>1. It is an <b>Indian company</b>;</li> <li>2. <b>POEM is in India</b> in that PY (Other than Indian Company).</li> </ol> <p><b>Note:</b> Indian Company is Always RESIDENT even if its POEM is in India/not. Thus criterion of POEM is relevant for Foreign Company only.</p> <p><b>POEM:</b> A Place where key management &amp; commercial decisions necessary for the conduct of the business of entity as a whole are substantially made.</p> |

**Meaning of Control & Management (C&M)**

- C&M refers to **Central C&M** & not day-to-day business activities. Business may be done from outside India & yet its C&M may be within India. **C&M is situated at a place where "head & brain" is situated.**
- **Place of Control** → May **differ** from **usual place** of running **business & registered office**. This is because C&M need not be necessarily done from the place of business/from registered office.
- C&M → Place where 'Controlling & Directing power' works (with some permanence).

## SCOPE OF TOTAL INCOME - SECTION 5

- The scope (taxability) of total income of an assessee depends upon the following factors:
- Residential Status** of the assessee.
  - Place of Accrual/Receipt** of Income.
  - Point of time** at which income had accrued/received by the assessee or his agent.

To understand the scope of Total Income, we must first understand some terms:

|                       |  |
|-----------------------|--|
| <b>INDIAN INCOME</b>  | 1. Income <b>Received</b> or deemed to be received in <b>India</b> <b>OR</b><br>2. Income <b>Accrued</b> or deemed to be accrued in <b>India</b> . |
| <b>FOREIGN INCOME</b> | Income which is <b>NEITHER Received</b> in India <b>NOR Accrued</b> in <b>India</b> .  |

## SCOPE OF TOTAL INCOME

### (I) INDIVIDUAL/HUF

| Nature of Income      | Tax Treatment |  |             |
|-----------------------|---------------|--|-------------|
|                       | ROR           | RNOR   | NR          |
| <b>Indian Income</b>  | Taxable       | Taxable  | Taxable     |
| <b>Foreign Income</b> | Taxable       | <b>Only 2 types of Foreign Incomes are taxable**</b><br>Others foreign incomes are not taxable in India. | Not Taxable |

**\*\* Following Foreign Incomes are taxable in the hands of RNOR:**

- Business Income** which is **controlled** wholly/partly **from India**.
- Income from **Profession set up in India**.

Above 2 Incomes must be included in TI of RNOR even if they accrues/arises outside India.

**Note: No other foreign Income (Salary, Rent, Interest etc.) is taxable in India to RNOR.**

### (II) Other than INDIVIDUAL/HUF

| Nature of Income      | Tax Treatment |             |
|-----------------------|---------------|-------------|
|                       | ROR           | NR          |
| <b>Indian Income</b>  | Taxable       | Taxable     |
| <b>Foreign Income</b> | Taxable       | Not Taxable |

#### Points to Remember:

- ❖ **Indian Income** → Taxable to **EVERYONE (R/NR)**.
- ❖ **ROR** → **Every Income (Indian/Foreign) is Taxable**.

**Circular:** Clarification regarding liability to Tax in India of **NR Seafarer receiving Remuneration in NRE (Non-Resident External) A/c** maintained with an Indian Bank

Income by way of salary, received by non-resident seafarers, for services rendered **outside India** on a foreign going ship (with Indian flag or foreign flag) & received into NRE bank A/c maintained with an Indian bank shall **not be included** in the total income.

## MEANING OF SOME IMPORTANT TERMS

### I. RECEIPT OF INCOME

|  |   |
|--|---|
| <b>Income Received in India</b>              | <ul style="list-style-type: none"> <li>➤ Receipt → First occasion(time) when the recipient gets money under his control.</li> <li>➤ Any <b>Further Remittance/Transmission</b> of the received amount to another place/person <b>does not result in "Receipt"</b> in the hands of subsequent recipient.</li> </ul>  |
| <b>Income Deemed to be Received in India</b> | <ul style="list-style-type: none"> <li>(i) Employer's Contribution to RPF in excess of 12% of salary.</li> <li>(ii) Interest credited to RPF of the Employee in excess of 9.5% p.a.</li> <li>(iii) Amount transferred from URPF to RPF (Employer's contribution &amp; its interest).</li> <li>(iv) Contribution made by CG/ other employer in PY under Pension scheme [80CCD] to the account of employee.</li> <li>(v) Any Tax deducted at source.</li> </ul> |

**CQ8.** Discuss the taxability of the following items of receipt in the case of RNOR:

- (i) Rs. 1,00,000 was earned from a business in the USA but the profit have been remitted to India. The assessee used to attend to the business only when he was in the USA.
- (ii) Remuneration of Rs. 20,000 due to him for services rendered in Russia was credited to his bank account in Russia & immediately thereafter remitted to India.

**Solution:**

- (i) Remittance of profit to India does not mean that business is controlled in India.

For RNOR, income accruing outside India is taxable only when it is from a business controlled from India or from a profession set up in India. Thus, income of Rs. 1,00,000 is not taxable in India.

- (ii) Salary accrues where services are rendered. In the present case services were rendered in Russia & income received there, it is income accruing outside India & received outside India. Hence it is not taxable in India.

### II. ACCRUAL OF INCOME

- **Accrue** means the **right to receive income**.
- **Due** means the **right to enforce payment** of the accrued income.

**Examples:**

1. Salary for work done in December will accrue throughout the month, day to day, but will become due on the salary bill being passed on 31<sup>st</sup> Dec or 1<sup>st</sup> Jan.
2. Interest on Government securities payable on specified dates arise during the period of holding but will become due for payment on specified dates.

**Explanation 1 to Section 5:** Income accruing/arising outside India shall not be deemed to be received in India merely because it is taken into account in Balance Sheet prepared in India.

Class Note:

**Explanation 2 to Section 5:** Income taxed on Accrual basis cannot be assessed again on Receipt basis, as it will amount to double taxation.

## INCOMES DEEMED TO ACCRUE OR ARISE IN INDIA [SECTION 9]

- Some Incomes are **deemed** to accrue/arise in India even though they actually accrue o/s India.

### 1. INCOME FROM BUSINESS CONNECTION IN INDIA

- **Conditions for Taxability of Income from Business Connection:**

- (a) Assessed has a **“Business Connection”** in India.
- (b) Income arises **outside India** by virtue of such Business Connection to the assessee.

- **Meaning of Business Connection:** Business connection includes **any Business Activity** carried out **through** a person acting on behalf of NR.

Person Acting on behalf of NR (Agent) must satisfy the following conditions:

- ☞ Agent of NR must have **Authority to conclude contracts on behalf of NR**. Such contract
  - Should be in the **name of NR**.
  - Should be for **Provision of Services** by that NR.
  - Should be for the **transfer of ownership of Property** owned by that NR.
  - Should be for **granting of Right to use** Property owned by that NR/under control of NR.
- ☞ If agent does not have the above Authorities but **he habitually maintains stock of goods/merchandise** from which he regularly deliver goods/merchandise in India **on behalf of NR**.
- ☞ **Where he habitually secures orders in India for NR**.

- **Examples of Business Connection:**

- (a) Branch office in India or Agent of a NR in India or An organization/factory of a NR in India.
- (b) Appointing an agent in India for systematic & regular purchase of Raw Material or for sale of NR's goods for other business purpose.
- (c) Formation of subsidiary company in India to carry on business of NR parent company.
- (d) Any profit of NR which can be reasonably attributable to such part of operations carried out in India through business connections in India are deemed to be earned in India.

**NOTE:** If agent's authority is limited to purchase of goods or merchandise for the non-resident, there will be NO business connection.

- There may be situations when a person acting on behalf of NR **secures order for another NR too**.  
In such situation, business connection for other NR is established if:
- (a) such other NR controls the NR or
  - (b) such other NR is controlled by the NR or
  - (c) such other NR is subject to same control as that of NR.

In all 3 situations above, business connection is established where a person habitually secures orders in India, mainly or wholly for such non-residents.

- **Independent Agent:** Agent who do not work mainly or wholly for the NR.  
Where NR carries on business through broker/commission agent, there will be NO business connection if such a person is acting in ordinary course of his business.

➤ **Significant Economic Presence of NR in India Constitute Business Connection [Amd]**

[Explanation 2A to section 9(1)(i)]

**Significant Economic Presence means:**

|   |   |
|---|---|
| (a) Transaction in respect of any goods, services or property carried out by NR in India including provision of download of data or software in India | Aggregate of payments arising from such transactions during PY exceeds prescribed amount. |
| (b) Systematic & continuous soliciting of business activities or engaging in interaction with users in India through digital means                    | Prescribed number of users  |

Above transactions shall constitute significant economic presence in India, whether or not

- (i) Agreement for such transactions or activities is entered in India;
- (ii) NR has a residence or place of business in India; or
- (iii) NR renders services in India.

However, where a business connection is established by reason of significant economic presence in India, only so much of income as is attributable to the transactions or activities referred to in (a) or (b) above shall be deemed to accrue or arise in India.

**Note:** This provision has been inserted to cover digitalized businesses, which do not require physical presence of itself or any agent in India within the scope of section 9(1)(i).

**FOLLOWING SHALL NOT BE TREATED AS BUSINESS CONNECTION IN INDIA**

|   |   |
|---|---|
| (a) Business whose All operations are not carried out in India              | <ul style="list-style-type: none"> <li>▪ Part of Income attributable to the operations carried out in India shall be deemed to accrue or arise in India.</li> <li>▪ Income which cannot be attributed to the operations in India shall not be deemed to accrue/arise in India.</li> </ul>   |
| (b) Purchase of Goods in India for Export by NR                             | <ul style="list-style-type: none"> <li>▪ No Income shall be deemed to accrue in India from operations which are confined to purchase of goods in India for Export by NR.</li> </ul>   |
| (c) Collection of News & Views in India for transmission out of India by NR | <ul style="list-style-type: none"> <li>▪ If a person engaged in business of News agency etc, Income from activities which are confined to the collection of news &amp; views in India for transmission out of India is not deemed to accrue in India.</li> </ul>  |
| (d) Shooting of Cinematograph films in India by NR                          | <ul style="list-style-type: none"> <li>▪ Income from operations confined to shooting of any cinematograph film in India, if such NR is:               <ul style="list-style-type: none"> <li>(a) Individual, who is not a citizen of India or</li> <li>(b) Firm which does not have any partner who is a Citizen of India or who is Resident in India;</li> <li>(c) Company which does not have any Shareholder who is a Citizen of India or who is Resident in India.</li> </ul> </li> </ul> |
| (e) Display of Rough Diamonds in SNZ by Foreign Company                     | <ul style="list-style-type: none"> <li>▪ Income from the activities carried out by <b>Foreign Company</b> which are confined to display of uncut &amp; unsorted diamonds (without any sorting or Sale) in any SNZ notified by CG.</li> </ul>  |

**2. INCOME FROM PROPERTY OR ASSET OR SOURCE OF INCOME IN INDIA**

- Income from Property/Asset situated in India → Deemed to accrue in India.

**Ex: (1)** Rent paid o/s India for use of machinery/buildings situated in India is deemed to accrue in India.

**(2)** Deposits with an Indian company for which interest is received o/s India.

### 3. CAPITAL GAIN ON TRANSFER OF A CAPITAL ASSET SITUATED IN INDIA

- Capital Gain on Transfer of Capital Asset situated in India is deemed to accrue in India even if:
  - Place of Registration of Document of Transfer is in India or **outside India**; &
  - Place of Payment of consideration for transfer is in India or **outside India**.
- Capital asset (being any Share/Interest in company registered/incorporated o/s India) shall be deemed to be situated in India, **if Share/Interest derives its value substantially from the assets located in India.**
- **Declaration of Dividend by a foreign company outside India** does not have the effect of transfer of any underlying assets located in India. Thus Dividends declared & paid by Foreign Company outside India in respect of shares which derive their value substantially from assets situated in India would **NOT be deemed to be income accruing in India.**

### 4. DIVIDEND INCOME FROM INDIAN COMPANY

- Dividends paid by Indian company outside India → Deemed to Accrue in India.
- **Watch out for Section 10(34) & Section 115BBDA.**

### 5. INCOME FROM SALARIES

- Salary is deemed to accrue/arise at the place where the **services are rendered.**
- If the services are rendered in India, salary shall be deemed to accrue in India.
- Salaries payable by **Government to a citizen of India** for services rendered **outside India** would be **deemed to accrue India** (even if services are rendered outside India).  
However, Allowances & Perquisites paid outside India by Government are Exempt u/s 10(7).
- **Exception u/s 9(2):** Pension payable outside India by the Government to its officials & judges who permanently reside outside India shall **not be deemed to accrue or arise in India.**

### 6. INTEREST, ROYALTY, FEES FOR TECHNICAL SERVICES PAID TO NON-RESIDENT

- Interest, royalty, FTS is deemed to accrue/arise in India if it is:

#### (i) Payable by Government of India (CG/SG)

#### (ii) Payable by Resident

**Exceptions:** [In following cases, income is not deemed to accrue in India]

- (a) If the borrowed money is used by the payer of Interest for a business/profession carried on outside India or for earning any income from the source outside India.
- (b) Payment of Royalty or Technical fees related to a Business/profession carried on by the payer outside India or for earning any income outside India.

#### (iii) Payable by Non- Resident

- (a) If borrowed money is used by the payer of Interest for a business/profession carried on in India or for earning any income in India.
- (b) Payment of Royalty or FTS related to a Business/profession carried on by the payer in India or for earning any income in India.

**Exception:** Interest on money borrowed **by NR** for any purpose **other than business or profession in India** will **NOT be deemed to accrue or arise in India.**

**Ex:** If a NR 'A' borrows money from a non-resident 'B' & invests the same in shares of an Indian company, interest payable by 'A' to 'B' will not be deemed to accrue or arise in India.



**Note:** Income by way of Interest, Royalty, FTS from services utilized in India would be deemed to accrue in India in case of a NR & be included in his total income, whether or not such services were rendered in India & whether or not NR has a residence or place of business or business connection in India.

**CQ9.** G, a national of Iraq received the following fees for technical services during PY 2018-19.

|   |   |          |
|---|---|----------|
| 1 | From Government of India  | 1,00,000 |
| 2 | From Government of Iraq   | 4,00,000 |
| 3 | From S, a ROI, services have been utilised for earning income in India      | 40,000   |
| 4 | From V, a ROI, services have been utilised for earning income outside India | 80,000   |
| 5 | From J, a NR for services for a business carried on in India                | 70,000   |

Compute taxable income of G for AY 2019-20 assuming G has come for first time in India during PY 2018-19 & stayed for 181 days.

**Solution:** Since G does not satisfy any of the two basic conditions, he is a NR for AY 2019-20.

For NR, only Indian Incomes are taxable.

Fees for technical services received from:

|   |  |                 |
|---|--|-----------------|
| 1 | Government of India [taxable u/s 9(vii)(a)]  | 1,00,000        |
| 2 | Government of Iraq [not taxable since paid by foreign government to NR]            | -               |
| 3 | S [Paid by Resident & services has been used for earning Income in India]          | 40,000          |
| 4 | V [Paid by Resident & services has been used for earning Income outside India]     | -               |
| 5 | J [Paid by one NR to another NR but services has been given for business in India] | 70,000          |
|   | <b>Total Income</b>  | <b>2,10,000</b> |

**CQ10.** What if in the above question, G came to India on 15.6.2018 & stayed upto. 31.12.2018, will his taxable income in India change?

**Answer:** If G stays in India from 15.6.2018 to 31.12.2018, his stay in India = 200 days. Thus he will be Resident in India. However, he shall be "RNOR" as he does not satisfy both the additional conditions.

For RNOR, income earned & received o/s India is taxable only when it is from a business or profession controlled or set up in India.

Assuming that this condition is not satisfied, fees for technical services received from Government of Iraq as well as from V will still be exempt from tax in India. Hence Total Income of G will remain at Rs. 2,10,000.

### TABULAR SUMMARY OF SCOPE OF TOTAL INCOME

| SCOPE OF TOTAL INCOME                                       | ROR                                     | RNOR                                 | NR          |
|---|---|--------------------------------------|-------------|
| Income Received or Deemed to be Received in India during PY | Taxable                                 | Taxable                              | Taxable     |
| Income Accrued or Deemed to be Accrued in India during PY   | Taxable                                 | Taxable                              | Taxable     |
| Income Accrued outside India during PY                      | Taxable, even if Received outside India | Taxable in 2 Exceptional cases only. | Not Taxable |

