

Direct Tax

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Chapter 1 : Definitions

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Basic Terms

1. Assessee: [Section 2(7)]

It means any person who is liable to pay tax or any other sum under Income Tax Act, 1961. It includes person in respect of which any proceeding initiated, deemed assessee or assessee in default.

2. Assessment: [Section 2(8)]

Assessment is the process of determining the tax payable by an assessee. This is done in two stages:

- a) Assessing the taxable income or loss, if any.
- b) Finding out the tax payable by the assessee or refundable to the assessee.

3. Assessment Year: [Section 2(9)]

Assessment year is “ the period of twelve months commencing on the first day of April every year”.

4. Previous Year: [Section 3]

Previous year means the financial year immediately before the assessment year.

If a business or profession is set up during the financial year, its first previous year would start from date of setting up of business or profession and end with immediately falling 31st March.

5. Person:[Section 2(31)]

Person includes:

- a) Individual – **Man, Woman, Minor, Person of unsound mind.**
- b) Hindu Undivided Family (HUF) – **Consist of all males lineally descended from a common ancestor and includes their wives and unmarried daughters.**
- c) Company – **Whether incorporated in India or outside India.**
- d) Firm – **Includes LLP**
- e) Association of Person – **trust, club, co operative society and Body of Individuals – heirs of deceased person**
- f) Local authority – **Municipality, Gram Panchayat, Cantonment Board,etc.**
- g) Artificial Juridical Person – **University, Deity Idol, Bar Council,etc.**

Determine the status of following persons as per Income Tax Act:

Mr. Vishal, proprietor of M/s. Vishal Trading Company.	Individual
Mumbai University	Artificial Juridical Person
Mr. Sunil, his wife and 4 childrens	Hindu Undivided Family (HUF)
HDFC Bank Ltd	Company
Thane Municipal Corporation	Local Authority
Joint venture of A Ltd, B Ltd and Mr. C	Association of Persons
M/s. Das and Associates (a partnership firm of 2 Artists)	Firm
Sachin Cricket Club	Association of Persons
A, B and C individuals constructed a cinema theatre jointly and shared the rent	Body of Individuals

Income: [Section 2(24)]

Income includes the following:

- 1. Profits and Gains**
- 2. Dividends**
- 3. Interest**
- 4. Commission**
- 5. Voluntary Contributions received by a trust**
- 6. Rental receipts, whether for House Property or otherwise**
- 7. Amount received as Salaries**
- 8. Allowances/Benefits/Perquisites associated with Salaries**
- 9. Winnings from lotteries, crossword puzzles, games, etc.**
- 10. Capital Gains**
- 11. Sum received under Keyman Insurance Policy**
- 12. Gifts from employer and others**
- 13. Subsidies**

Gross Total Income:

As per section 14, income of a person is computed under the following five heads:

- 1. Salaries**
- 2. Income from house property**
- 3. Profits and gains of business or profession**
- 4. Capital gains**
- 5. Income from other sources**

The aggregate income under these heads is termed as gross total income. Gross total income is computed before making any deduction under section 80C to 80U.

Exemptions and Deductions:

If an income is exempt from tax, it is not included in the computation of income. Exemption can never exceed the amount of income.

Deduction:

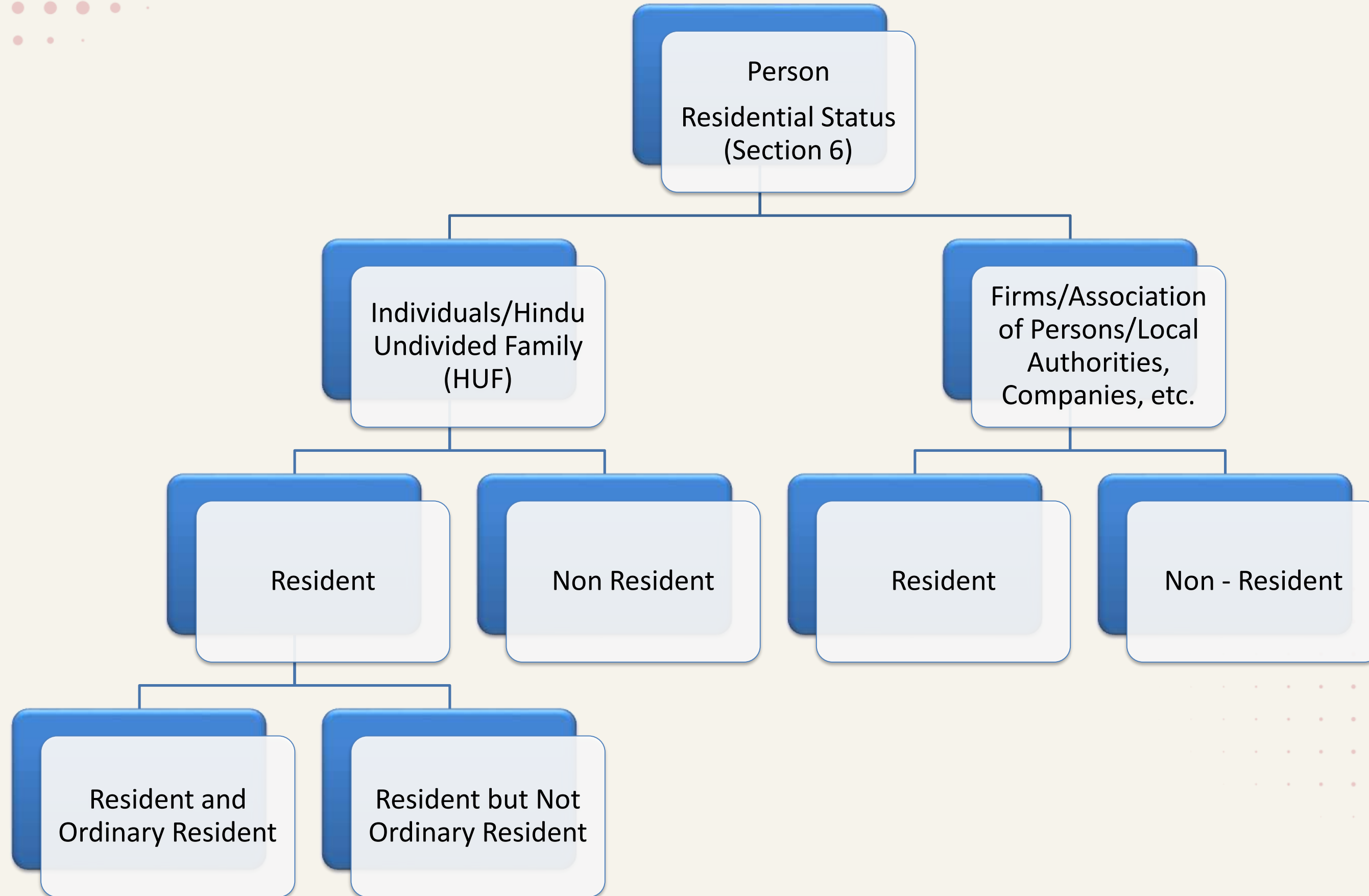
Deduction is generally given from income chargeable to tax. Deductions can be less than or equal to or more than amount of income.



Chapter 2: Residential Status



Types of Residents:



Residential Status of Individual:

Basic Conditions: section 6(1)

Additional Conditions : section 6(6) (a)

Exceptions in case of basic conditions:

In the following cases only Basic condition number 1 is applicable i.e. 182 days stay in India.

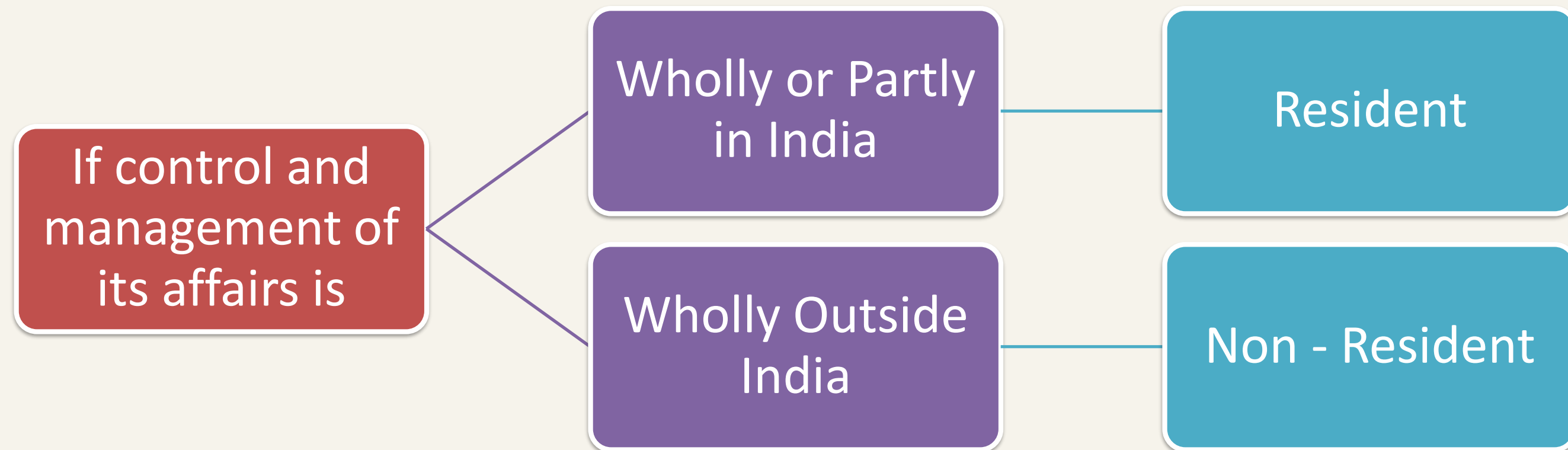
- (a) Indian citizen leaves India for employment purpose .
- (b) Indian citizen being a crew member of Indian ship leaves India.
- (c) Indian citizen or a person of Indian origin visits India and his Indian income is less than Rs.15 lakhs in Previous year.

Deemed Resident: [section 6(1A)]

In case of Indian citizen visits India, having total income (other than foreign income) exceeding Rs.15 lakhs during Previous year shall be deemed to be resident in India in that Previous Year, if he is not liable to pay tax in any other country and who has been in India for 120 days or more in current Previous year and 365 days or more during last 4 previous year.

A deemed resident u/s 6(1A) is always Resident but Not Ordinary Resident (R but NOR).

Residential Status of Hindu Undivided Family:



Note: If Karta of HUF is satisfying both the additional conditions as per sec6(6) then HUF is treated as R and OR otherwise R but NOR

Residential Status of Firm/Association of Person/Body of individual/ Local Authority/Artificial Juridical Person:



Residential Status of Company:

Indian
Company

- Always Resident

Other
Company

- If its “place of effective management” [POEM] is in India in that particular year then resident otherwise Non- Resident

POEM means a “place where key management decisions that are necessary for running a business entity are taken”.

