

RESIDENTIAL STATUS OF AN INDIVIDUAL ASSESSEE (A.Y. 2020-21)

1. Mr. A , an Indian citizen , came to India for the first time on 01st October 2019 and left for India on 31st March 2020 during the previous year 2019-20 . Determine whether he is a resident or a non – resident for the previous year 2019-20.

Solution:

Provision:

An Individual is said to be resident in India, in any previous year, if he satisfies *any one* of the following two basic condition:

1. He is in India for a period of 182 days or more in the previous year

2a. He is in India for a period of 60 days or more in the previous year

and

2b. He is in India for a period of 365 days or more during 4 years preceding the previous year

Exceptions to whom the rule of stay in India for a period of **60 days** mentioned in **Basic Condition 2a** does not apply:

-A citizen of India or an Indian *member of a crew* on an Indian ship, who *leaves India* for the *purpose of employment*.

-A citizen of India, or a *person of Indian origin*, who being outside India, *comes on a visit* to India.

Analysis

Mr. A is an Indian citizen who has come to India for a visit and hence he is an exception to the basic condition 2 (a) i.e. he will be a resident only if he is in India for a period of 182 days or more during the previous year 2019-20.

Calculation of No. of days of stay in India during the P.Y. 2019-20

Month	No. of days
October	31
November	30
December	31
January	31
February	29
March	31
Total	183

Conclusion

Mr. is a **Resident** for the Previous Year 2019-20 since he was in India for a period of more than 182 days.

2. Mr. B a resident of USA came to India for the first time on 01st May 2012. He stayed here without break for 3 years and left for China on 01st May 2015. He returned to India on 01st April 2016 and went back to USA on 01st December 2016. He was posted back to India on 20th January 2020 and has been in India since then. Determine his residential status for the previous year 2019-20.

Solution:

Provision:

An Individual is said to be resident in India, in any previous year, if he satisfies *any one* of the following two basic condition:

1. He is in India for a period of 182 days or more in the previous year

2a. He is in India for a period of 60 days or more in the previous year

and

2b. He is in India for a period of 365 days or more during 4 years preceding the previous year

Exceptions to whom the rule of stay in India for a period of **60 days** mentioned in **Basic Condition 2a** does not apply:

-A citizen of India or an Indian *member of a crew* on an Indian ship, who *leaves India* for the *purpose of employment*.

-A citizen of India, or a *person of Indian origin*, who being outside India, *comes on a visit* to India.

Analysis

Mr. B has come to India for employment. He will be resident if he satisfies any of the above mentioned conditions.

Calculation of No. of days of stay in India during the P.Y. 2019-20

Month	No. of days
January	12
February	29
March	31
Total	72

Calculation of No. of days of stay in India during the 4 years preceding the P.Y. 2019-20 i.e. P.Y. 2015-16, P.Y. 2016-17, P.Y. 2017-18 and P.Y. 2018-19

P.Y.	No. of days
2015-16	31
2016-17	245
2017-18	-
2018-19	-
Total	276

Conclusion

Mr. B is a **Non -Resident** for the Previous Year 2019-20 since he does not satisfy any of the basic conditions.

3. Mr. C is a Canadian citizen. He came to India on October 15, 2019 for a visit and was in India till 31st March, 2020. In the earlier years, he was in India as under:

Previous Year	No. of days of stay in India
2009-10	188
2010-11	190
2011-12	185
2012-13	200
2013-14	40
2014-15	300
2015-16	195
2016-17	185
2017-18	100
2018-19	200

Find out his residential status for the assessment year 2019-20.

Solution:

Provision:

An Individual is said to be resident in India, in any previous year, if he satisfies *any one* of the following two basic condition:

1. He is in India for a period of 182 days or more in the previous year

2a. He is in India for a period of 60 days or more in the previous year

and

2b. He is in India for a period of 365 days or more during 4 years preceding the previous year

Exceptions to whom the rule of stay in India for a period of **60 days** mentioned in **Basic Condition 2a** does not apply:

-A citizen of India or an Indian *member of a crew* on an Indian ship, who *leaves India* for the *purpose of employment*.

-A citizen of India, or a *person of Indian origin*, who being outside India, *comes on a visit* to India.

Analysis

Mr. C will be resident if he satisfies any of the above mentioned conditions.

Calculation of No. of days of stay in India during the P.Y. 2019-20

Month	No. of days
October	17
November	30
December	31
January	31
February	29
March	31
Total	169

Calculation of No. of days of stay in India during the 4 years preceding the P.Y. 2019-20 i.e. P.Y. 2015-16, P.Y. 2016-17, P.Y. 2017-18 and P.Y. 2018-19

P.Y.	No. of days
2015-16	195
2016-17	185
2017-18	100
2018-19	200
Total	680

Mr. C is a **Resident** for the Previous Year 2019-20 since he was in India for a period of more than 60days in the Previous Year 2019-20 and more than 365 days in the 4 preceding previous years.

Additional Conditions

An individual who is a Resident in India will be a Resident and Ordinary Resident (R & OR) if he satisfies both of the following conditions:

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

Calculation of No. of days of stay in India during the 7 years preceding the P.Y. 2019-20 i.e. between P.Y. 2012-13 to P.Y. 2018-19

P.Y.	No. of days
2012-13	200
2013-14	40
2014-15	300
2015-16	195
2016-17	185
2017-18	100
2018-19	200
Total	1,220

Conclusion:

Mr. C is a ***Resident and Ordinary Resident*** for the Previous Year 2019-20 since he satisfies both the additional conditions. i.e. he was in India for a period of more than 730 in the preceding 7 years and was a resident in at least 2 out of 10 preceding previous years.

4. Mr. D is a citizen of USA , came to India , for the first time , on 15th April 2015. During the financial years 2015-16, 2016-17, 2017-18 , 2018-19 and 2019-20 , he was in India for 120 days , 90 days, 3 days , 200 days and 65 days respectively. Determine his residential status for the A.Y. 2020-21.

Solution**Provision:**

An Individual is said to be resident in India, in any previous year, if he satisfies *any one* of the following two basic condition:

1. He is in India for a period of 182 days or more in the previous year

2a. He is in India for a period of 60 days or more in the previous year

and

2b. He is in India for a period of 365 days or more during 4 years preceding the previous year

Exceptions to whom the rule of stay in India for a period of **60 days** mentioned in **Basic Condition 2a** does not apply:

-A citizen of India or an Indian *member of a crew* on an Indian ship, who *leaves India* for the *purpose of employment*.

-A citizen of India, or *a person of Indian origin*, who being outside India, *comes on a visit* to India.

Analysis

Mr. D will be resident if he satisfies any of the above mentioned conditions.

Mr. D was in India for a period of 65 days in the previous year 2019-20.

He was in India for a period of 413 days (120+90+3+200) during the preceding 4 previous years.

Mr. D is a **Resident** for the Previous Year 2019-20 since he was in India for a period of more than 60 days in the Previous Year 2019-20 and more than 365 days in the 4 preceding previous years.

Additional Conditions

An individual who is a Resident in India will be a Resident and Ordinary Resident (R & OR) if he satisfies both of the following conditions:

a. He has been a *resident in India for at least 2 out of 10 years* immediately preceding the previous year.

b. He has been in India for a period of *730 days or more during the 7 years* immediately preceding the previous year.

Conclusion:

Since, Mr. D had come to India for the first time in 2015-16, his total stay in India during the preceding 7 years was only 413 days i.e. less than 730 days. Since condition 2(b) is not satisfied, Mr. D is a **Resident But Not Ordinary Resident.(RNOR)**.