Residential Status and tax incidence

Individual

Conditions for resident and ordinary resident

He is in India in previous year for a period of 182 days or more	He is in India for a period of 60 days or more during the previous year and 365 days or more during 4 years immediately preceding the previous year.	He has been resident in India at least 2 out of 10 previous years immediately preceding the relevant previous year	He has been in India for a period of 730 days or more during 7 years immediately preceding the relevant previous year

Note: If he satisfy at least one of basic conditions but none of the additional conditions and If he satisfies at least one of basic condition and one of the two additional conditions then he is said to be Resident but not ordinary resident.

HUF

Place of control	Residential Status of family	Ordinary Resident or not	
Control and management of affairs of a HUF is as follow.			
Wholly in India	Resident	He has been resident in India at least 2 out of 10 previous years immediately preceding the relevant previous year	He has been in India for a period of 730 days or more during 7 years immediately preceding the relevant previous year
Wholly outside India	Non-Resident	---------	----------
Partly in India and partly outside India	Resident	He has been resident in India at least 2 out of 10 previous years immediately preceding the relevant previous year	He has been in India for a period of 730 days or more during 7 years immediately preceding the relevant previous year

Company

Place of control	Residential Status	
Control and management of affairs of a company		
Wholly in India	Resident	Resident
Wholly outside India	Resident	Non-resident
Partly in India and partly outside India	Resident	Non-resident

Whether income is received in India during the relevant years	Whether income accrues in India during the relevant years	Status of Income
Yes	Yes	Indian Income
Yes	No	Indian Income
No	Yes	Indian Income
No	No	Foreign Income

Tax Incident of different tax payers

Individual and HUF			
Particulars	R & OR	R & NOR	NRI
Indian income	Taxable in India	Taxable in India	Taxable in India
Foreign Income	Taxable in India	1. Business Income and business is controlled wholly or partly from India 2. Income from profession is set up in India	Not taxable in India
Indian Income for other taxpayer	Taxable in India	N.A.	Taxable in India
Foreign Income for other taxpayer	Taxable in India	N.A.	Not taxable in India

Receipt of income

Receipt vs. Remittance	Cash vs. kind	Receipt vs. Accrual	Actual receipt vs. deemed receipt	Receipt by agent	Receipt of income in the case of advance money	Receipt in case of sale by commission agent	Receipt by cheque	Receipt when cheque is sent by post	When sale proceed are received in kind

Deemed receipt

Interest in excess of 9.5% to the credit balance of an employee in the case of RPF	Excess contribution by employer > 12% in case of RPF (Recognised provident fund)	Transfer balance	Contribution made by CG or any other employer in previous year to account of NPS	TDS	Deemed profit under section 41

Accrual of Income

Accrual is generally unconditional	Income is said to accrue when it becomes due	Accrual of business profit	It is incorrect to state that profit do not accrue until actually computed	If income is taxable at the time of accrual, it can not be taxed on receipt basis	Accrual of business income in case of composite business
Place where property in goods passes decides accrual of profit in case of sale of goods	Accrual of profit in case of forward contract	Selling agent's commission accrues at a place where sales are affected	Commission payable for other services accrues at the place where service is rendered	Interest accrues where money is lent	Interest in the case of compulsory acquisition
No profit on the valuation of closing stock	Profit does not accrue in transfers between head office and branch office	Dividends accrue at the place where the register of member is kept	Damages accrue when amount is decreed or admitted	Commission payable on passing of audited accounts accrues only on the date of meeting	Profit on devaluation arises in the year of devaluation
Share of profit form a resident firm accrues or arises in India	Profit on mortgage sale arises on the date of confirmation of sale	Mesne Profit is taxable in year in which such profits are determined	Question as to source of income is not relevant	Question on given facts, certain income can be said to have accrued to a question is a question of law	

Section 9 – Income deemed to accrue or arise in India

1. Income from business connection	He exercises in India an authority to conclude contracts on behalf of the non resident	He has no such authority but habitually maintains in India a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of non-resident	He habitually secures order in India for non-resident or for non-residents under the same management.
1.Taxpayer has a business connection in India	Independent brokers/ agents are excluded	Purchase of goods for exports	Collection of news and views
2.Income actually arises outside India	Operation not taken as business connections	Shooting of cinematograph film in India	NRI exporter selling goods form abroad to India Importer

<table>
<tr><td colspan="2">1</td><td colspan="2">2</td><td>3</td><td>4</td></tr>
<tr><td colspan="2">Purchase made by resident are out right on his own account</td><td colspan="2">The transaction between resident and non-resident are made at arm’s length and at prices which would be normally chargeable to other customers</td><td>The NR exercise no control over the business of the resident and sales are made by the latter on his own account</td><td>The payment to the NR is made on delivery of documents and is not dependent in any way on sales to be effected by the resident</td></tr>
<tr><td>NRI selling goods from abroad to its Indian subsidiary</td><td colspan="2">Sale of plant and machinery to an Indian Importer on installment basis</td><td>Foreign agents of Indian exporter</td><td>Non-resident person purchasing goods in India</td><td>Sales by a NR to Indian customers either directly or through agents</td></tr>
</table>

1	2	3	4	5	6	7	8
Income through or from any property, asset or source of income in India	Income through the transfer of capital asset situated in India	Income under head salaries	Salary payable abroad by Govt., to a citizen of India	Dividend paid by an Indian Company	Income by way of Interest (Received from Govt., Resident or Non-Resident)	Income by way of royalty (Received from Govt., Resident or Non-Resident)	Income by way of fees for technical services (Received from Govt., Resident or Non-Resident)

Meaning of royalty

1	2	3	4	5	6	7
Transfer of all or any rights in respect of a patent, invention, model, design, secret formula or process or trade mark or similar property	The imparting of any information concerning working or use of patent, invention, model, design, secret formula or process or trade mark or similar property	The use of patent, invention, model, design, secret formula or process or trade mark or similar property	The imparting of any information concerning technical, industrial, commercial or scientific knowledge, experience or skill	The use or right to use any industrial, commercial or scientific equipment but not being the amount referred to in section 44BB	The transfer of all or any rights in respect of copyright, literary, artistic or scientific work including firms or video tapes for use in connection with television or video	The rendering of any services in connection with all 1 to 6 activities