

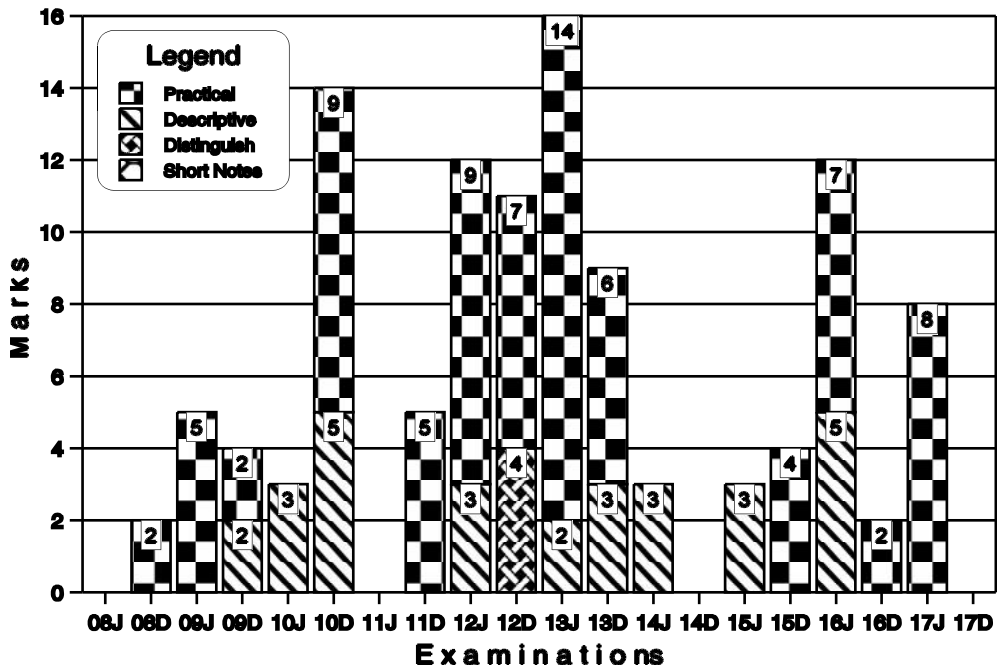
# 1

## ***BASIC CONCEPTS AND RESIDENTIAL STATUS***

### **THIS CHAPTER INCLUDES**

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|--|--|
| <ul style="list-style-type: none"> <li>• Basic Concepts</li> <li>• Important Definitions</li> <li>• Agricultural Income</li> <li>• Capital and Revenue Receipts and Expenditure</li> </ul> | <ul style="list-style-type: none"> <li>• Rates of Income Tax</li> <li>• Residential Status of: Individuals, HUF, Firm, AOP, Company, Others</li> </ul> |
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### **Marks of Short Notes, Distinguish Between, Descriptive & Practical Questions**



## DISTINGUISH BETWEEN

**2012 - Dec [2]** (a) State the difference between residential status of a company and that of others. **(2 marks)**

(b) Explain the difference between 'Total Income' and 'Gross Total Income'. **(2 marks)**

**Answer:**

**(a) Rules to determine residential status of Companies [Sec. 6(3)]**

A person being a company shall be said to be resident in India in any previous year if:

1. It is an Indian Company, or
2. Its place of effective management at any time in that year, is in India.

**Note:**

1. A company cannot be "ordinarily" or "not ordinarily resident".
2. Place of Effective management to mean the place where key management and commercial decisions that are necessary for the conduct of the entity's business as a whole, are, in substance made.

**Answer:**

**(b)**

<b>GTI Sec. 2(45)</b>	<b>Total Income Sec. 5</b>
1. Sum total of all 5 heads [Salary, House Property, Business Profession, Capital Gain, Other Sources]	1. GTI (-)deduction u/s chap. VI A
2. GTI is not rounded off	2. Rounded off u/s 288A
3. No tax is calculated on GTI	3. Tax is calculated on TI

**DESCRIPTIVE QUESTIONS**

**2009 - Dec [1] {C}** (d) (iv) A company which has its head office in India operated in Pakistan declared dividend subject to remittance from Pakistan. During the previous year relevant to the assessment year, the remittance could not be recovered from Pakistan. What is the tax liability in the hands of shareholder? Discuss. **(2 marks)**

**Answer:**

As head office of Company is in India. So register of members will also be maintained in India. Income from dividend will be considered as income deemed to accrue on arise in India and hence taxable.

As dividend from domestic company is exempt U/s 10(34) subject to an amount of ₹ 10 Lakhs. Hence this dividend will be exempt from tax.

**2010 - June [8]** (b) State the Elements/Sources of Income Tax Law.

**(3 marks)**

**Answer:**

The elements/sources of Income Tax Law are:

- (i) The Income Tax Act, 1961.
- (ii) Finance Act.- Annual
- (iii) The Income Tax Rules, 1962.
- (iv) Circulars/notifications from CBDT.
- (v) Judicial Decisions.

**2010 - Dec [5]** (b) One of the exceptions to the rule that the income of the previous year shall be assessed in the subsequent assessment year is the shipping business of non-resident. Discuss briefly the assessment aspect of such income from shipping business. **(5 marks)**

**Answer:**

**Section 172-Shipping Business of Non Resident:**

Where a ship, belonging to or chartered by a non-resident, carries passengers, livestock, mail or goods shipped at a port in India, the ship is allowed to leave the port only when the tax has been paid or satisfactory arrangement has been made for payment thereof, 7.5% of the freight paid or payable to the owner or the charterer or to any person on his behalf,

whether in India or outside India on account of such carriage is deemed to be his income which is charged to tax in the same year in which it is earned. **[Section- 44B]**

**Section 172** will not apply if time-charterer carries his own goods. When the time charterers carried their own cargo, they served their own interests and this kind of self service was not contemplated for the purpose of assessment, and **Section 172** would not be attracted - *Lima Leitao & Co. Ltd. v. Union of India.*

**2012 - June [3]** (a) State how the residential status of a company is determined under the Income-tax Act, 1961. **(3 marks)**

**Answer:**

**As per Sec. 6(3)**

A company is said to be a resident in India in any previous year, if:

- (i) It is an Indian company as defined under **section 2(26)** of the Act; or
- (ii) during the relevant previous year, its place of effective management, in that year, is in India.

A company is said to be Non- resident in India in any previous year if:

- (i) it is not an Indian company; or
- (ii) during the relevant previous year, its place of effective management in that year, is outside India.

**Note:** For the purpose of this clause "Place of effective management" means a place where key management and commercial decisions that are necessary for the conduct of business of an entity as a whole are, in substance made.

**2013 - June [7]** (a) State whether the following are agricultural income or non-agricultural income:

- (i) Where owner himself performs slaughter tapping and then sells the rubber.
- (ii) Conversion of sugar cane into gur. **(2 marks)**

**Answer:**

- (i) Where owner himself performs slaughter tapping and then sells the rubber, it is Agricultural income.
- (ii) Conversion of sugar cane into Gur - Non Agricultural income as it involves manufacturing activity which is of business nature.

**2013 - Dec [2]** (a) What are the circumstances in which previous year and assessment year will be the same? **(3 marks)**

**Answer:**

Previous year and the assessment year will be same in the following cases:

1. Shipping business of non-resident. **(Section 172)**
2. Persons leaving India. **(Section 174)**
3. AOP or BOI or Artificial juridical person formed for a particular event or purpose. **(Section 174A)**
4. Persons likely to transfer property to avoid tax. **(Section 175)**
5. Discontinued Business. **(Section 176)**

**2014 - June [5]** (c) Explain the term “substantial interest” defined in Section 2(32) and its application in at least two situations. **(3 marks)**

**Answer:**

Substantial Interest

- (a) For company- If individual along with relatives hold not less than 20% equity shares beneficially.
- (b) For others- If individual along with relatives is entitled to atleast 20% of income.

Application

An individual is chargeable to tax in respect of any salary, commission, fees or any other remuneration received by the spouse from a concern in which the individual has substantial interest.

- (i) But that portion of salary etc., of spouse which is due to application of technical or professional knowledge or experience shall not be clubbed.
- (ii) If husband and wife both have substantial interest in the concern and
  - both are receiving remuneration because of interest in the concern
  - then the remuneration of both shall be clubbed in the hands of that spouse whose total income is greater, before clubbing such income.

**2015 - June [4]** (d) Mr. Bharat, an engineering graduate, born and brought up in India, got employment in USA in August, 2017. By what date he should leave India, in order to become a non-resident? By that, what tax advantage he will get? **(3 marks)**

**Answer:****Planning for residential status:**

A person who leaves India for employment if remains for less than 182 days during the financial year of leaving, he will be a non-resident.

Mr. Bharat must leave India before 29<sup>th</sup> September, 2017 to be non-resident for the financial year 2017-18.

When he plans his departure in such a way that he becomes non-resident, his income accruing or arising outside India will not be subjected to tax in India. His income accruing or arising in India alone will be liable to tax in India.

**2016 - June [2]** (a) State the situations in which the income of the assessee can be assessed in the previous year itself, instead of in the assessment year. **(5 marks)**

**Answer:****Incomes which are taxed in the assessment year itself**

The income of an assessee for a previous year is charged to income-tax in the assessment year, following the previous year. However, in certain cases, the income is taxed in the previous year in which it is earned. These exceptions have been made to protect the interests of revenue. The exceptions are as follows:

- (i) Where a ship, belonging to or chartered by a non-resident, carries passengers, livestock, mail or goods shipped at a port in India, the ship is allowed to leave the port only when the tax has been paid or satisfactory arrangement has been made for payment thereof. 7.5% of the freight paid or payable to the owner or the charterer or to any person on his behalf, whether in India or outside India on account of such carriage is deemed to be his income which is charged to tax in the same year in which it is earned.
- (ii) Where it appears to the Assessing Officer that any individual may leave India during the current assessment year or shortly after its expiry and he has no present intention of returning to India, the total income of such individual for the period from the expiry of the respective previous year up to the probable date of departure from

India is chargeable to tax in that assessment year.

- (iii) If an AOP/BOI etc. is formed or established for a particular event or purpose and the Assessing Officer apprehends that AOP/BOI is likely to be dissolved in the same year or, in the next year, he can made assessment of the income up to the date of dissolution as income of the relevant assessment year.
- (iv) During the current assessment year, if it appears to the Assessing Officer that a person is likely to charge, sell, transfer, dispose of or otherwise part with any of his assets to avoid payment of any liability under this Act, the total income of such person for the period from the expiry of the previous year to the date, when the Assessing Officer commences proceedings, is chargeable to tax in that Assessment year.
- (v) Where any business or profession is discontinued in any assessment year, the income of the period from the expiry of the previous year upto the date of such discontinuance may at the discretion of the Assessing Officer, be charged to tax in that assessment year.

### **PRACTICAL QUESTIONS**

**2008 - Dec [5]** (a) Kamlesh was working as a crew member on an Indian ship plying in foreign waters. During the year ended 31.03.2018, the ship did not touch the Indian coast, except for 180 days. State the residential status for the assessment year 2018-19 and taxability of his salary. **(2 marks)**

**Answer:**

Any individual, who is a citizen of India, leaving India in any year for the purpose of employment or as a member of crew of an Indian ship, is considered as resident in India only when his stay in India during that previous year is 182 days or more.

But in the given situation Mr. Kamlesh stays in India only for 180 days during the previous year. Hence, he is non resident in India.

Income received from salary is considered as income received and accrue outside India. Hence, it is not taxable in India.

**2009 - June [3]** (b) Mrs. Vasudha is running a cotton ginning factory. Raw cotton is grown in the lands owned by her and the same is used for ginning in her factory. The ginned cotton is sold subsequently for ₹ 12,00,000. The following data are also available;

	₹
Cost of cultivation	4,00,000
Selling price of raw cotton when sent to the ginning factory	6,00,000
Expenses of ginning factory	3,40,000

You are required to ascertain the agricultural income and business income of Mrs. Vasudha. **(5 marks)**

**Answer:**

Rule 7 is applicable to the given situation. Where the agricultural produce grown by the assessee is used for further processing and generating income, the agricultural income will be determined with reference to the market value on the date they are taken for further processing. Subsequent income generated is taken as business income.

Income is computed on above basis thus:

	₹
Sale price of cotton when sent for ginning	6,00,000
Less: Cost of cultivation	<u>4,00,000</u>
Agricultural income	<u>2,00,000</u>
Sale price of ginned cotton (finished product)	12,00,000
Less: Cost of raw material (input) 6,00,000	
Manufacturing expenses (cost of ginning) <u>3,40,000</u>	<u>9,40,000</u>
Profits and gains of business or profession	<u>2,60,000</u>

**2009 - Dec [6]** (d) X got an employment in Singapore during the previous year 2017-18. He left for Singapore on August 9, 2017. He is an Indian Citizen. Determine the residential status for the Assessment Year 2018-19.

**(2 marks)**

**Answer:**

Any individual, who is a citizen of India, leaving India in any year for the purpose of employment or as a member of crew of an Indian ship, is considered as resident in India only when his stay in India during that previous year is 182 days or more.

But in the given situation Mr. X stays in India only for 131 days during the previous year. Hence, he is non resident in India.



**2010 - Dec [4]** (a) Following are the details of income of Mr. Subramani for the financial year 2017-2018:

Income from property in Sri Lanka remitted by the tenant to the assessee in India through SBI	₹ 2,10,000
Profit from business in India	₹ 1,00,000
Loss from business in Sri Lanka (whose control and management of business wholly remained in India)	₹ 80,000
Dividend from shares in foreign companies received outside India	₹ 60,000
Interest on deposits in Indian companies	₹ 1,20,000

Determine the total income in terms of the Income-tax Act, 1961 in the following situations:

- (i) Resident and ordinarily resident of India;
- (ii) Resident but not ordinarily resident of India;
- (iii) Non-resident.

**(9 marks)**

**Answer:**

**Computation of Taxable Income under various Residential Status**

Particulars	Resident and Ordinarily Resident	Resident but not Ordinarily Resident	Non Resident
Income from property in Sri Lanka	2,10,000	2,10,000	2,10,000
Profit from business in India	1,00,000	1,00,000	1,00,000
Loss from business in Sri Lanka (Control & Management wholly in India)	(80,000)	(80,000)	Not Taxable
Dividend from shares in foreign co. received outside India	60,000	Not Taxable	Not Taxable
Interest on deposits in Indian Companies	1,20,000	1,20,000	1,20,000
<b>Total Income</b>	<b>4,10,000</b>	<b>3,50,000</b>	<b>4,30,000</b>

**2011 - Dec [4]** (a) BIRLA Ltd., a cement manufacturing company, entered into an agreement with a supplier for purchase of additional cement plant.

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Income received from salary is considered as income received and accrue outside India. Hence, it is not taxable in India.

One of the conditions in the agreement was that if the supplier failed to supply the machinery within the stipulated time, the company would be compensated at 5% of the price of the respective portion of the machinery without proof of actual loss. The company received ₹ 8.50 lakhs from the supplier by way of liquidated damages on account of his failure to supply the machinery within the stipulated time. What is the nature of liquidated damages received by BIRLA Ltd. from the supplier of plant for failure to supply machinery to the company within the stipulated time-a capital receipt or a revenue receipt ? (5 marks)

**Answer:**

As per the decision of **Apex Court in CIT. Vs. Saurashtra Cement Ltd. (2010)**, it was decided that receipts for procuring the capital asset are of capital nature. The Apex Court affirmed the decision of the Gujarat High Court holding that the damages were directly and intimately linked with the procurement of a capital asset i.e., the cement plant, which leads to delay incoming into existence of the profit-making unit. It was not a receipt in the course of profit making. Therefore, the amount received by the assessee towards compensation for sterilization of the profit earning source, not in the ordinary course of business, is a capital receipt in the hands of the assessee. Therefore in this case, the liquidated damages of ₹ 8.50 lakhs received by Birla Ltd., from the supplier of plant for failure to supply machinery to the company within the stipulated time is a capital receipt.

**2012 - June [2]** (a) Following details are furnished by Mr. Appaji for the year ended 31.03.2018: ₹

(i) Profit on sale of shares in Indian company, sold in India but proceeds received in France	30,000
(ii) Dividend from a Korean company received in France	50,000
(iii) Rent from property in Sri Lanka deposited in Sri Lanka but later remitted to India through approved banking channel-Gross	1,00,000
(iv) Dividend from ABC (P) Ltd.	20,000
(v) Income from nursery in Gujarat	40,000

Compute the total income of Mr. Appaji if he is

- (i) Resident and ordinarily resident;
- (ii) Resident but not ordinarily resident;
- (iii) Non-resident.

(9 marks)

**Answer:****Computation of total income of Mr. Appaji for the assessment year 2018-19**

	ROR	RNOR	NR
Profit on sale of shares in Indian company, sold in India but proceeds received in France	30,000	30,000	30,000
Dividend from a Korean company received in France	50,000	Nil	Nil
Rent from property in Sri Lanka deposited in Sri Lanka but later remitted to India through approved banking channel	70,000*	Nil	Nil
Dividend from ABC (P) Ltd.	Exempt	Exempt	Exempt
Income from nursery in Gujarat	Agri income	Agri income	Agri income
<b>Total Income</b>	<b>1,50,000</b>	<b>30,000</b>	<b>30,000</b>

**Note:** \* Taking ₹ 1,00,000 (Gross) as NAV, standard deduction u/s 24(a) is applicable.

**2012 - Dec [2]** (d) Mr. A furnishes the following particulars of his income during the previous year 2017-18:

- (i) Income from agriculture in Bangladesh, received thereof ₹ 2,00,000 and sub-sequently remitted to India.
- (ii) Gift of ₹ 52,000 received in foreign currency from a relative in India.
- (iii) Arrears of salary ₹ 70,000 received in India from a former employer in England.
- (iv) Income from property received abroad but later on remitted to India ₹ 3,20,000. (₹ 1 lakh used in Bahrain for educational expenses and ₹ 2 lakhs remitted in India later).

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(v) Profit from business outside India managed from India ₹ 90,000 and received outside India.

Find out the gross total income of Mr. A for the assessment year 2018-19 if A is (i) Resident and ordinarily resident (ii) Resident but not ordinarily resident and (iii) Non-resident. **(7 marks)**

**Answer:**

Particulars	Res. & ord. resident (ROR)	Res. but not ord. resident (NOR)	Non resident (NR)
Income from agriculture in Bangladesh, received there but later on remitted to India	2,00,000	-	-
Gift received from a relative in India [exempt u/s 56(2)(VII)]	-	-	-
Arrears of salary received in India from a former employer in England	70,000	70,000	70,000
Income from property received outside India but later on remitted to India	3,20,000	-	-
Profit from business outside India, managed from India.	90,000	90,000	-
<b>Gross Total Income</b>	<b>6,80,000</b>	<b>1,60,000</b>	<b>70,000</b>

**2013 - June [2]** (a) Mr. Jeff, a citizen of USA came to India for 80 days, 90 days, 110 days and 130 days in the financial years 2014-15, 2015-16, 2016-17 and 2017-18 respectively. Determine his residential status for the Assessment Year 2018-19. **(3 marks)**

(b) Compute the total income of Mr. Taylor, UK citizen and a non-resident for the Assessment Year 2018-19 from the following details furnished by him.

₹

- (i) Income from business carried out in Mumbai (60% received in USA) 5,00,000

(ii) Capital gain from sale of shares of Zenith Private Limited, an Indian company. Sale proceeds were received in UK	3,50,000
(iii) Rent from a house property in New Jersey collected there, but later remitted to India through normal banking channel	12,00,000
(iv) Dividend received from MNO Limited, an Indian Company	2,50,000
(v) Royalty received in UK from PQR Limited, an Indian company for use of trade mark for its business operation in India	6,00,000
(vi) Interest on loan received in UK from S&T Limited, an Indian company. The loan was used by S&T Limited for its business carried on in Dubai.	3,00,000

**(7 marks)**

**Answer:**

**(a)** As per **Section 6** an individual is a resident in India in any previous year, if he fulfils any of the following two conditions:

- (i) He is present in India in that previous year for 182 days or more.
- (ii) He was present in India within 4 years preceding that previous year for 365 days or more and for 60 days or more in that previous year.

In this case Jeff was physically present in India for less than 182 days in previous year 2017-18.

AY 2018 –19 – FY 2017-18 = 130 days

**4 Previous Years**

FY 2013 – 14	NIL
FY 2014 – 15	80
FY 2015 – 16	90
FY 2016 – 17	<u>110</u>
	<u>280 days</u>

Hence, non-resident. He was present in India for 130 days (more than 60 days in the previous year and he was physically present in India for 280 days (80 + 90 + 110) i.e. less than 365 days in 4 previous years preceding the previous year 2017 –18. Hence, he does not fulfill the

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second condition and Jeff is non-resident in India for the Assessment Year 2018–19.

**Answer:**

**(b)**

Particulars	₹
Income from business carried out in India is income from business connection in India and deemed to accrue or arise in India.	5,00,000
Capital gain is deemed to accrue or arise in India as shares of Indian company are capital assets situated in India. Place of receipt of consideration is immaterial.	3,50,000
Rent from house property situated in New Jersey being an income from source outside India is not taxable. Subsequent remittance of rent to India does not alter the position.	---
As Dividend from Indian company is exempt U/s 10(34) subject to an amount of ₹ 10 Lakhs.	---
Royalty received from the Indian company is deemed to accrue or arise in India, as the patent was used by the Indian company for its business in India.	6,00,000
Interest on loan received from the Indian company is not deemed to accrue or arise in India as the amount of loan was used by the Indian company for its business carried out outside India	---
Total Income	14,50,000

**2013 - June [3]** (b) Mr. Rajput, aged 82 years gives you the following information for the previous year 2017-18:

	₹
(i) Interest on fixed deposits with banks	4,80,000
(ii) Long-term capital gain on sale of land	50,000
(iii) Short-term capital gain on sale of shares (securities transactions tax paid)	20,000

Compute tax payable by Mr. Rajput for the Assessment year 2018-19 in cases (i) he is resident; (ii) he is non-resident. **(4 marks)**

**Answer:**

As per the proviso to **Section 112(1)(a)** if the following conditions are satisfied :

- (i) The taxpayer is a resident individual or a resident HUF. He or it may be ordinarily resident or not ordinarily resident.
- (ii) Taxable income - Long-term Capital Gain is less than the amount of basic exemption limit

The following shall be deducted from long-term capital gain :

Exemption limit – (Net Income or taxable income including Long-term Capital Gain – Long-term Capital Gain)

- (i) As Mr. Rajput is a resident, the relief u/s 112 is available

	₹
Basic Exemption Limit	5,00,000
Taxable income including Long-term Capital Gain	5,30,000
Long-term Capital Gain	50,000
Relief u/s 112	20,000
Computation of tax payable :	₹
Tax on income other than capital gain ₹ 4,80,000	Nil
Tax on long-term capital gain on sale of land i.e., ₹ 50,000 – 20,000 i.e., ₹30,000 @ 20%.	6,000
Tax on short-term capital gain on sale of shares @ 15% as per <b>Section 111A</b> as STT is paid.	<u>3,000</u>
Tax	9,000
EC & SHEC @ 3% (2% EC, 1% SHEC)	<u>270</u>
Total Tax	<u>9,270</u>

- (ii) As Mr. Rajput is a non-resident

	₹
Computation of tax payable :	
Tax on income other than capital gain ₹ 4,80,000	11,500
Tax on long-term capital gain on sale of land i.e., ₹ 50,000 @ 20%.	10,000
Tax on short-term capital gain on sale of shares @ 15% as per <b>Section 111A</b> as STT is paid.	<u>3,000</u>
Tax	24,500
EC & SHEC @ 3% (2% EC, 1+ SHEC)	<u>735</u>
Total Tax	<u>25,235</u>

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**2013 - Dec [5]** (b) Manmohan owns a tea estate in Assam. He also owns a nursery wherein he grows plants and sells them. He furnishes the following particulars:

	₹
(i) Profit from sale of green tea leaves	1,75,000
(ii) Profit from manufacturing of tea grown in the garden owned by him	7,00,000
(iii) Profit from sale of plants from nursery	1,00,000

Compute tax payable by Manmohan for the Assessment Year 2017-18.

**(6 marks)**

**Answer:**

In the case of nursery plant, question is silent about whether sapling or seedling process activity has been undertaken or not. So, it is required as per the question that answer should be in both alternatives. Because if sapling or seedling process has been undertaken then it is agricultural Income otherwise not.

**Alternative - 1**

**Computation of Taxable Income for the Assessment Year 2017-18**

Nature of Business	Agl. Inc.	Non-Agl. Inc.
Profit from sale of green leaves grown in own garden being agricultural Income is exempted <b>under Section 10(1)</b>	1,75,000	-
Profit from growing and manufacturing of tea (60% agricultural income and 40% non-agricultural income)	4,20,000	2,80,000
Profit from sale of plants from nursery (agricultural income)	1,00,000	-
<b>Total Income</b>	<b>6,95,000</b>	<b>2,80,000</b>



**Computation of Tax Liability:**

	₹
(a) Total Income (Agricultural Income + Non-agricultural Income) [6,95,000 + 2,80,000]	9,75,000
(b) Tax on (a) above	1,07,500
(c) Total of (Agricultural Income + Basic Exemption Limit) [6,95,000 + 2,50,000]	9,45,000
(d) Tax on (c) above	1,01,500
(e) Tax Payable (b) - (d)	6,000
Add: Education Cess @ 2%	120
Add: SHEC @ 1%	60
Total Tax Liability	6,180

**Note:** It is assumed that sapling & seedling process has been undertaken for nursery plant.

**Alternative - 2****Computation of Taxable Income for the Assessment Year 2017-18**

Nature of Business	Agl. Inc.	Non-Agl. Inc.
Profit from sale of green leaves grown in own garden being agricultural Income is exempted under Section 10(i)	1,75,000	-
Profit from growing and manufacturing of tea (60 % agricultural income and 40% non-agricultural income)	4,20,000	2,80,000
Profit from sale of plants from nursery (non-agricultural income)	-	1,00,000
<b>Total Income</b>	<b>5,95,000</b>	<b>3,80,000</b>

**Computation of Tax Liability:**

	₹
(a) Total Income (Agricultural Income + Non-agricultural Income) [5,95,000 + 3,80,000]	9,75,000

(b) Tax on (a) above	<u>1,07,500</u>
(c) Total of (Agricultural Income + Basic Exemption Limit) [5,95,000 + 2,50,000]	<u>8,45,000</u>
(d) Tax on (c) above	<u>81,500</u>
(e) Tax Payable (b) - (d)	26,000
Add: Education Cess @ 2%	520
Add: SHEC @ 1%	<u>260</u>
Total Tax Liability	<u>26,780</u>

**Note** - It is assumed that sapling & seedling process has not been undertaken for nursery plant.

**2015 - Dec [1] {C}** Answer the following questions with brief reasons/workings:

(c) Mr. David, a citizen of Spain came to India for the first time in previous year 2013-14 and stayed for 100 days in that year. During the previous years 2014-15, 2015-16, 2016-17 and 2017-18 he stayed in India for 120 days, 110 days, 80 days and 90 days respectively. What is the residential status of Mr. David for the assessment year 2018-19?

**(2 marks)**

(f) X. Limited is an Indian company. However, it carries on business in USA. All the shareholders are residents of USA. The Board Meetings and Annual General Meetings are held outside India. What is the residential status of X. Limited?

**(2 marks)**

**Answer:**

**(c)** As per **Section 6** an individual is a resident in India in any previous year if he fulfills any of the following two conditions:

(i) He is present in India in that previous year for 182 days or more.

(ii) He was present in India within 4 year preceding that previous year for 365 days or more and for 60 days or more in that previous year.

In case of Mr. David, he was physically present in India for less than 182 days in previous year 2017-18 but, he is physically present in India for 410 days in 4 year preceding that previous year and he also present for more than 60 days (i.e. 90 days) in previous year. Hence, Mr. David is resident in India in A.Y. 2018-19.

**(f) As per Section 6(3)**

A company is said to be a resident in India in any previous year if:

- (i) It is an Indian Company as defined under section 2(26) of the Act;  
or
- (ii) during the relevant previous year, its place of effective management, in that year, is in India.

X Limited is an Indian Company. Therefore, X Limited is a resident in India even if the business is carried on outside India and the meeting of the board and shareholders are held outside India.

**Note:** For the purpose of this clause "Place of effective management" means a place where key management and commercial decisions that are necessary for the conduct of business of an entity as a whole are, in substance made.

**2016 - June [1] {C}** (d) Answer the following question with brief reasons/working:

- (i) Rajesh has earned an income of ₹ 45,000 from letting out his rural agricultural lands for a movie shooting. Will this income be regarded as agricultural income and hence exempt? **(2 marks)**

**Answer:**

Rent earned from letting out the agricultural land is not rent or revenue derived from the agricultural land. As per **Section 2(1A)**, any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any process mentioned in the section alone, is regarded as rent for the purpose of this section. Rent from letting out to a movie company will not fall in this category. The land was not used for agricultural purposes, but for movie shooting. The impugned income is not agricultural income and hence is not exempt.

**2016 - June [4]** (a) Following are the transactions related to Mr. Kiran Kumar, a resident but not ordinarily resident in India during the previous year 2017-18. Compute Gross Total Income of Mr. Kiran Kumar for the assessment year 2018-19.

7.20

■ Solved Scanner CMA Inter Gr. I Paper 7 (New Syllabus)

Particulars	₹
Income from agriculture in Sri Lanka (received in Sri Lanka and subsequently remitted to India)	4,00,000
Arrears of salary received in India from a former employer in USA	2,50,000
Rent from house property located outside India and received outside India (₹ 2,00,000 is used in Bahrain for the educational expenses of his son studying there and the balance ₹ 30,00,000 subsequently remitted of India)	5,00,000
Income from business in Japan which is managed and controlled from India (₹ 90,000 received in India and balance ₹ 3,10,000 received outside India)	4,00,000

(5 marks)

**Answer:**

Computation of Gross Total Income of Mr. Kiran Kumar, a resident but not ordinarily resident for the assessment year 2018-19.

Particulars	₹
Income from agriculture in Sri Lanka managed and controlled in Sri Lanka is not liable to tax in view of provision of <b>Section 5(1)</b> Subsequent remittance of income to India does not alter the position.	—
Arrear of salary received in India from a former employer in USA.	2,50,000
Income from house property located outside India is not an income accruing or arising in India or deemed to accrue or arise in India. Hence rent is not liable to tax in India.	—
Income from business in Japan which is managed and controlled from India is taxable in India in view of provision of <b>Section 5(1)</b> Place of receipt is not material	4,00,000
Gross Total Income	6,50,000

**2016 - Dec [4]** (a) Discuss, with brief reason, the taxability or otherwise of the following under the Income-tax Act:

- (ii) Mr. Ram kumar, a citizen of India employed by the Government of India, left India for the first time on 10.02.2017 to USA for foreign assignment. He did not visit India during previous year 2017-18. He has been paid ₹ 5,00,000 towards allowances in USA. **(2 marks)**

**Answer:**

Allowances and perquisites paid or allowed as such outside India by the Government to a citizen of India for rendering service outside India is exempt under section 10(7). Accordingly, allowance of ₹ 5,00,000 paid outside for rendering services there would not be liable to tax.

**2017 - June [2]** (a) Mr. Ramesh, an Indian citizen, gives you the following information for the year ended 31.03.2018.

	₹
Business income in Mumbai	2,50,000
Rental income from property let out in London (Converted in Indian rupees)	5,40,000
Fixed deposit interest in India from LMN Bank	60,000
Fixed deposit interest from Bank of England (Converted in Indian rupees)	40,000
Business consultancy income from Essex Ltd. in Hampshire (England), being a company incorporated in Delhi having branch office in England. The business is managed from Delhi. (Converted in Indian rupees)	75,000
Agricultural income from land located in Malaysia (Converted in Indian rupees)	90,000
Income from nursery at Alwar, Rajasthan	1,40,000

Mr. Ramesh returned to India on 15.06.2017 after remaining in England for 10 years. During the last 4 years he was in India for 100 days only. Determine the residential status of Mr. Ramesh for the assessment year 2018-19 and compute his total income chargeable to tax in India by giving reason for treatment of each item.

7.22

■ **Solved Scanner CMA Inter Gr. I Paper 7 (New Syllabus)**

**Note:** Ignore Double Taxation Avoidance Agreement (DTAA). (8 marks)

**Answer:**

**Computation of Total Income of Mr. Ramesh  
for the A.Y. 2018-19**

Particulars	Amount ₹	
Rental Income from property let out in London	—	
Income from Business or profession		
Business Income in Mumbai	2,50,000	
Business consultancy income from Essex Ltd. in Hampshire (England)	75,000	3,25,000
<b>Income from other Sources</b>		
Fixed Deposit interest from Bank in India from LMN Bank	60,000	
Fixed Deposit interest from Bank of England	—	
Agricultural income from land located in Malaysia	—	60,000
Gross Total Income		<b>3,85,000</b>
Less: Deductions under chapter VI-A		NIL
Total Income		3,85,000
Add: Agricultural Income from land in India Income from Nursery at Alwar Rajasthan		1,40,000
Agrigate Income		<b>5,25,000</b>

**Notes:**

1. Residential status of Mr. Ramesh for Assessment Year 2018-19 the Residential Status of Mr. Ramesh will be not ordinary resident because he has not satisfied both the additional conditions of **Section 6(1)**.
2. Rental Income from property let out in London will not be taxable in India because his residential status is not ordinary resident in India.
3. Fixed deposit interest from Bank of England will not be taxable India because his residential status is not ordinary resident in India.
4. Business Consultancy Income from Essex Ltd. in Hampshire (England)

- is taxable in India because the business is managed from Delhi India.
5. Agricultural Income from land located in Malaysia is not taxable in India because his residential status is not ordinary resident in India.
  6. Income from nursery at Alwar, Rajasthan will be treated as Agricultural Income on the assumption that the land is owned by Mr. Ramesh and Agricultural activities are carried out by himself. (which is exempt)

<b>Table Showing Marks of Compulsory Questions</b>										
<b>Year</b>	<b>13 J</b>	<b>13 D</b>	<b>14 J</b>	<b>14 D</b>	<b>15 J</b>	<b>15 D</b>	<b>16 J</b>	<b>16 D</b>	<b>17 J</b>	<b>17 D</b>
<b>Practical</b>						4	2			
<b>Total</b>						4	2			