



RAMA UNIVERSITY

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FACULTY OF COMMERCE AND MANAGEMENT

COURSE: B.COM VI SEM.

SUBJECT: Corporate Tax Planning

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NAME OF FACULTY: DR. PALASH BAIRAGI

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RESIDENTIAL STATUS OF A COMPANY [SECTION 6(3)]

Determination of total income of a company depends upon its residential status during the relevant previous year. The residential status of the company is determined either on the basis of its incorporation (Registration) ; or on the basis of the control and management of its affairs.

On the basis of Residential Status, companies can be classified in to' two categories

Resident Companies

Non Resident Companies.

(A) Resident Companies [Section 6(3)]

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

It is an Indian Company ; or

during the relevant previous year the control and management of its affairs is situated wholly in India.

Observations

An Indian company is always a resident company for income tax purposes even if the control and management of its affairs is saturated outside India

A non-Indian company or a foreign company will be treated as resident of India for any previous year only if the entire control and management of affairs of such company, during the relevant previous year is situated in India.

For example :

A company is incorporated in India but has head office in Dacca,

A company is incorporated in Bangladesh but has head office in Kolkata

In first case it is incorporated in India and situation of its head office is immaterial, as such it is resident company. In second case though it is incorporated outside India but its control and management is wholly situated in India hence it is resident company.

(B) Non Resident Company [Section 2(30)]

A Company will be a non-resident in any previous year if:

it is not an Indian company and

its place of effective management, in that year, is not in India.

It means a foreign company whose control and management is situated wholly or partially outside India will be a non-resident company. For example an American company holds 8

meetings in India out of total of 12 meetings held during the previous year such company will be non-resident for income tax purposes for such previous year.
