



# RAMA UNIVERSITY

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**FACULTY OF COMMERCE AND MANAGEMENT**

**COURSE: B.COM VI SEM.**

**SUBJECT: Corporate Tax Planning**

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**LECTURE: 12**

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## LECTURE-12



## INCIDENCE OF TAX—SCOPE OF TOTAL INCOME (SECTION 5)

Total income of an assessee cannot be computed unless we know his residential status in India during the previous year. According to the residential status, the assessee can either be:

- i. Resident in India; or
- ii. Non-resident in India.

However, individual and HUF cannot be simply called resident in India. If individual is a resident in India he will be either:

- a. Resident and Ordinarily resident in India; or
- b. Resident but not Ordinarily resident in India.

Other categories of persons shall either be resident in India or non-resident in India. There is no further classification into ordinarily resident or not ordinarily resident in their case.

### Scope of Total Income according to residential status is as under:

(A). In the case of Resident in India (resident and ordinarily resident in case of individual or HUF) [Section 5(1)]:

The following incomes from whatever source derived form part of Total Income in case of resident in India/ordinarily resident in India:

(a) any income which is received or is deemed to be received in India in the relevant previous year by or on behalf of such person;	(b) any income which accrues or is deemed to accrue or arise in India during the relevant previous year;	(c) any income which accrues or arises outside India during the relevant previous year.
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(B) In the case of a Resident but not Ordinarily Resident in India (In the case of individuals and HUF only) [Section 5(1) and its proviso]:

The following incomes from whatever source derived form part of Total Income in the case of resident but not ordinarily resident in India:

(a) any income which is received or is deemed to be received in India in the relevant previous year by or on behalf of such person;	(b) any income which accrues or arises or is deemed to accrue or arise to him during the relevant previous year;	(c) any income which accrues or arises to him outside India during the relevant previous year if it is derived <i>from a business controlled in or a profession set up in India.</i>
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(C) In the case of Non-Resident [Section 5(2)]:

The following incomes from whatever source derived form part of Total Income in the case of Non-Residents in India:

(a) any income which is received or is deemed to be received in India during the relevant previous year by or on behalf of such person;	(b) any income which accrues or arises or is deemed to accrue or arise to him in India during the relevant previous year.
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Thus it may be noted that income described in items (a) and (b) in all the three cases above are to be included in total income of all the three categories of the assesseees in the same manner. The income described in item (c) i.e. income which accrue or arise outside India is:

- i. not includible in the total income at all in case the assessee is non-resident in India.
- ii. includible in the total income in the case of resident but not ordinarily resident in India only when it is derived from a business controlled in or profession set up in India

Therefore, the incidence of tax is likely to be more in case of an assessee who is resident and ordinarily resident in India, a little less in case of a resident but not ordinarily resident in India and the least in case of non-resident in India if the assessee has various incomes both inside and outside India.

***The provisions regarding incidence of tax above may be summarised in the following table:***

<i>Particulars of Income</i>	<i>Whether Taxable</i>		
	<i>Resident and Ordinarily Resident</i>	<i>Not-Ordinarily Resident</i>	<i>Non-Resident</i>
1. Income received or deemed to be received in India whether earned in India or elsewhere.	Yes	Yes	Yes
2. Income which accrues or arises or is deemed to accrue or arise in India during the previous year, whether received in India or elsewhere.	Yes	Yes	Yes
3. Income which accrues or arises outside India and received outside India from a business controlled from India.	Yes	Yes	No
4. Income which accrues or arises outside India and	Yes	No	No

received outside India in the previous year from any other source.			
5. Income which accrues or arises outside India and received outside India during the years preceding the previous year and remitted to India during the previous year.	No	No	No