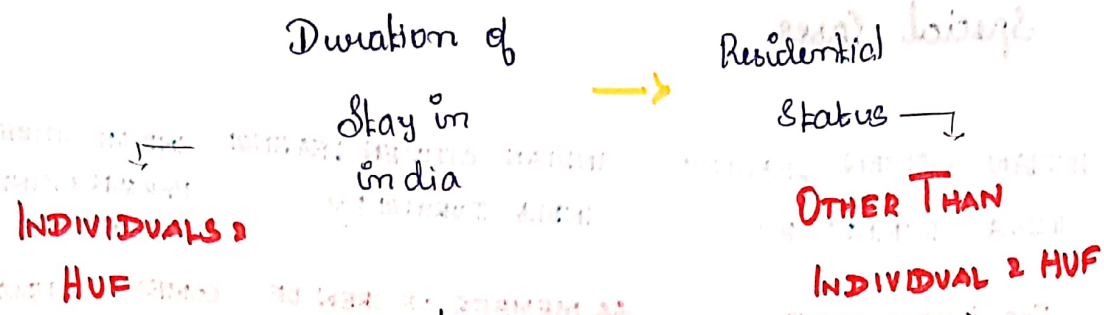


2. RESIDENCE AND SCOPE OF TOTAL INCOME

[100% of total income]



INDIVIDUALS (Basic condition Sec 6(i), Additional condition Sec 6(b))
DURATION OF PHYSICAL STAY IN INDIA (Deemed resident Sec 6(iA))

EMIGRATION COUNTRIES ARE ENTRIES THE DETAILS

IMPORTANT POINTS

FREQUENT TRAVELLER } Day of coming into India } **INCLUDED**
Day of leaving India }

STAY IN INDIA - NOT NECESSARILY CONTINUOUS
- NEED NOT BE IN SAME PLACE

SECTION 6 (1)

IMPORTANTS OF RESIDENTIAL STATUS

Taxability depends on Residential Status

BASIC CONDITIONS - SEC 6 (1) - FOR INDIVIDUALS & HUF

- a) PY \geq 182 years
- b) PY \geq 60 days and preceding yrs \geq 365 days

IMPACT

At least 1 Basic condition satisfied - **RESIDENT IN INDIA (RI)**

No Basic condition satisfied - **NON RESIDENT IN INDIA (NR)**

IMPORTANT POINTS

- Day of coming and leaving India included in Duration
- Stay in India need not be continuous & not in

Same place.

EXCEPTION TO THE BASIC CONDITIONS

[Explanation to Sec 6(1)]

Special Cases

INDIAN CITIZEN LEAVING INDIA DURING PY

INDIAN CITIZEN LEAVING INDIA DURING PY

INDIAN CITIZEN OR PERSON OF INDIAN ORIGIN

FOR EMPLOYMENT

AS MEMBER OF CREW OF INDIAN SHIP

COMES TO INDIA DURING PY (FOYOVISIT) ≤ 15 days

≥ 182 days only considered
Explanation 1(a) being a citizen

≥ 182 days only considered

≥ 182 days only considered

of India, who leaves India in any PY for the purposes of employment outside India, for the words "beyond" the words "182 days" had been substituted.

BORN IN INDIA

& HOLDING VALID

ID PROOF

∴ DON'T ASSUME INDIAN INDIVIDUAL IS AN INDIAN

CITIZEN UNLESS GIVEN IN QUESTION

Explanation to Sec 115C(e) PERSON OF INDIAN ORIGIN

He, or either of his parents or any of his grand parents (maternal & paternal), was born in undivided India

FOREIGN SOURCES MEANS INCOME ACCURED & RECEIVED OUTSIDE INDIA BUT DOES NOT INCLUDE:

1. Business income which is controlled wholly or partly from India

2. Profession Income if set up in India



ACCURAL : Right to receive

RECEIPT : Actually receiving

+ AND TOTAL INCOME
OTHER THAN INCOME
FROM FOREIGN SOURCES
≥ 15 LAKHS

↓
≥ 120 days in p.y.
≥ 365 days in 4
preceding p.years

DOMESTIC SOURCES INCOME = TOTAL INCOME

- INCOME FROM FOREIGN SOURCES

SECTION 6(1A) → 3 conditions:

1. Citizen of India

2. Total Income, other than the income from foreign sources > ₹ 15 lakhs during the p.year.

→ Domestic Source Income = Total Income - Income from Foreign Sources

Excludes income from

- business controlled from India
- profession set up in India

3. Not liable to tax in any other country or territory by reason of his domicile / residence / similar nature,

RESIDENTIAL STATUS

(INDIVIDUAL)

See 6(1) Basic Condition

RESIDENT

NON RESIDENT

Sec 6(b) Additional conditions?

Both satisfied

Either 1 or both not satisfied

→ Resident &

→ Resident but NDR

Ordinarily resident

Ordinarily Resident

(ROR)

(RNDR)

ADDITIONAL CONDITIONS SEC 6(b)

INDIVIDUAL SHOULD BE

→ Resident in India 2 Out of 10 yrs preceding relevant PY

→ Be in India for ≥ 730 days during 7 Pys preceding relevant PY

BOTH SATISFIED

ONE/BOTH NOT SATISFIED

ROR

RNDR

ROR

BASIC

ADDITIONAL

BOTH

BOTH

ROR

Any one

BOTH

BOTH

RNDR

BOTH

ONE

RNDR

BOTH

NONE

NR

NONE

BOTH

NR

NONE

ANY ONE

NR

NONE

NONE



TWO DIFFERENT CITIZENSHIPS

Citizenship of foreign country is irrelevant for determination of residential status of an individual w.r.t the basic conditions v/s 6(1). Duration of stay in India is the major determining factor relating to residential status in Income tax, 1961

ADDITIONAL CONDITIONS

EITHER OR NONE

SATISFIED

RNOR v/s 6(1)(a)

Deemed

Resident

RNOR v/s 6(1)(d)

HUF

SATISFIED

citizen/Indian

Origin visiting India with

Domestic sources

Income

> 15 lakh ₹ in India

≥ 120 but < 182 days in PY

RNOR 6(1)(e)

RESIDENTIAL STATUS OF HUF

ADDITIONAL CONDITIONS TO HUF

- Same as individual sec 6(1)

KARTA

Member's

RESIDENTIAL STATUS

ROR

RNOR

NR

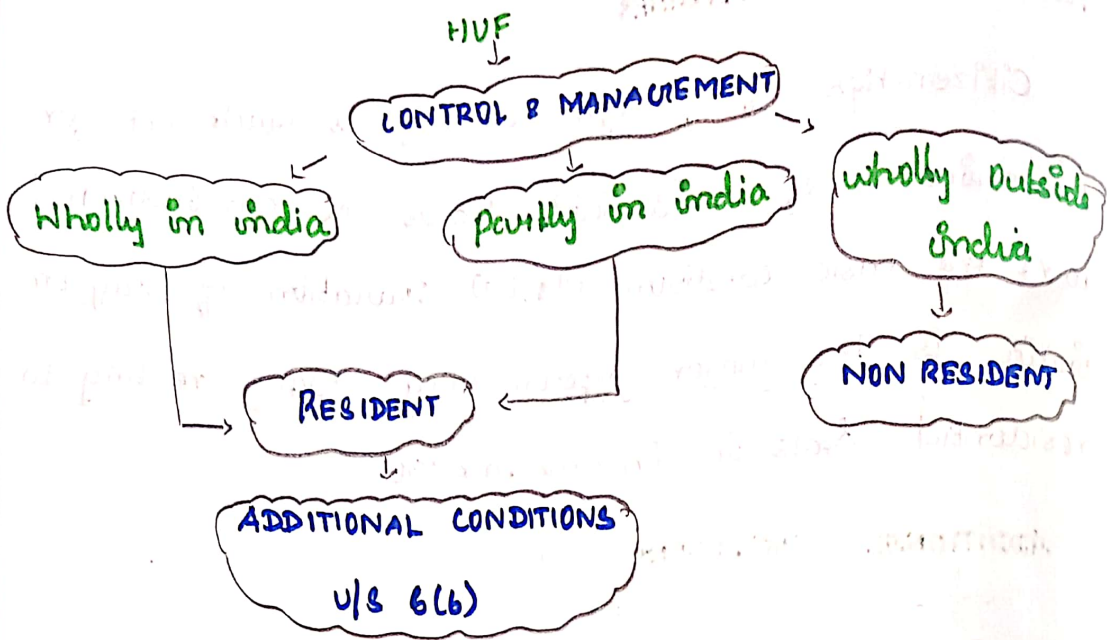
BASIC CONDITIONS FOR HUF

Sec 6(2) - HUF is resident control and Management of its affairs is situated wholly or partly in India

CONTROL

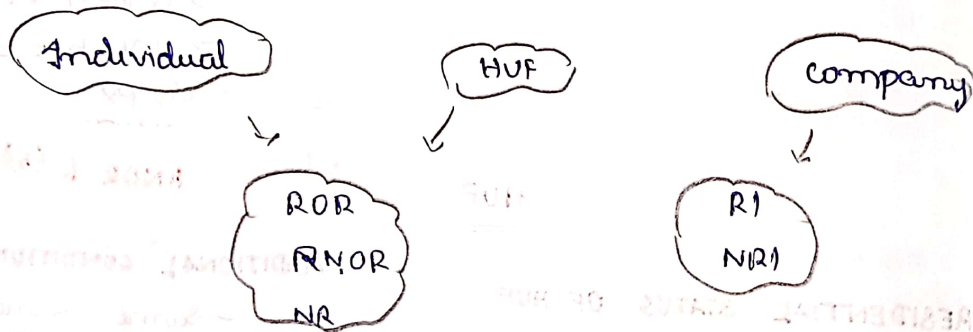
- 1) De Jure - supposed to control
- 2) De facto - actually controlling





Resident in india for 2 out of 10 PYs preceding relevant PY; and be in india for ≥ 730 days during 1 PYs preceding relevant PY.

company



COMPANY

-> Domestic (ALWAYS RESIDENT)

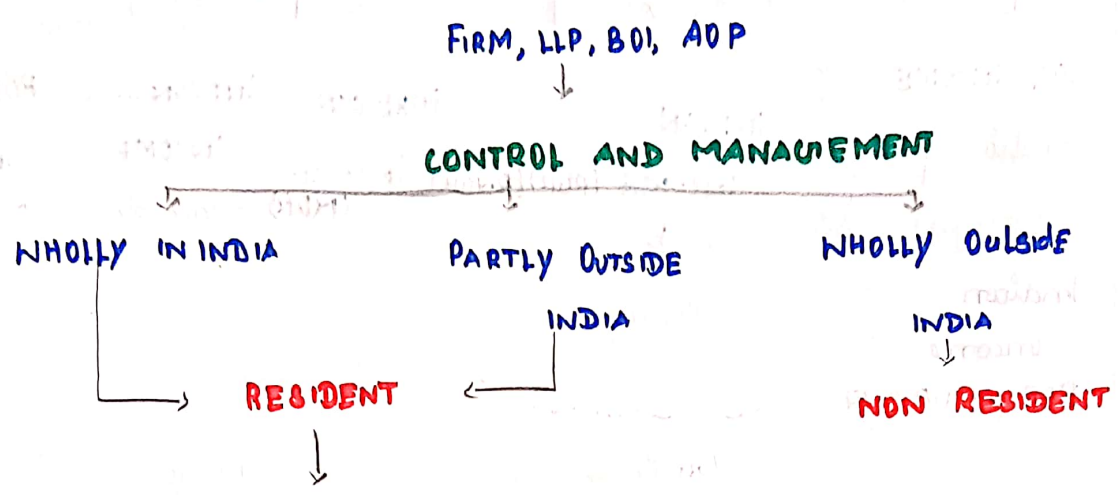
-> Foreign -> (RESIDENT IF POEM WHOLLY IN INDIA)

Place of Effective Management

NON RESIDENT { -> IF POEM PARTLY OUTSIDE INDIA
 -> WHOLLY OUTSIDE INDIA

FIRMS, LLP, ADP, BOI etc..

SAME AS HUF (BASIC CONDITION) (sec 6(1))

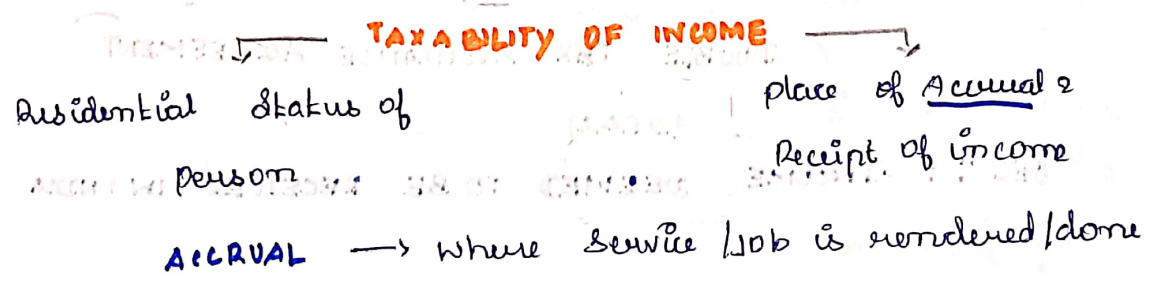


Additional conditions u/s 6(b)

applied to karta

Resident in India for 2 out of 10 yrs preceding relevant

Py 2 Be in India for ≥ 730 days during 7 P.Y.s preceding relevant py.



SCOPE OF INCOME

INCOME

INDIAN INCOME

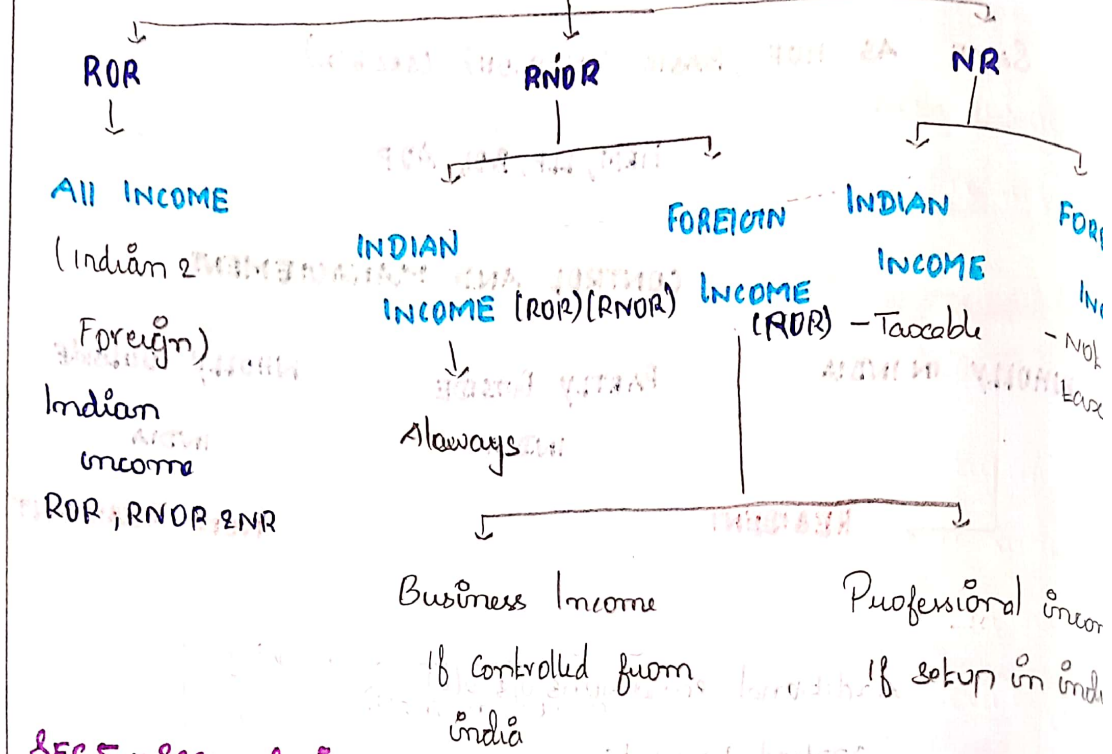
- Accrued or
- Received or
- Deemed to receive or
- Deemed to Accrue / Arise in India

FOREIGN INCOME

INCOME

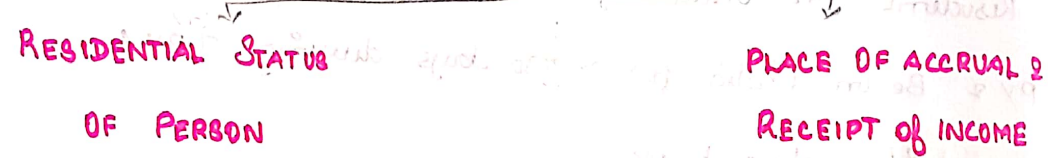
- Accrued &
- Received outside India

INCOME TAXABLE FOR



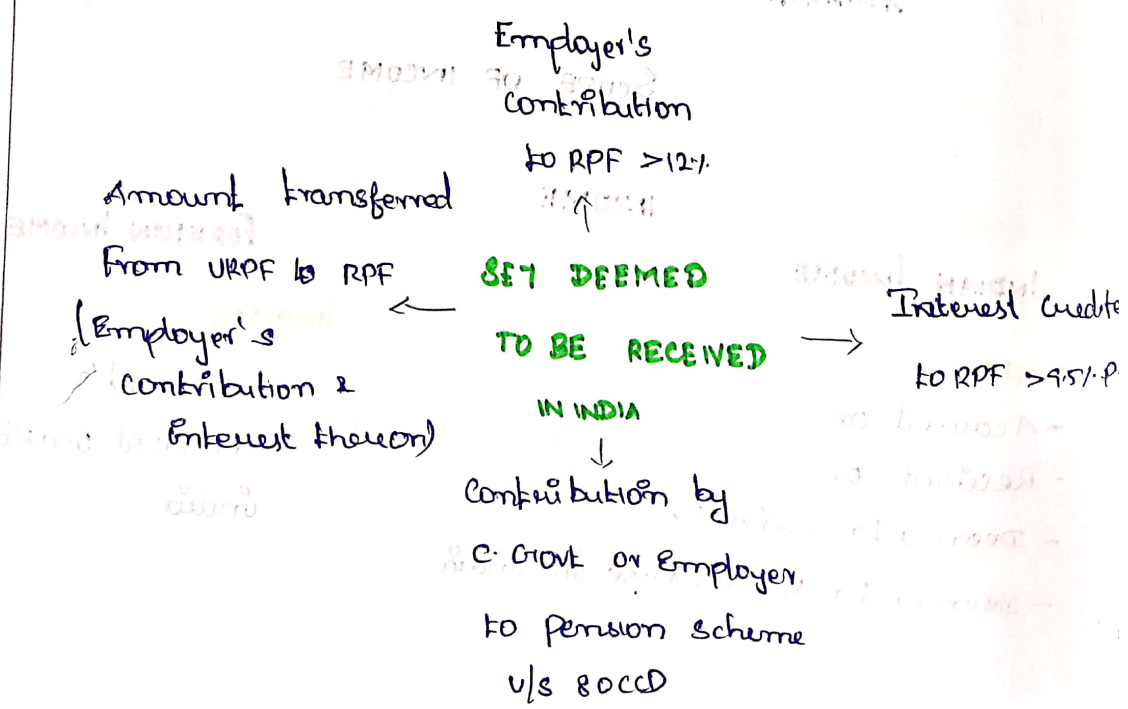
Sec 5 - Scope of Income

TAXABILITY OF INCOME



DOUBLE TAX AVOIDANCE AGREEMENT (DTAA)

SEC 7: INCOME DEEMED TO BE RECEIVED IN INDIA



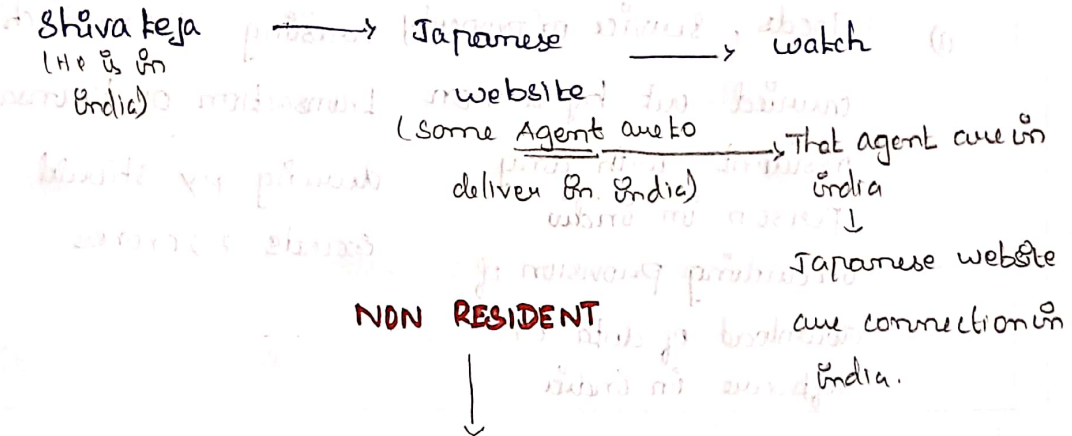
SEC 9: INCOME DEEMED TO ACCRUE / ARISE IN INDIA

1) BUSINESS CONNECTION



It is taxable, only if NR

Example has business connection in India



Has an agent (branch, subsidiary, etc.)

in India who has the authority to

conclude

contracts

Secure Orders in

India for NR [deliver goods]

Maintaining stock of goods in India on behalf of NR

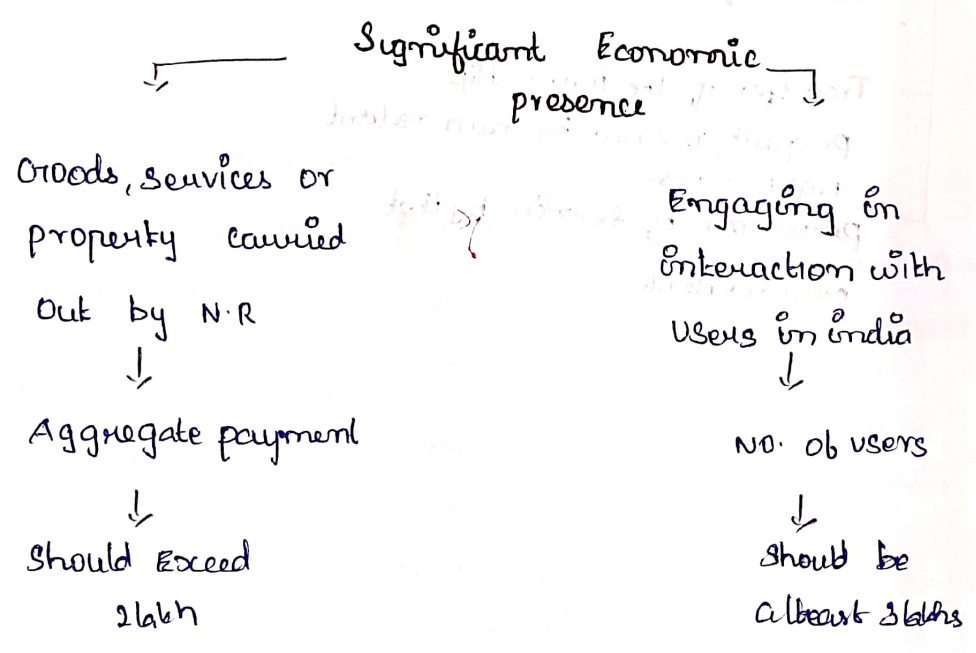
- name of non resident
- Transfer of the Ownership property owned by non resident
- right to use
- provision of services by that Non resident

SIGNIFICANT ECONOMIC PRESENCE [EXPLANATION 2A TO SEC 9(1)(V)]

Significant Economic presence of non-resident in India shall also contribute business connection in India

	NATURE OF TRANSACTION	CONDITION
a)	In respect of any goods, service or property carried out by a non resident with any person in India including provision of download of data or software in India	Aggregate of payments arising from such transaction or transactions during py should exceeds ₹ 2 crores
b)	Systematic and continuous soliciting of business activities or Engaging in interaction with users in India	The number of users should be atleast 3 lakhs

IN SIMPLE WORDS



THE FOLLOWING SHALL NOT BE TREATED AS BUSINESS CONNECTION IN INDIA

→ The income which ^{NOT a business} cannot be reasonably attributed to the operations in India

→ purchase of goods in India for the purpose of exports

→ collection of news and views for transmission outside India by or on behalf

→ shooting of cinematograph film in India if such non resident is

- An individual - He should not be a citizen of India

- A Firm - The firm should not have any partner who is a citizen of India or who is resident of India

- A company - The company does not have any shareholders in India.

2) INCOME FROM ANY PROPERTY, ASSET OR SOURCE OF INCOME SITUATED IN INDIA.

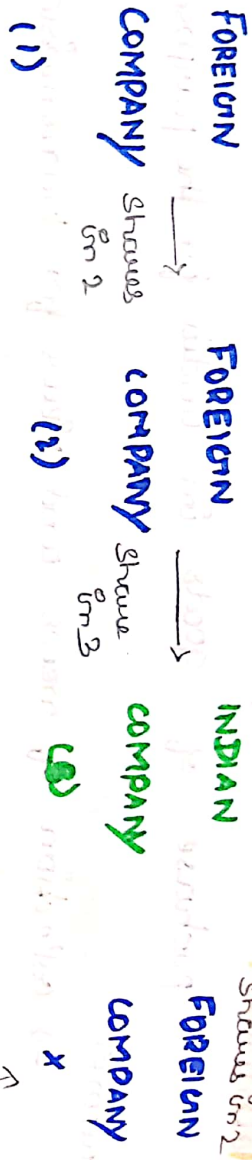
Income arises from any property, movable or immovable, tangible or intangible which is situated in India is deemed to accrue or arise in India

3) INCOME FROM TRANSFER OF CAPITAL ASSET SITUATED IN INDIA

Any capital gain earned by a person by transfer of any capital asset situated in India, is deemed to accrue or arise in India

4. DIVIDEND PAID BY AN INDIAN COMPANY OUTSIDE INDIA

Dividend paid by the Indian company outside India is deemed to accrue or arise in India



Sale of Investment

Income deemed to accrue or arise in India

India Income

Taxable for all i.e RDR, RNP & NR

5) INCOME UNDER SALARY HEADS DEEMED TO ACCRUE/ARISE INDIAN GOVERNMENT

INDIAN CITIZEN

WORKING OUTSIDE INDIA

DEEMED TO ACCRUE

OR ARISE IN INDIA

THEREFORE, TAXABLE

FOR ALL

Allowances and perquisites paid or allowed to such Indian citizens is exempt under sec 10(1)

Interest Royalty & Fees for technical services

Example

Mr. ANILASH want to interior decor for their 5 star hotel & he want famous ping pong need to design

Mr. Aakash

Mr. PINU PONU
(outside india)

Fees For technical services

The ping ponu are not come india & service want you. you will come here and get service

∴ Fees for technical services will be deemed to accrue or arise in india since it is utilized for business purpose.

Types of income	Payable by govt	payable by resident	payable by non resident
Interest	Deemed to accrue or arise in india.	Deemed to accrue or arise in india except when used for the purpose of business or profession carried on outside india or earning any income from outside india	Deemed to accrue or arise in india only when used for the purpose of business or profession carried on in india
Royalty is payable in respect of any right/ information/ property used	Deemed to accrue or arise in india	Deemed to accrue or arise in india or earning any income from outside india	Deemed to accrue or arise in india only when used for the purpose of business or profession carried on in india or earning any income from any source
Fees for technical services	Deemed to accrue or arise in india	Deemed to accrue or arise in india or earning any income from outside india	Deemed to accrue or arise in india only when used for the purpose of business or profession carried on in india or earning any income from any source

2) **Salary payable by the Govt to an Indian citizen/national for services rendered outside India**

This income is treated as deemed to accrue or arise in india if the following conditions are satisfied.

→ Income should be chargeable under the head

"Salaries" and the recipient (resident or non resident)

should be India citizen.

→ The services should be rendered outside India and the

payer should be govt of India.

→ However, all the allowances and perquisites paid are exempt u/s 10(1).