

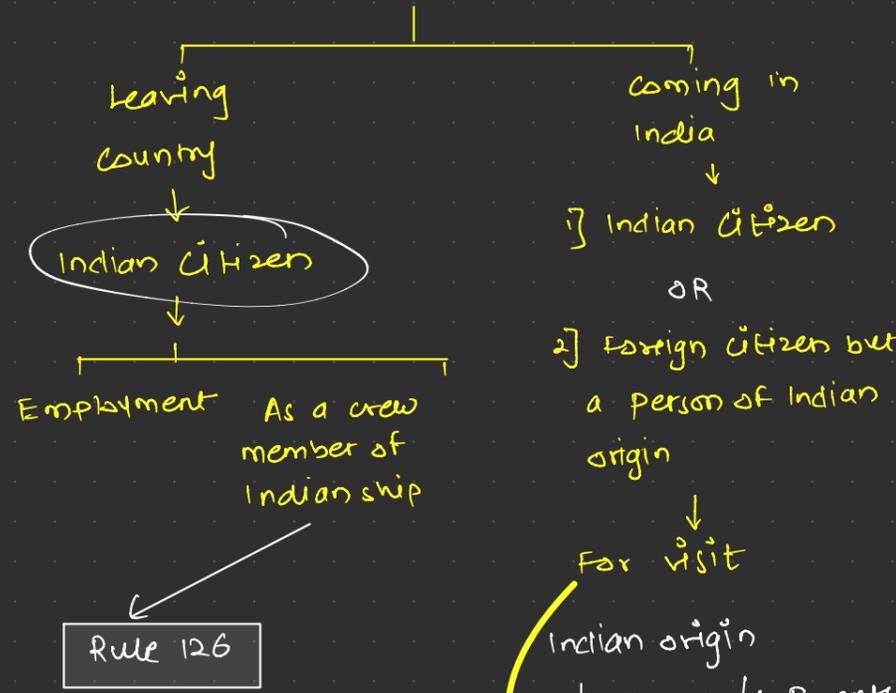
Residential Status

May / June 2025





In some cases, 2nd Basic condition is not applicable.

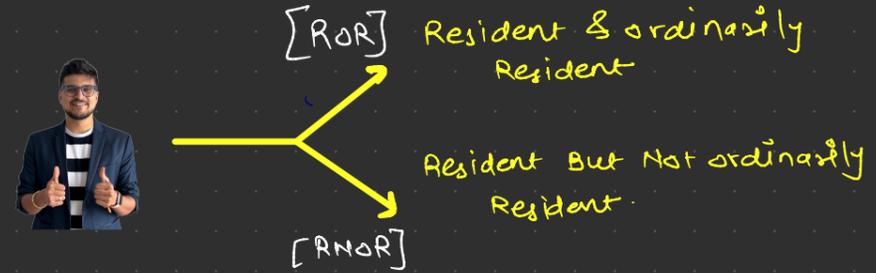
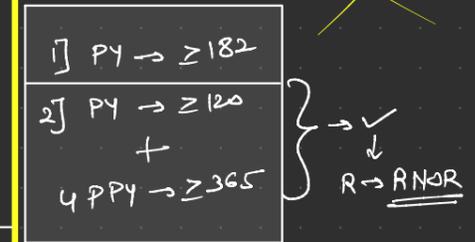
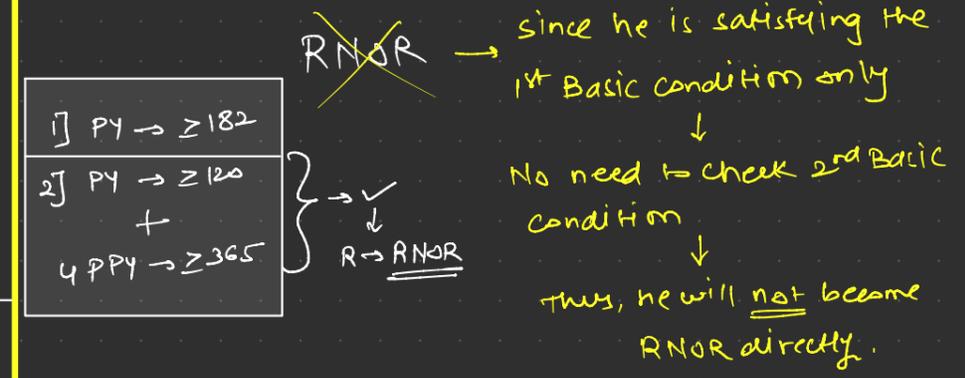


* IF a person [Indian citizen / For. cit [Person of Ind. origin] → comes to India & satisfies 1st condition
 ↓
 & also satisfies 2nd Basic condition
 ↓
 Resident ✓

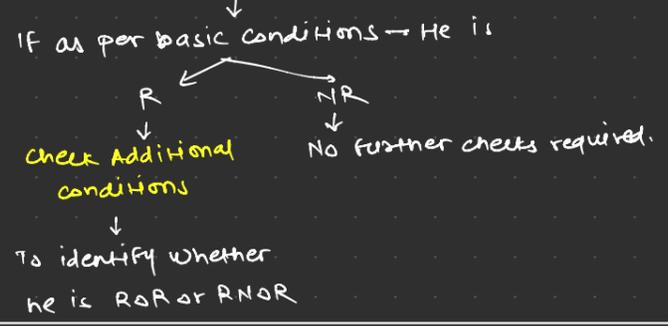
Resident But Not ordinarily Resident

Condition → C.Y. → ≥ 120 days < 182 days
 AND
 last 4 FY → ≥ 365 days.

• Indian citizen comes to India for visit for 185 days & he comes to India for 120 days for the past 6 years. His TI other than foreign sourced income is ₹16L



* Individuals *
 To identify whether he is ROR or NR
 → check the Basic conditions → ②

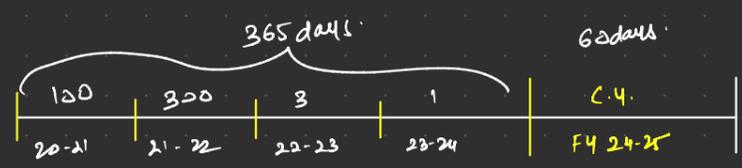


Basic conditions

Satisfy at least 1 of the 2 Basic conditions to become a Resident Person.

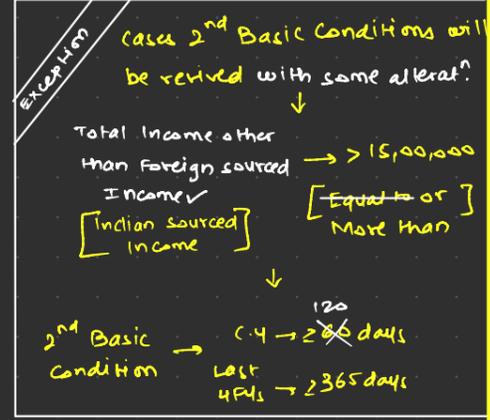
1] Current P.Y. [FY] → India ≥ 182 days.

2] Current FY → ≥ 60 days + Preceding 4 FYs → ≥ 365 days.



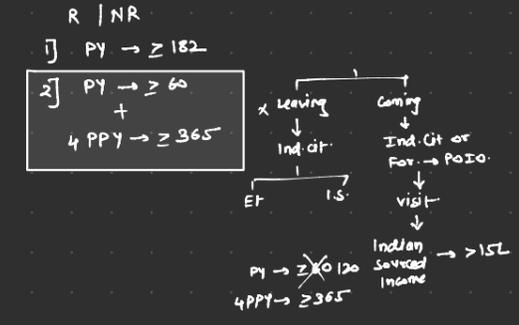
Consider Continuous C
 Discharge D
 Certificate C

Entry Date: 1/4/24
 Exit Date: 14/2/25
 Consider this as outside India ✓
 [Include both days]

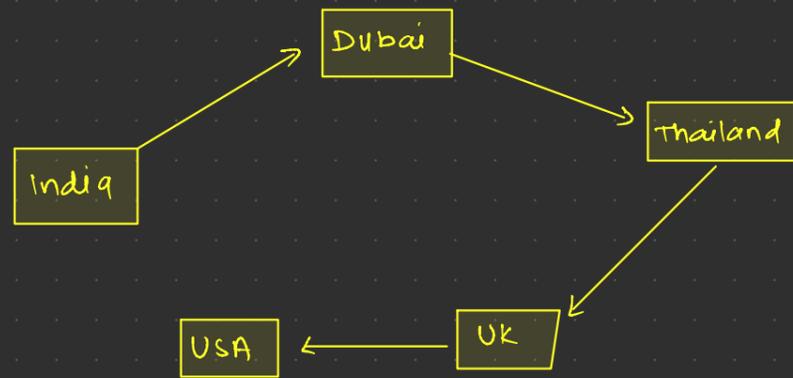


Days stayed in India = 365/366 (-) Days in India as per CDC (-) Days in India for personal purpose ✓
 = 365 days (-) 167 days (-) Nil (assumed)
 = 198 days

Since he is in India for more than 182 days during prev. year, he is a Resident Person ✓.



Deemed Resident [sec 6(1A)]



Usually, High Networth Individuals plan their stay in every country in such manner where they do not become a Resident in any of the countries to pay taxes.

Thus, Indian Govt considers these people as Indian Resident & collects taxes where he is not paying tax in any other country ✓

- 1] Indian Citizen
- 2] Indian sourced Income > ₹15L
- 3] Not paying tax in any of the other countries.

↓
Deemed Resident

↓
RNOR

Automatically.

X

Additional Conditions

4 additional conditions.



- 1] Stay in India → Imm. prec FY ≤ 729 days.
- 2] For 9 out 10 imm. prec FY → NR
- 3] Indian Citizen / F. Citizen [Person of Indian origin]
 - ↓
 - comes to India → For visit
 - ↓
 - Indian sourced Income > 15L
 - ↓
 - C.Y. → ≥ 120 days < 182 days
 - +
 - Last 4 FYs → ≥ 365 days.
- 4] Deemed Resident ✓ 6(1A)

• He comes to India for the first time → Qs will not specify past year details ✓

• He leaves India for the first time → Qs will not specify past year details ✓

• Mr. Amit is a foreign citizen [USA] staying in Mumbai. He left India for working in one MNC in the UK. His parents are staying in Mumbai since their birth. He earns ₹16L from a business in India. He has stayed in India in current FY for 155 days & for 100 days every FY since past 10 FYs. Identify his residential status.

In continuation of the above, will your answer change if Mr. Amit is an Indian citizen leaving the country for the first time for employment. He left India on 7/7/24. His business income in India is ₹17,72,100/-.

Identify the Residential status.

Homework Qs → 2

Q.2 Provisions

(a) As per section 6(1) of the Income-tax Act, 1961, a person would be considered as a Resident person if he satisfies any 1 of the following basic conditions:

- (i) he stays in India during the current FY for not less than 182 days.
- OR
- (ii) he stays in India during current FY for not less than 60 days AND not less than 365 days in the imm. prec. 4 FYs.

(b) However, the 2nd basic condition will not be applicable if an Indian citizen or a person of Indian origin comes to India for visit.

(c) Such second basic condition can be revised if he comes to India for visit & his total income other than foreign sourced income is more than ₹15,00,000. Second basic condition would be as follows:

- current year stay in India for not less than 120 days & not less than 365 days in the imm. prec. 4 FYs.

Facts & Analysis

1] Since Bret Lee is an Australian cricketer player, he is required to satisfy any 1 of the 2 basic conditions. Since, he is visiting every year for 100 days, he is satisfying the 2nd Basic condition.

		Facts
1 st Basic condition	Cy. ≥ 182 days	100 days X
2 nd Basic condition	Cy ≥ 60 days + last 4 FYs ≥ 365 days	100 days ✓ 400 days ✓

Thus, he will be a Resident in India.

2] If Srinath, an Indian citizen comes to India for 120 days every FY for visit, only 1st basic condition needs to be satisfied [assumed that his Indian sourced income is $\leq 15L$]

If assumed that Indian sourced income is $> 15L$, then along with 1st basic condition, 2nd revised basic condition will be applicable.

Since he is not satisfying any of the basic conditions, he will be a NR.

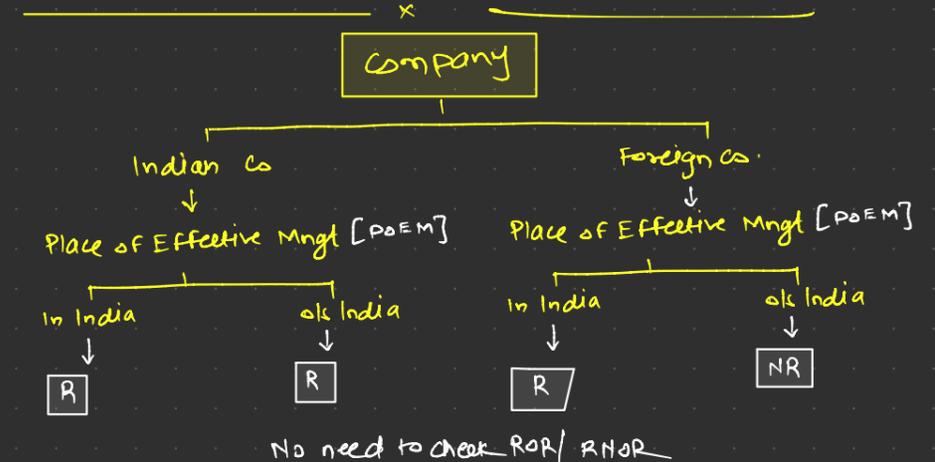
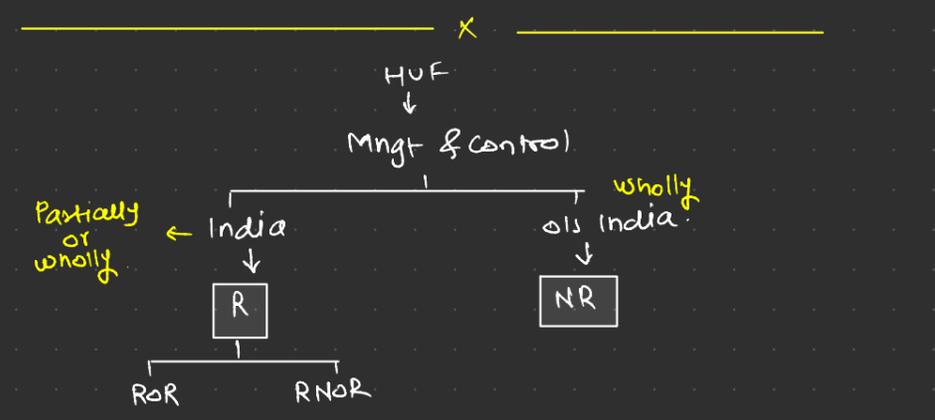
1 st Basic cond ⁿ	≥ 182 days	100 days	(X)
2 nd Basic cond ⁿ	≥ 120 days + ≥ 365 days	100 days	X (X)
		400 days	✓

3] If Srinath visits India for 120 days every year, then the 2nd revised basic condition will be satisfied. Thus, he will automatically become RNR ✓

1 st Basic cond ⁿ	≥ 182 days	120 days	X
2 nd Basic cond ⁿ	≥ 120 days + ≥ 365 days	120 days	✓
		480 days	✓

Conclusion

- 1] Case I → Resident
- 2] Case II → Non-Resident
- 3] Case III → RNR



Scope of Total Income

Income

Indian Income

Foreign Income

- Accrued in India
- Deemed to be accrued in India
- Received in India
- Deemed to be received in India

- Accrued X
- Deemed X
- Received X
- Deemed X

1] Accrued in India → It is generated in India ✓

It does not matter whether such income is recd in India/no.

- Anushka is working in Mumbai & receives salary in her US Bank A/c.

2] Received in India

- Income may be accrued s/s India ✓ but is received in India → Indian Income ✓

Example Mr Azar is working in the USA & directs the Co. to credit the salary in Indian bank A/c.

Accrued in India X Received in India ✓

- To consider this receipt as Indian Income ✓

The first incidence of receipt should be in India.

Apple Inc

USA
Amit

Accrued
Lois
Received
Lois

Remit ✓

Parents

Further remittance is not considered as receipt X

Master Table

Income	ROR	RNR	NR
Indian Income	T	T	T
Foreign Income	T	NOT Taxable *	NOT Taxable

only in 2 cases → Foreign Income will be taxable for RNR

Business carried on s/s India

Partly/wholly getting controlled from India ✓

That foreign income is going to be taxable in India ✓

Example

I have a business set up in Dubai.

Accrual → s/s India
Receipt → s/s India

∴ It is a foreign income.

IF such business is getting controlled from India

Income received from Dubai business

Taxable in India ✓

Profession which is set up in India.

That foreign income is going to be taxable in India ✓

Example

I have a P' Firm in Mum. I want to expand this & thus, I incorporated another P' Firm in Dubai

Since the prof. was first set up in India.

Income received from Dubai office

Taxable in India ✓

IF NR has a business in USA & amt is also received in USA. Such business is getting controlled from India ✓

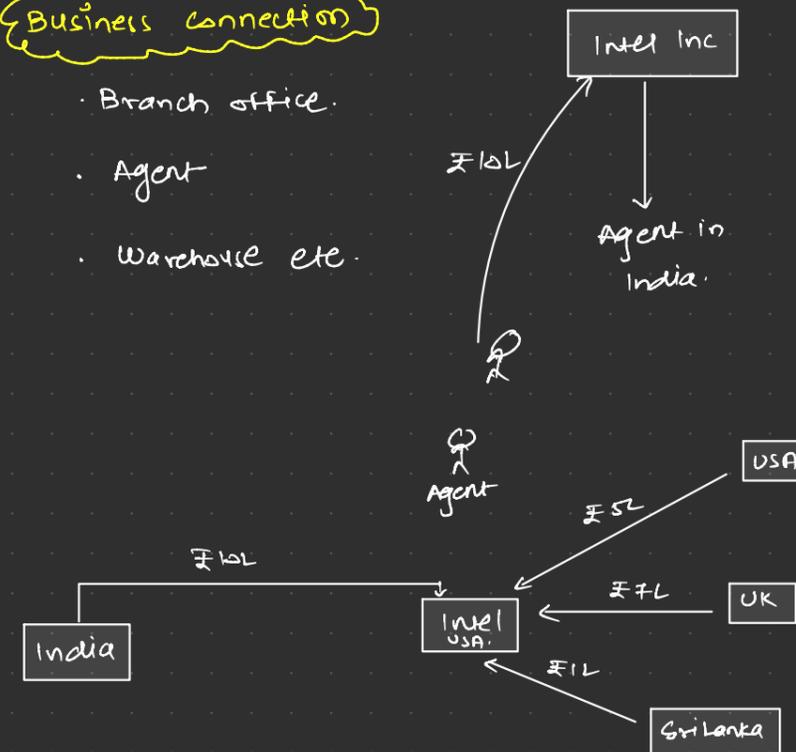
SHI NOT TAXABLE

Taxable only if that person is RNR ✓

Income deemed to accrue/arise in India [sec 9]

1] Business Connection

- Branch office.
- Agent
- Warehouse etc.



Income attributable from Indian operations will ONLY be Taxable in India ✓

₹10L

Agent → wholly working for NR → Business Connection ✓

Independent Agent
↓
No Business Connection

Working not only for NR
↓
He may have multiple clients to handle ✓

Significant Economic Presence

- Earlier, B.C. was getting estd. only when there is a physical presence.
- However, due to advancement in technology, a NR can still run a company not having physical presence in India.
- Thus, if such NR is having SEP in India, B.C. will be established ✓.

What is SEP?

Condition 1 → Income during FY > ₹2cr.

(SR)

Condition 2 → Total users > 3,00,000

Following Persons will not be considered as having

Business connection in India ✓

N C P B D

N → collection of **News** in India & transmission o/s India.

C → shooting of **Cinematographic films** in India by NR.

↳ Individual → Indian citizen x

↳ Company → SH → Indian citizen x
Indian Resident x

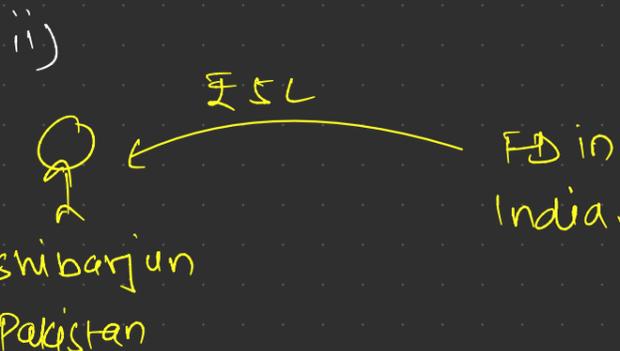
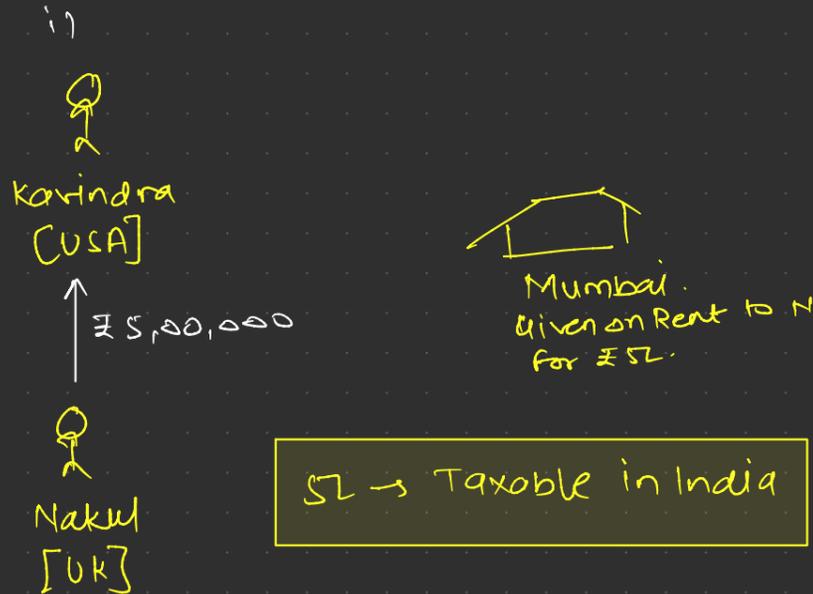
↳ Firm → Partner → Indian citizen x
Indian Resident x

P → Purchase of goods by NR for export ✓

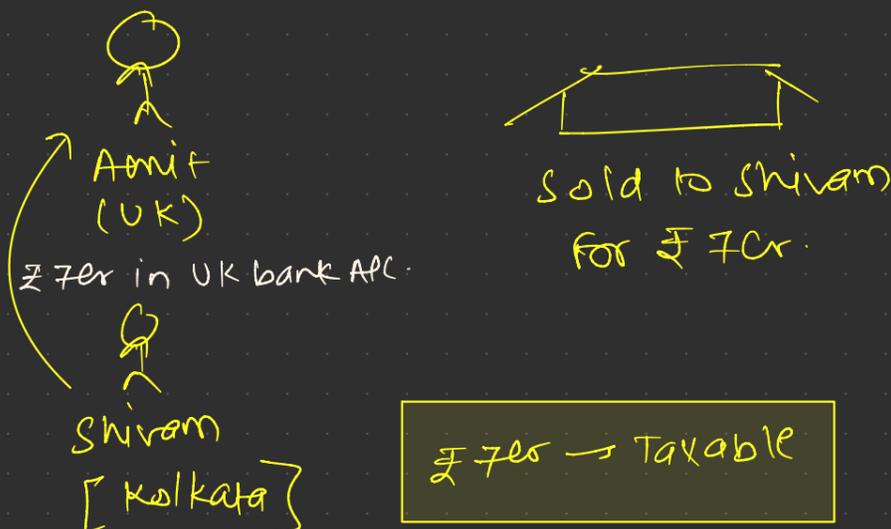
B → Business Income only from Indian operations → Taxable ✓

D → Display of Uncut rough diamond in SIIZ.

II] Income from Property in India



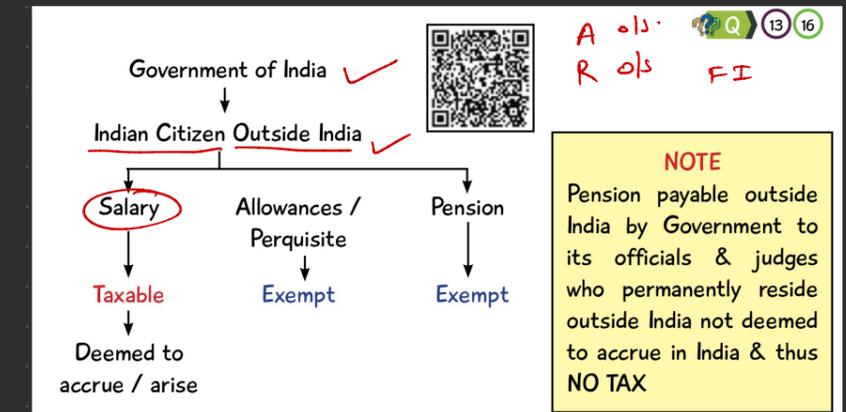
III] Capital Gains on transfer of assets located in India ✓



Salary Income

Usually salary is accrued where the employment service is given.

Exception



Interest / Royalty / Fees for Technical Services.

