



Ministry of Finance

Clarification in respect of residency under section 6 of the Income-tax Act, 1961

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Section 6 of the Income-tax Act, 1961 (the Act) contains provisions relating to residency of a person. The status of an individual as to whether he is resident in India or a non-resident or not ordinarily resident, is dependent, *inter-alia*, on the period for which the person is in India during a year.

Various representations have been received stating that there are number of individuals who had come on a visit to India during the previous year 2019-20 for a particular duration and intended to leave India before the end of the previous year for maintaining their status as non-resident or not ordinary resident in India. However due to declaration of the lockdown and suspension of international flights owing to outbreak of Novel Corona Virus (COVID-19), they are required to prolong their stay in India. Concerns have been expressed that they may involuntarily end up becoming Indian residents without any intention to do so.

In order to avoid genuine hardship in such cases, the CBDT has decided *vide* circular no 11 dated May 8, 2020, that for the purposes of determining the residential status under section 6 of the Act during the previous year 2019-20 in respect of an individual who has come to India on a visit before 22nd March, 2020 and:

- has been unable to leave India on or before 31st March 2020, his period of stay in India from 22nd March, 2020 to 31st March, 2020 shall not be taken into account; or
- has been quarantined in India on account of Novel Corona Virus (Covid-19) on or after 1st March, 2020 and has departed on an evacuation flight on or before 31st March, 2020 or has been unable to leave India on or before 31st March, 2020, his period of stay from the beginning of his quarantine to his date of departure or 31st March, 2020, as the case may be, shall not be taken into account; or
- has departed on an evacuation flight on or before 31st March, 2020, his period of stay in India from 22nd March, 2020 to his date of departure shall not be taken into account.

Further, as the lockdown continues during the Financial Year 2020-21 and it is not yet clear as to when international flight operations would resume, a circular excluding the period of stay of these individuals up to the date of normalisation of international flight operations, for determination of the residential status for the previous year 2020-21 shall be issued after the said normalisation.

RM/KMN

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