

**COVID 19 IMPACT ON RESIDENTIAL STATUS UNDER THE INCOME TAX ACT, 1961**  
**FOR THE F.Y 2019-20**

**Background**

1. Section 6 of the Income Tax Act 1961, deals with the determination of residential status of a person (i.e resident, Non-resident and Not ordinary resident).
2. The taxability of income of person who is stay outside India and earning income outside India is mostly depend on his residential status as per Income Tax Laws.
3. Whether a person is resident in India or Non-resident or Not ordinary resident, is dependent on the period (physical presence) for which the person is in India during the previous year or years preceding the previous years.

**Recent Changes**

1. Recently, in Finance Act 2020 Government had amend Section 6 of the Income Tax Act, and wider the scope of section 6 from 01.04.2021.
2. In this difficult situation of Novel Corona virus (COVID-19) it has seen that many individual who had **came to visit to India in Financial Year 2019-20** are not able to go back due to Lockdown and / or cancelation of various international flights, which might affect their residential status in India.
3. In this regards Central Board of Direct Taxes (CBDT) has issued **Circular No. 11/2020 dated 8<sup>th</sup> May, 2020** by which the CBDT has given clarification in respect of residential status under section 6 of the Income Tax Act, 1961 for the F.Y 2019-20 as follows:

*"In order to avoid genuine hardship in such cases, the board in exercise of powers conferred under section 119 of the Act, has decided that for the purpose 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 visit before 22<sup>nd</sup> March 2020 and:*

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

With this circular, the department has made it clear that while determining residential status for Financial Year 2019-20 the period of stay for the persons and/or situation mentioned above is not to be taken into consideration, in other words, it is assumed that the person is not in India during the period mentioned above.

**To summarize**

<b>Sr. No.</b>	<b>Situation</b>	<b>Period of stay not taken into account for determining the residential status</b>
1	Individual who has come to India on a visit before 22 <sup>nd</sup> March 2020 and has been unable to leave India on or before 31 <sup>st</sup> March 2020	from 22 <sup>nd</sup> March 2020 to 31 <sup>st</sup> March 2020
2	Individual who has been quarantined in India after 1 <sup>st</sup> March 2020 and  a) has departed on and evacuation flight on or before 31 <sup>st</sup> March 2020 or  b) has been unable to leave India on or before 31 <sup>st</sup> March 2020	If he is <b>departed before 31<sup>st</sup> Mach 2020</b> then- From 1 <sup>st</sup> day of his quarantine to his date of departure.  If he is <b>NOT departed before 31<sup>st</sup> Mach 2020</b> then- From 1 <sup>st</sup> day of his quarantine to 31 <sup>st</sup> Mach 2020.
3	Individual who has come to India on a visit before 22 <sup>nd</sup> March 2020 has departed on an evacuation flight on or before 31 <sup>st</sup> March 2020	from 22 <sup>nd</sup> March 2020 to his date of departure

The circular is silent about the period starting from 01.04.2020 i.e for the financial year 2020-21. Looking at current situation of COVID 19, extension of lockdown in India till 30.06.2020 and no clarification regarding starting of international flight till now we have to wait for further clarification regarding F.Y 2020-21