



March 6, 2021

## **Note on CBDT Clarification regarding Tax Residential Status for FY 2020-21**

In the year 2020 post outbreak of COVID-19 pandemic, the Indian government imposed a nation-wide lockdown in India from March 22, 2020. Due to this lockdown, foreign citizens and Indians who live abroad but were on a visit in India during that time were forced to remain in India. This forced stay in India affected their residential status and resultant taxability because residential status in India based on physical stay in India.

To provide relief to such individuals from becoming resident of India during FY 2019-20, the CBDT vide Circular No. 11 of 2020 dated May 8, 2020 clarified that period of stay in India of such individuals from March 22, 2020 till March 31, 2020 shall not be taken into account while computing residential status. For those individuals who were quarantined in India prior to March 22<sup>nd</sup>, the exclusion period will reckon from March 1<sup>st</sup> or the date of quarantine, whichever is later.

Not everyone could return back immediately on resumption of international flights during FY 2020-21. So, there was a similar demand for relaxation during the FY 2020-21 as well.

The CBDT, vide Circular No. 2 of 2021 dated March 3, 2021 has denied to provide any further relaxation in this regard. The CBDT has said that India has tax treaties with most of the countries and the 'tie-breaker' mechanism under tax treaties protects an individual from acquiring dual residency. Even if dual residency is acquired, credit of taxes on doubly taxed income is available in India. CBDT looked at the position taken by other countries which took similar stand and the international body viz., OECD is also of the view that the COVID-19 situation will unlikely affect the treaty residency under tax treaties.

However, in case any individual still facing double taxation due to forced stay in India, the CBDT has issued an online Form-NR to approach tax authorities and seek relief. After examining the possible situation of double taxation, the CBDT will decide whether any

relaxation is to be provided to an individual or to a class of individuals. The last date of submission of online Form-NR is March 31, 2021.

*(Source: CBDT Circular No. 2/2021 dated March 3, 2021)*

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