

CHAPTER TWO : RESIDENCE STATUS

Chapter Topic List:

Introduction

1. Determination of residence status
2. Significance of residence status

Learning Outcome:

On completion of this chapter, learners should be able to:

1. Briefly explain tax residence;
2. Explain and illustrate the four rules of tax residence for individuals under Section 7; and
3. Explain the significance of tax residence status.

Introduction

Malaysian tax resident and Malaysian citizenship are two different concept. To determine the individual residence status, one has to pass the quantitative test as outlined in Section 7 of Income Tax Act 1967.

1. Determination of residence status

There are four rules in the quantitative test to determine the residence status of an individual, with reference to Section 7(1) of ITA 1967:

- (a) he is in Malaysia in that basis year for a period or periods amounting in all to 182 days or more;
- (b) he is in Malaysia in that basis year for a period of less than 182 days and that period is linked by or to another period of 182 or more consecutive days;

Temporary absence forms part of 182 or more consecutive days if an individual is in Malaysia immediately prior to and after that temporary absence. It refers to:

 - absence due to service matters or attending conferences or seminars or study abroad;
 - absence due to ill health (self or immediate family member); or
 - social visits not exceeding 14 days in total.
- (c) he is in Malaysia for a period or periods amounting in total of 90 days or more and in three out of the four immediately preceding years, the individual is either:
 - Resident; or
 - In Malaysia for a period or periods amounting in total to 90 days or more
- (d) he may not be in Malaysia at all in the year in question but:

- Resident in the following year; and
- Resident in three immediately preceding years.

2. Significance of Residence Status

	Resident	Non-Resident
i. Scope of charge - Income accrued or derived in Malaysia - Foreign source income		
ii. Income tax rate		
iii. Individual tax relief		
iv. Employment income derived from Malaysia		
v. Rebate for chargeable income less than RM35,000		
vi. Pension income derived from Malaysian employment		
vii. Royalties from literary / artistic work		
viii. Income from cultural performance approved by Minister		
ix. Income from cultural performance approved by Ministry		
x. Withholding tax on contract payment, interest, royalty, technical fees and other s4A payment		
xi. Interest income from financial institution		

