STATUTORY COMPARISON / MAP-B98C99FD63D6

Residence-based scope and the safeguard against double inclusion

RETAINED

1961 ACT / 5 - SCOPE OF TOTAL INCOME

Section 5 distinguishes resident and non-resident income scope, limits foreign accruals for not-ordinarily-resident persons, and contains two explanatory safeguards.

2025 ACT / 5 - SCOPE OF TOTAL INCOME

Section 5 retains those rules and expresses the balance-sheet and double-inclusion safeguards in subsections (3) and (4).

READING CHRONOLOGY

01 Operative provisions / 02 Change analysis / 03 Transition / 04 Compliance / 05 Disputes / 06 Expert Commentary

02 PRECISE CHANGE ANALYSIS

The proviso to old section 5(1) moves into new section 5(1)(c), with the residence cross-reference updated to section 6(13). Old Explanations 1 and 2 become sections 5(3) and 5(4). The receipt, accrual and deemed-accrual connecting factors remain; terminology changes from previous year to tax year.

03 TRANSITION AND EFFECTIVE DATES

When an earlier accrual is followed by a later receipt across commencement, reconcile the actual prior inclusion and applicable savings. A change of Act does not itself identify a fresh item of income.

04 COMPLIANCE IMPACT

Track source, first receipt, accrual and prior inclusion separately, especially for foreign income. An Indian balance-sheet entry alone does not establish Indian receipt under section 5(3).

05 ASSESSMENT AND LITIGATION IMPACT

An addition based on subsequent receipt requires checking whether the same income was already included on accrual. For a not-ordinarily-resident person, foreign-source assertions must address the controlled-business or India-set-up-profession exception.

06 AKHB EXPERT COMMENTARY

Section 5 is a connecting-factor provision, not a rule that all money entering an Indian bank account is fresh taxable income. The express anti-duplication subsection should direct attention to the identity of the income and its earlier inclusion, rather than the bank-credit date alone. Conversely, the restricted foreign-income scope for a not-ordinarily-resident person cannot be applied without examining where the business is controlled or the profession was set up.

STATUTORY SOURCES AND PINPOINTS

Income-tax Act, 1961 - Scope of total income - 5 - Scope of total income

Income-tax Act, 2025 - Scope of total income - 5 - Scope of total income

Income-tax Act, 2025 - Repeal and savings - 536(2)(b)-(c): accrued positions and legacy proceedings; 536(3): earlier-year references where applicable

SOURCE AND ANALYTICAL SCOPE

Whole sections 5. No treaty, section 9 deeming rule or foreign-tax-credit analysis is represented as completed. Based on CBDT statutory text cached 5 October 2026, consolidation labelled as amended by Finance Act 2026. Corresponding 2025 source page was opened live on 18 October 2026; this is not a Gazette-to-consolidation audit.

Status labels describe the analysed provision and may coexist: a provision can be renumbered and substantively changed. Retained does not certify every surrounding rule or notification. Commentary is separate from the legislation.

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