Proposed changes in definition of NRI

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What are the changes being brought?

- Budget 2020 amended the tax residency rules for NRIs. Till financial year 2019-20, an NRI who visited India would be considered a resident if they spent 182 days or more in the previous year in the country, in addition to an aggregate stay of 365 days or more in the preceding four years. Budget 2020 proposed to lower the threshold period of stay in the previous year to 120 days from 182 days.
- The budget proposed to amend the definition of “not ordinarily resident”. Till FY20, an individual was classified as a “not ordinarily resident” if he was a non-resident in India for nine out of 10 preceding years. The budget proposal has reduced the numbers of years to 7 out of the 10 preceding years.
- Under current law, the worldwide income of an Indian resident is taxable in India. In the case of a non-resident Indian, only the income earned in India is taxable. Under the changes proposed in the budget, an Indian citizen who is not liable to be taxed in any other country or territory shall be deemed to be resident in India.

Why are the changes being brought?

- The government is seeking to tax NRIs who are carrying on substantial economic activities from India. Under the present residence criteria of a minimum stay of 182 days in an FY, NRIs remain non-resident in India perpetually. Consequently, they do not declare and pay tax on their global incomes in India.

- Budget 2020 proposed to deem citizens of India who are not tax residents of any country as tax residents of India. Such individuals would not be able to employ international taxation rules to avoid taxes in India.
- The move signals a major shift in India’s tax policy toward the approach followed by the US, which taxes its citizens irrespective of their tax residence.