PoEM  
Place your management effectively now

Residential status for companies – change in definition

**Existing Provisions under the IT Act**
A company is said to be resident in India if:
- It is an Indian company;
- During that year, the control and management of its affairs is situated wholly in India

**Proposed Provisions under Finance Act 2015**
A company is said to be resident in India if:
- It is an Indian company;
- Its place of effective management in that year is in India

### Likely trigger of PoEM

<table>
<thead>
<tr>
<th>Tax payers likely to be affected by PoEM</th>
<th>Activities likely to trigger PoEM*</th>
<th>Ambiguity in PoEM</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foreign companies having Indian branches</td>
<td>Board meeting in India</td>
<td>Any decision in India?</td>
</tr>
<tr>
<td>Foreign subsidiaries of Indian parents</td>
<td>Decisions taken by a Director, Executive Committee, Key Management Personnel in India</td>
<td>Place where functions are performed vs. place where decisions are taken?</td>
</tr>
<tr>
<td>Foreign company having global reporting structure with an India Connection</td>
<td>Regional roles e.g. Group CEOs / CFOs sitting in India and approving decisions for foreign affiliates</td>
<td>Actions to be taken by the entity as a whole are determined?</td>
</tr>
<tr>
<td>Regional headquarters</td>
<td>Functions carried on in India e.g. Global Procurement Cell of foreign companies</td>
<td>Can presence in another country be used to demonstrate absence of PoEM in India?</td>
</tr>
</tbody>
</table>

### Impact of PoEM

- World wide income of foreign subsidiaries / JVs liable to tax in India
- Foreign subsidiaries / JVs liable for all tax compliances in India
- Transaction of foreign subsidiary with related foreign parties may be subject to Indian Transfer Pricing
- Foreign Companies / JVs could be liable to comply with WHT obligation in India
- Other provisions like MAT etc. could also apply

### How Deloitte can help?

- Collect relevant information for review which includes understanding the group structure, nature of business of the companies, the authority matrix for managerial and commercial decisions, the composition of the BoD, etc
- Evaluation of the information and assessing potential impact
- Assist in the implementation of viable solutions
- Reviewing authority matrix, SOPs etc to be put in place from the tax perspective
- Review the effective implementation on an on-going basis
- Discuss our findings with the management
- Provide Recommendations