Clubbing Of Income

[Sec 60 to 64]

Generally an assessee is taxed in respect of own Income, however, there are certain cases wherein the assessee must pay tax in respect of Income of another Income.

* Transfer of Income without transfer of assets

[Sec 60]

Mr. Rakesh (owner of FD ₹10,00,000 @10%)	Mr. Rakesh directed bank to deposit → Interest in account of Mr. Raju ₹1,00,000.	Mr. Raju (receipient of Income)

↓

clubbed in hands of Mr. Rakesh, because Mr. Rakesh transferred Income without trf of asset.

* Income from Assets under Revocable transfer [Sec 61]

Revocable transfer

↓

a) means transfer contains provision of re-transfer, directly or indirectly, whole or any part of income or asset

OR

b) transferor has right to re-assume power, directly or indirectly, whole or any part of income or asset.

Mr. Sumit (transferor) —trf car on revocable basis for renting out→ Mr. Amit (legal owner of car)

Passengers → Mr. Amit

Rent ₹ 2,00,000

↓

clubbed in the hands of Mr. Sumit.

Key Note :- No clubbing if :-

a) transfer is irrevocable.

b) transfer is not revocable during lifetime of transferee.

Eg:-

Mr. Raj $\xrightarrow{\text{transfers HP (without consideration)}}$ Mrs. Simran

↓

Condition → Revocable after death of Mrs. Simran

Tenant → Rent ₹3,00,000 → Mrs. Simran

No dubbing i.e. income of Mrs. Simran.

* Clubbing of Income arising to Spouse

1) Remuneration (salary, commission, fees etc) to spouse from a concern in which individual has substantial interest [Sec 64 (1) (ii)]

substantial interest → 20% or more.

Mr. A

Holds 20% or more interest ↓

ABC Firm → pays salary, fees, commission etc → Mrs. A (spouse of Mr. A) & Employee in ABC Firm

↓

Not qualified for such job.

↓

to be clubbed in hands of Mr. A i.e. spouse.

Key Note 1:- What if both husband and wife has substantial interest?

Mr. Kapoor

Mrs. Kapoor

Both holds 20% or more Interest

Kapoor & Sons

(Employee in Kapoor & Sons & not qualified for such job)

pays salary, commission, fees etc.

to be clubbed in hands of that spouse whose total income (before such income) is higher.

2) What if spouse has technical or professional qualification?

Mr. A

Holds 20% or more interest

ABC Firm

pays salary, fees, commission etc

↓

No clubbing i.e. income of Mrs. A.

Mrs. A (spouse of Mr. A) & Employee in ABC Firm

↓

Qualified for such job.

Eg:- Mr. Rudra holds 25% voting power in Rudra Pvt ltd. His wife works in same company without any professional qualification. Salary received by Mrs. Rudra is ₹ 15,00,000.

→ clubbed in hands of Mr. Rudra.

Income from salary clubbed	15,00,000
(-) Standard deduction u/s 16 (ia)	(75,000)
	14,25,000

d] Income arising to spouse from an asset transferred without / inadequate consideration

[sec 64(1)(iv)]

- Transfer of house property
  - ↓ Transferor spouse will be deemed owner u/s 27
  - ↓ HP chapter.
- Transfer of any property (other than HP)
  - Husband-wife relation exists.
    - ↓ clubbing in hands of transferor spouse
  - Under Agreement to live-apart.
    - ↓ No clubbing.

Eg:-

Mr. Singh $\xrightarrow[\text{consideration}]{\text{trf HP w/o}}$ Mrs. Singh (legal owner of HP)

Mr. Singh ↓ Deemed Owner

Tenant → Mrs. Singh: Rent ₹10,00,000 ↓ Income of Mr. Singh

Eg:-

Mr. Singh $\xrightarrow{\text{trf debentures}}$ Mrs. Singh
of ₹10,00,000 @ 10%

Company $\xrightarrow{\text{Int. on Debenture ₹1,00,000}}$ Mrs. Singh

clubbed in hands of Mr. Singh.

Eg:-

Mr. Singh $\xrightarrow{\text{transfers FD of}}$ Mrs. Singh
₹20,00,000 under agreement to live apart

Bank $\xrightarrow{\text{Interest of ₹200000}}$ Mrs. Singh

No clubbing

Meaning of Adequate Consideration:-

Natural love & affection do not constitute adequate consideration.

Eg :- Mr. Singh → transfers car → Mrs. Singh

consideration = love & affection

↓

No adequate consideration.

Passenger ↓ Rent ↓ clubbing in hands of Mr. Singh.

Key Note :- Transferred asset invested in business.

↓

Asset transferred by individual to spouse & invest in business.

- Proprietorship business.
  - ↓ Proportionate profit to be clubbed in hands of transferor spouse.
- Partnership firm.
  - Interest Income ↓ Proportionate interest to be clubbed in hands of transferor.
  - Salary Income ↓ No clubbing
  - Profit Share ↓ Exempt in hands of partner.

Key Note :- Proportion shall be calculated based on investment as on first day of previous year.

Eg :-

Mr. Kapoor $\xrightarrow[\text{on } 1/4/2024]{\text{Gifted ₹ 2,00,000}}$ Mrs. Kapoor

↓

Invested in Business (proprietor)

Profit ₹ 50,000

[own Capital on 1/4/24 → ₹ 300000]

Proportionate profit = $\frac{50,000}{500000} \times 200000$

= 20,000 to be clubbed in hands of Mr. Kapoor.

Eg :-

Mr. Kapoor $\xrightarrow[\text{on } 2/4/2024]{\text{Gifted ₹ 2,00,000}}$ Mrs. Kapoor

↓

Invested in Business (proprietor)

Profit ₹ 50,000

[own Capital on 1/4/24 → ₹ 300000]

No clubbing since amt is gifted on 2/4/2024

Eg:-

Mr. Kapoor —Gifted ₹3,00,000 on 1/4/2024→ Mrs Kapoor

Invested in ↓

ABC firm (own capital as on 1/4/24 = 5,00,000)

Int on capital 80,000

Proportionate interest to be clubbed in hands of Mr. Kapoor

$= 80{,}000 \times \frac{3{,}00{,}000}{8{,}00{,}000} = 30{,}000$

Key Note :- Income from accretion of transferred asset i.e. income on income → Not to be clubbed.

Mr. Singh —Gift ₹ 3,00,000→ Mr. Singh

↓

Invested in Bank FD

① Interest ₹ 30,000

clubbed in hands of Mr. Singh ←

Re-Invested ₹ 30,000

Interest ₹ 3000

↓

Not to be clubbed.

3] Transfer of assets for benefit of spouse [Sec 64(1)(vii)]

Total Income of individual (transferor) shall include income arising directly or indirectly to any person from assets transferred by him without adequate consideration provided such income is used for benefits of transferor's spouse.

Eg:-

Mr. Roy $\xrightarrow{\text{transfer HP ₹20,00,000}}$ Mr. Khan

Tenant $\xrightarrow{\text{Rent ₹5,00,000}}$ Mr. Khan

Mr. Khan → Mrs Roy : Rent Income used for benefit of Mrs. Roy

↓

Income to be clubbed in hands of Mr. Roy

↓

₹ 5,00,000

Mr. Khan → Gift provisions in hands of Mr. Khan [Sec 56(2)(x)]

* Clubbing of Income arising to Son's wife.

1) Income arising to son's wife from an asset transferred without / inadequate consideration

[Sec 64(1)(vi)]

Transfer of any asset
↓
clubbing in hands of transferor.

Eg :-

Mr. Rohan —transfers HP without consideration→ Son's wife

Tenant —Rent ₹10,00,000→ Son's wife

Clubbed in hands of Mr. Rohan.

Eg :-

Mr. Rohan —Transfers debentures of ₹10,00,000 @ 10%→ Son's wife

Company —Int. on debenture ₹1,00,000→ Son's wife

Int → clubbed in hands of Mr. Rohan

Key Note 1 :- Transferred asset invested in business.

↓

Asset transferred by individual to son's wife & invest in business.

- **Proprietorship business.**
  ↓
  Proportionate profit to be clubbed in hands of transferor

- **Partnership firm.**
  - Interest Income
    ↓
    Proportionate interest to be clubbed in hands of transferor.
  - Salary Income
    ↓
    NO clubbing
  - Profit Share
    ↓
    Exempt in hands of partner.

Key Note :- Proportion shall be calculated based on investment as on first day of previous year.

Eg :-

Mr. Kapoor — Gifted ₹ 2,00,000 on 1/4/2024 → Son's wife

Invested in Business (proprietor)

Profit ₹ 50,000

[own Capital on 1/4/24 → ₹ 300000]

Proportionate profit $= \frac{50,000}{500000} \times 200000$

$= 20,000$ to be clubbed in hands of Mr. Kapoor.

Eg :-

Mr. Kapoor — Gifted ₹ 2,00,000 on 2/4/2024 → Son's wife

Invested in Business (proprietor)

Profit ₹ 50,000

[own Capital on 1/4/24 → ₹ 300000]

No clubbing since amt is gifted on 2/4/2024

Eg:-

Mr. Kapoor $\xrightarrow[\text{on } 1/4/2024]{\text{Gifted ₹3,00,000}}$ Son's wife

Son's wife ↓ Invested in

XYZ firm (Own capital as on 1/4/24 = 5,00,000)

Int on capital 80,000

Proportionate interest to be clubbed in hands of Mr. Kapoor

$= 80{,}000 \times \frac{3{,}00{,}000}{8{,}00{,}000} = 30{,}000.$

Key Note :- Income from accretion of transferred asset i.e. income on income → Not to be clubbed.

Mr. Singh $\xrightarrow{\text{Gift ₹ 3,00,000}}$ Son's wife

Son's wife ↓ Invested in Bank FD

① Interest ₹30,000 → clubbed in hands of Mr. Singh

Re-Invested ₹ 30,000

Interest ₹ 3000 ↓ Not to be clubbed.

3] Transfer of assets for benefit of Son's wife [Sec 64 (1) (viii)]

Total Income of individual (transferor) shall include income arising directly or indirectly to any person from assets transferred by him without adequate consideration provided such income is used for benefits of transferor's son's wife.

Eg:-

Mr. Roy → transfer HP ₹20,00,000 → Mr. Khan

Tenant → Rent ₹5,00,000 → Mr. Khan

Mr. Khan → Son's wife

Rent Income used for benefit of son's wife

↓

Income to be clubbed in hands of Mr. Roy

↓

₹ 5,00,000

Mr. Khan → Gift provisions in hands of Mr. Khan [Sec 56(2)(x)]

* Clubbing of Minor's Income [Sec 64 (1A)]

A) Income derived from
i) Manual work or
ii) Any activity involving his skill, talent or specialised knowledge or experience.

B) Income of minor child suffering from any disability
↓
Taxable in hands of minor only
↓
No clubbing.

Other Income (eg: Interest, dividend, PGBP, capital Gain etc)
↓
Income to be clubbed in hands of parent whose total income excluding minor's income is greater.

Key Note :-
1) Once clubbing is done in hands of one parent, it will continue to be clubbed with that parent only in subsequent years, unless AO is satisfied to include income in hands of other parent.

2) When marriage does not subsist, the income of minor will be included in hands of parent who maintains the minor child.

3) Exemption u/s 10(32)

↓

₹1500 in respect of each minor child.

Eg:-

Minor son of Mr. Chirag earned ₹2,00,000 from bank interest. Minor daughter of Mr. Chirag earned ₹1,50,000 from dividend.

→ Income to be clubbed in hands of Mr. Chirag:-

Minor son	2,00,000	
(-) Exemption u/s 10(32)	(1,500)	1,98,500
Minor daughter	1,50,000	
(-) Exemption u/s 10(32)	(1500)	1,48,500
		3,47,000

4] Transfer of House property without adequate consideration.

Minor Married daughter
↓
Clubbing provision is applicable.
↓
Exemption of ₹1500 u/s 10(32) available.

Other Minor child.
↓
No clubbing, no exemption
↓
Transferor will be deemed owner u/s 27.

Eg :-

Mr. Varun —Gifts HP ₹ 50,00,000→ Minor Son (legal owner)

Mr. Varun ↓ Deemed owner u/s 27

Gifts HP ₹ 50,00,000 ↓ Gift not taxable in hands of minor son ∵ father is relative.

Tenant → Minor Son: Rent of ₹3,00,000

Rent ↓ Income in hands of Mr. Varun.

Eg:-

Eg:-

Mr. Varun $\xrightarrow{\text{Gifts HP ₹ 20,00,000}}$ Minor married daughter (owner)

Mr. Varun ↓ Not deemed owner

Gifts HP ₹ 20,00,000 ↓ Gift not taxable in hands of minor son ∵ father is relative.

Tenant → Minor married daughter (owner): Rent of ₹ 5,00,000

Tenant ↓ Income to be clubbed in hands of parents (-) Exemption u/s 10(32)

Eg:-

Badshah $\xrightarrow[\text{₹ 1,00,00,000}]{\text{Indian Idol winning}}$ Mr. Chotu

↓

No clubbing

↓

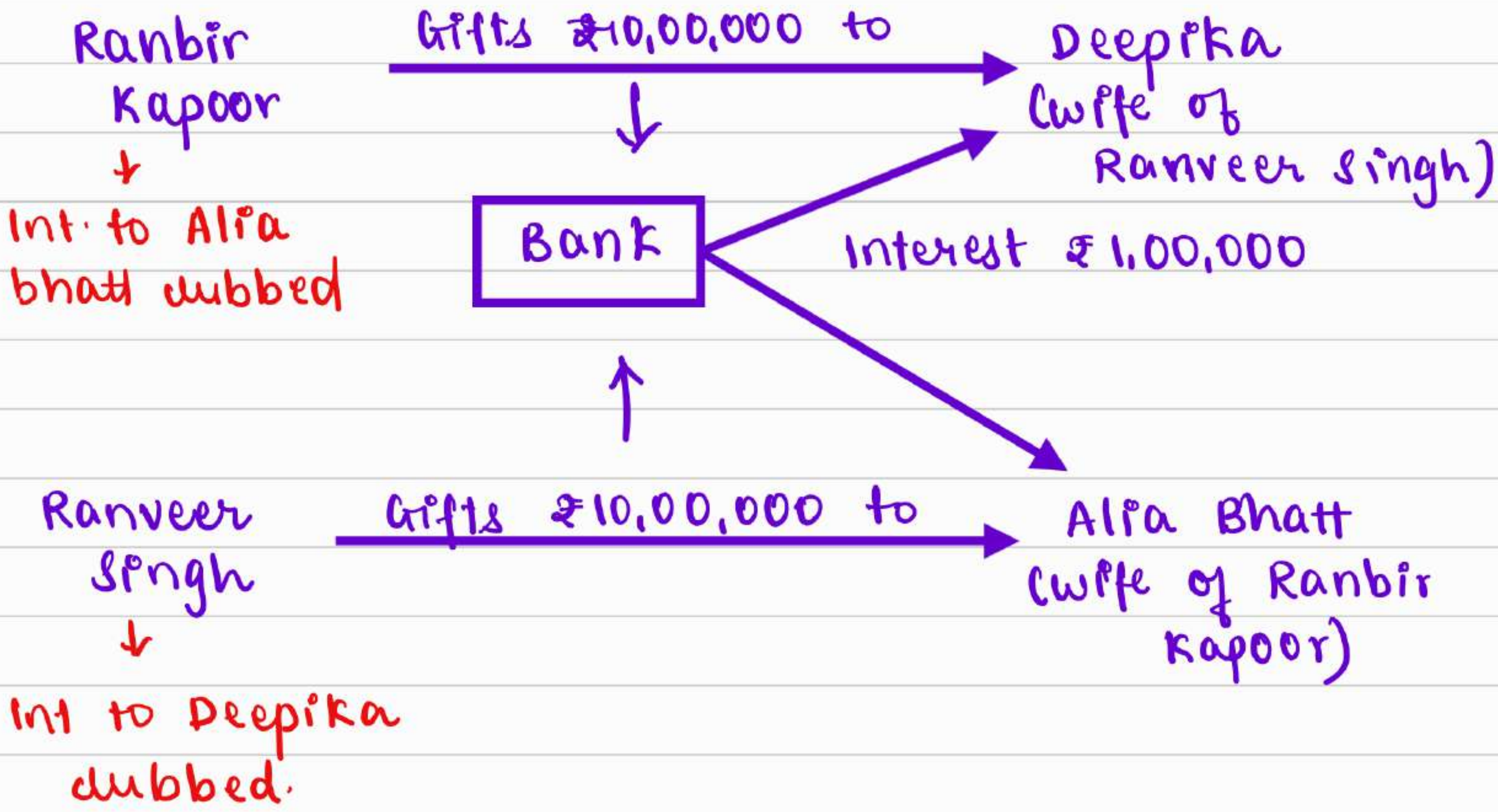
Taxable In the hands of Mr. Chotu.

* Cross transfer

[Hon'ble Supreme Court In case of CIT v/s Keshavji Morarji [1967] 66 ITR 142]

In case of cross transfer, the income from assets transferred would be assessable in hands of deemed transferor.

If two transactions are inter-connected and are parts of the same transaction in such a way that it could be said that the circuitous method was adopted as a device to evade tax, the implication of clubbing provisions would be attracted.



* Conversion of Self-Acquired House Property into the Property of HUF [Sec 64(2)]

Assessee (member of HUF) transfers property to HUF without/Inadequate consideration and

Case i) HUF not partitioned
↓
Income from property to be clubbed in hands of transferor.

Case ii) HUF is partitioned & assets are distributed to members.
↓
Income arising from assets distributed to spouse to be clubbed in hands of transferor.

Eg:-

Mr. A (Member of HUF) $\xrightarrow{\text{Gifts house property of ₹ 40,00,000}}$ ABC HUF

Rent of ₹10,00,000

Tenant

To be clubbed in hands of Mr. A.

Now,
HUF partitioned & distributes HP to

Mr. A	Mrs A	Mr. B	Mrs B
↓	↓	↓	↓
250,000	250,000	250,000	250,000
	↓ to be clubbed in hands of Mr. A.		