

## CHAPTER 4: CLUBBING OF INCOME

### TRANSFER OF INCOME WITHOUT TRANSFER OF ASSET [SECTION 60]

If Only income is transferred **without transfer of asset**, then such income is to be clubbed in the hands of transferor.

### REVOCABLE TRANSFER OF ASSET [SECTION 61]

If only asset is transferred on a **revocable basis**, then income from such assets shall be clubbed in the hands of transferor

**Section 61** will not apply to any income arising to any person if there is –

1. A **transfer by way of trust** which is not revocable during the lifetime of beneficiary; and
2. **Any other transfer**, which is **not revocable** during the lifetime of transferee

Provided the transferor **does not derive** any direct or indirect benefit.

If the transferor receives direct or indirect benefit from such income, such income is to be included in his total income even though the transfer **may not be revocable** during the lifetime of the beneficiary or transferee.

**Note:** Once the transfer is **revocable transfer**, the entire income from transferred asset is included in the total income of Transferor

### REMUNERATION TO SPOUSE

If the **spouse** of any individual receives any salary, commission, fees or other remuneration from a concern where such individual has substantial interest, then such **remuneration** shall be clubbed in hands of such individual

**No Clubbing** shall be done in the above case, if:

- Such **remuneration** is paid because of technical or professional qualifications of the spouse, or
- Skills and experience **possessed** by the spouse

### MEANING OF SUBSTANTIAL INTEREST

If individual along with their relatives hold **at least 20% of ownership** or has **at least 20% shares** in profits of the concern at any time during the PY  
Relative means –

- Spouse of the individual
- Brother / Sister of the individual
- Lineal **ascendent or descendent** of the individual

### INCOME FROM ASSETS TRANSFERRED TO SPOUSE ON NON-REVOCABLE BASIS

If the individual transfers any asset (**Other than House Property**) to the spouse, without consideration or inadequate consideration, then the income arising on such **transferred asset** shall be clubbed in the hands of transferor

- If there is **inadequate consideration**, clubbing provisions shall be applicable only with regard to the income relating to that part of consideration which is considered to be inadequate
- Provisions of clubbing shall be apply if the **relationship of spouse** exists both at the time of transfer of assets as well as at the time of accrual of income
- Income from **Clubbed income** shall not be clubbed
- If the asset is transferred under an **agreement to live apart**, clubbing provisions shall not apply
- If an **individual transfers** a house property to the spouse, then transferor shall be deemed to be the owner of the house property



## CAPITAL CONTRIBUTION IN SPOUSE'S BUSINESS

**Amount to be clubbed** =  $\frac{\text{Profit of the year} \times \text{Amount invested by the individual as on 1st day of PY}}{\text{Capital employed in the business as on 1st day of PY}}$

If any person has **transferred** the asset to the spouse and spouse has invested it in some partnership firm as **capital contribution**, in this case –

- Interest received from the partnership firm shall be clubbed
- If any salary has been received from firm, it will not be clubbed
- If any salary has been received from the profits of the firm, it will be exempt

**Note:** If any person has given **loan to spouse**, income earned by spouse, by investing such loan amount then clubbing provision **shall not applied**.

## TRANSFER OF ASSET FOR BENEFIT OF SPOUSE

If any asset is transferred by any **individual** to any **other person**, but for the benefit of the spouse, then income from **such assets** shall also be clubbed in the hands of transferor

## PROVISIONS RELATED TO SON'S WIFE

Same Provisions as those of spouse

**Note:** The relation of **Son's Wife** must **exist** both at the time of transfer as well as accrual of income

## PROVISIONS RELATED TO MINOR

Income of **minor child**, including **minor married daughter** shall be clubbed in the hands of either of the parent who's before income such clubbing is higher

**Note:**

- Once such **clubbing** is done in any PY then it will continue to be clubbed in the hands of same parent in subsequent years also,

irrespective of the level of income unless the **Assessing Officer** is satisfied to change

- If **child** is maintained by a **single parent**, then clubbing shall apply in hands of that parent who maintains the child
- If parents of minor child is **not alive** then the income of minor child cannot be clubbed, and **guardian of minor child** shall file the return of such income on behalf of the minor child
- **Under optional tax regime** – Whenever minor child's income is clubbed, exemption **up to ₹1500 per child** can be claimed

Minor child's income shall not be clubbed if:

1. Income is earned by minor child through **manual or physical work**
2. Income earned by minor child through **application of knowledge or skills**
3. If minor child is **suffering** from any **disability**

## PROVISIONS RELATED TO HUF

If **any member of HUF** transfers his property **to their HUF** without consideration, then income arising from such asset shall be clubbed in the hands of such member

**During Partition of HUF** – Clubbing provisions shall not be applicable However, income from that part of asset which has been received by the **spouse and minor child** of such person shall be clubbed in the income of such member

## CROSS TRANSFER

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

