

CHAPTER 4: CLUBBING OF INCOME

- Under the Income-tax Act, 1961, an assessee is generally taxed in respect of his own income. However, there are certain cases where an assessee has to pay tax in respect of income of another person.
- The provisions for the same are contained in sections 60 to 64 of the Act.
- These provisions have been enacted to counteract the tendency on the part of the tax-payers to dispose of their property or transfer their income in such a way that their tax liability can be avoided or reduced

Section 60 – Transfer of income without transfer of Asset

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

Eg. Mr. A has two house and each house is let out for ` 10 lakh p.a. He has transferred income of one of the house to his wife Mrs. A. In this case, clubbing provision shall be applicable and income shall be taxable in the hands of Mr. A.

Section 61 - Revocable transfer of Asset

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

Section 62 – Exception of Section 61

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 life time of the beneficiary or transferee.

Example Mr. Ram has transferred one asset to Mr. Shyam with the condition that the asset shall be retained by Mr. Shyam as long as he is alive and after that the asset shall be taken back by Mr. Ram. In this case, clubbing provision shall not apply.

Section 63 – Meaning of Revocable Transfer

Transfer is deemed to be revocable if –

- (a) It contains any provision for the re-transfer, directly or indirectly, of the whole or any part of the income or assets to the transferor, or
- (b) It gives, in any way to the transferor, a right to reassume power, directly or indirectly, over the whole or any part of the income or the assets

Example 1

Mr. J transfer House Property for lifetime of Mr.F , who let out property at 50,000 per month Rent to Mr. S

Example 2

Mr. J transfer House Property for lifetime of Mr. F on a condition that Mr. F will pay 50,000 per month to Mr. J

Mr. F earns rental income of 1,20,000 from such house property

Illustration 1

Mr. A transferred 2,000 debentures of 100 each of W Ltd. to Mrs. A on 13.05.2024 without consideration. The company paid interest of 130,000 in September, 2024 which was given as a loan by Mrs. Ram to K in October, 2024. K paid interest of 13,000 upto March, 2025. How would both the interest income be charged to tax in assessment year 2025–26?

Section 64 – Provisions related to Spouse, Son's wife, HUF and Minor Child

Provisions related to Spouse:-

- Remuneration to Spouse
- Assets transferred to Spouse on non-revocable basis
- Capital invested in Spouse's business

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 atleast 20% of ownership or has atleast 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

Notes:

1. In case if both husband and wife has substantial interest and both receives remuneration , then clubbing provisions will apply and income will be added in the hands of such spouse , whose income is higher before adding the clubbed income

2. In case if other income does not exist , then clubbing will apply to such individual whose income is higher
3. Once Such clubbing is applied in the hands of any of the spouse , then it will be continue to be clubbed in such hands in subsequent years also , irrespective of the level of income unless Assessing Officer is satisfied to club such income in the hands of other spouse

Example 3

Mr. C is 12th Pass and holding 21% equity in X Ltd. And gets salary of 6,00,000 per annum without having any prior knowledge and skills. Mrs.C (Wife) is 5th Fail and holding 22% equity in X Ltd. And gets salary of 7,00,000 per annum without having any prior knowledge and skills. Show Tax treatment

Illustration 2

Mr. Ram, entered into the following transactions during the previous year 2024–25:

- a) Mr. Ram had a fixed deposit of 4,00,000 with Bank of India. He instructed the bank to credit the interest on the deposit @ 9% from 01.04.2024 to 31.03.2025 to the savings bank account of Ms. Y, his niece, to help her in her higher education.
- b) Mr. Ram holds 51% share in a partnership firm. MR. Ram (wife of Mr. Ram) received a remuneration of 90,000 from the firm for writing its books of accounts. MR. Ram, being a fashion designer, does not possess any qualification or training in the accountancy field.
- c) Mr. Ram gifted a flat to Mrs. Ram on April 1, 2022. During the previous year 2024–25, she received rent of 18,500 p.m. from letting out of the flat.
- d) Mr. Ram gifted 4,00,000 to his minor son who invested the same in a business and he derived income of 80,000 from the investment.
- e) Mr. Ram's minor daughter derived an income of 25,000 from participation in music shows. During the year, Mr. Ram got a monthly pension of 18,000. He had no other income. Mrs. Ram received salary of 25,000 per month from a part time job as a fashion designer.

Discuss the tax implications of each transaction and compute the total income of Mr. R and MR. Ram.

Illustration 3

Mr. Ram is an employee of X Ltd. and he has 25% shares of that company. His salary is 50,000 p.m. Mrs. Ram is working as a computer software programmer in X Ltd. at a salary of 30,000 p.m. She is, however, not qualified for the job. Compute the gross total income of Mr. Ram and Mrs. Ram, assuming that they do not have any other income.

Illustration 4

Will your answer be different if Mrs. Ram was qualified for the job?

Illustration 5

Mr. Ram is an employee of Y Ltd. and has substantial interest in the company. His salary is 20,000 p.m. Mrs. Ram is also working in Y Ltd. at a salary of 12,000 p.m. without any qualifications. Mr. Ram also receives 30,000 as interest on securities. Mrs. Ram owns a

house property which she has let out. Rent received from tenants is 6000 p.m. Compute the gross total income of Mr. Ram and Mrs. Ram.

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.

Example 4

Capital as on 01/04/24 was ₹5,00,000

Mr. A gifted ₹7,00,000 to Mrs. A on 01/04/24 which she Invested In business immediately

a) Profit of PY 2024 -25 = 5,00,000

b) Profit of PY 2025-26 = 7,00,000

Mrs. A transferred 50% of profit to Mr. A as Gift

Show Tax Implication

Illustration 6

A proprietary business was started by Smt. X in the year 2020. As on 01.04.2023, her capital in business was 4,00,000. Her husband gifted 3,00,000 on 01.04.2023, which Smt. X invested in her business on the same date. Smt. X earned profits from her proprietary business for the Financial year 2023–24 2,00,000 Financial year 2024–25 2,40,000 Financial year 2025–26 2,80,000. Amount of profit was further invested in the business. Compute Amount to be clubbed in the income of Husband of Smt. X in each of the year.

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 that of spouse

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

Illustration 7

Mr. Ram gifts 1 lakh to his wife MR. Ram on April 1, 2024 which she invests in a firm on interest rate of 14% per annum. On January 1, 2025, MR. Ram withdraws the money and gift it to her son's wife. She claims that interest which has accrued to the daughter-in-law, from January 1, 2025 to March 31, 2025 on investment made by her is not assessable in her hands but in the hands of Mr. Ram. Is this correct?

What would be the position, if MR. Ram has gifted the money to minor grandson, instead of the daughter-in law?

Provisions related to minor

Income of minor child, including minor married daughter shall be clubbed in the hands of either of the parent whose before 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 be 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 (Old 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

Illustration 8

Mr. Ram has three minor children – two twin daughters and one son. Income of the twin daughters is 2,000 p.a. each and that of the son is 1,200 p.a. Compute the income, in respect of minor children, to be clubbed in the hands of Mr. Ram.

Illustration 9

Mr. Ram, a mentally retarded minor, has a total income of 1,20,000. The total income of his father Mr. Shyam and of his mother MR. Shyam for the relevant assessment year is 2,40,000 and 1,80,000 respectively. Discuss the treatment to be accorded to the total income of Mr. Ram for the relevant assessment year

Section 64(2) – 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

Section 65 – Liability of transferee in clubbing

A.O. has the power to collect the tax from transferee also, in case the tax cannot be recovered from transferor

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.

Example :-

A making gift of ₹ 50,000 to the wife of his brother B for the purchase of house by her and a simultaneous gift by B to A's minor son of shares in a foreign company worth ₹ 50,000 owned by him, the income from the assets transferred would be assessed in the hands of deemed transferor if the transfers are so intimately connected as to form part of a single transaction, and each transfer constitutes consideration for the other by being mutual or otherwise. Thus, in the instant case, the transfers have been made by A and B to persons who are not their spouse or minor child so as to circumvent the provisions of this section, showing that such transfers are cross transfers to reduce their burden of Taxation

Accordingly, the income arising to Mrs. B from the house property should be included to the total income of B and the dividend from the shares transferred to A's minor son would be taxable in the hands of A.