

Chapter 10 : Clubbing of Income

Chapter Index

Section details	Pg
Basics of Clubbing	10.1
Sec 60 Transfer of Income where there is no transfer of asset	10.1
Sec 61 Revocable Transfer of Assets	10.2
Sec 64[1A] Minor's Income	10.2
Sec 64(1)(iv) Transfer to spouse for Inadequate or without consideration	10.3
Sec 64(1)(vi) Transfer to Son's Wife	10.4
Sec 64(1)(vii),(viii) Assets transferred to 3rd person for benefit of wife / son's wife	10.4
Sec 64(1)(ii) Salary, commission earned by spouse	10.4
Business out of gifted money	10.5
Sec 64(2) Transfer of Asset to HUF	10.5
Multiple Choice Questions (MCQs)	10.6
For your Practice! - Solved Questions	10.7
Know your Exams - Uncoloved Questions	10.11

10. CLUBBING OF INCOME

Space for Important Points / Notes

Basics of Clubbing

1. The income, shall be first computed in the hands of recipient and all expenditure related to such income shall be allowed as per the respective provisions of the Act and thereafter the net income shall be clubbed. E.g. Standard deduction u/s. 24(a) from income from house property shall be allowed in the hands of the recipient and thereafter the net income shall be clubbed.
2. If the clubbed income is eligible for deduction u/s. 80C, then such deduction shall be allowed to the assessee in whose hands such income is clubbed e.g. if interest on NSC of the minor is clubbed in the hands of parent u/s. 64(1A) then parent can claim deduction u/s. 80C.
3. Clubbing Shall be Made in the same Head in which such person has earned it. e.g. Bank interest of minor child shall be clubbed under the head "Income from other sources" of parent.
4. Negative Income is also Clubbed
5. Clubbing Provisions are mandatory

Sec 60 Transfer of income where there is no transfer of assets

All income arising to any person by virtue of a transfer whether revocable or not and whether effected before or after the commencement of this Act shall, where there is no transfer of the assets from which the income arises, be chargeable to income-tax as the income of the transferor and shall be included in his total income.

10. CLUBBING OF INCOME

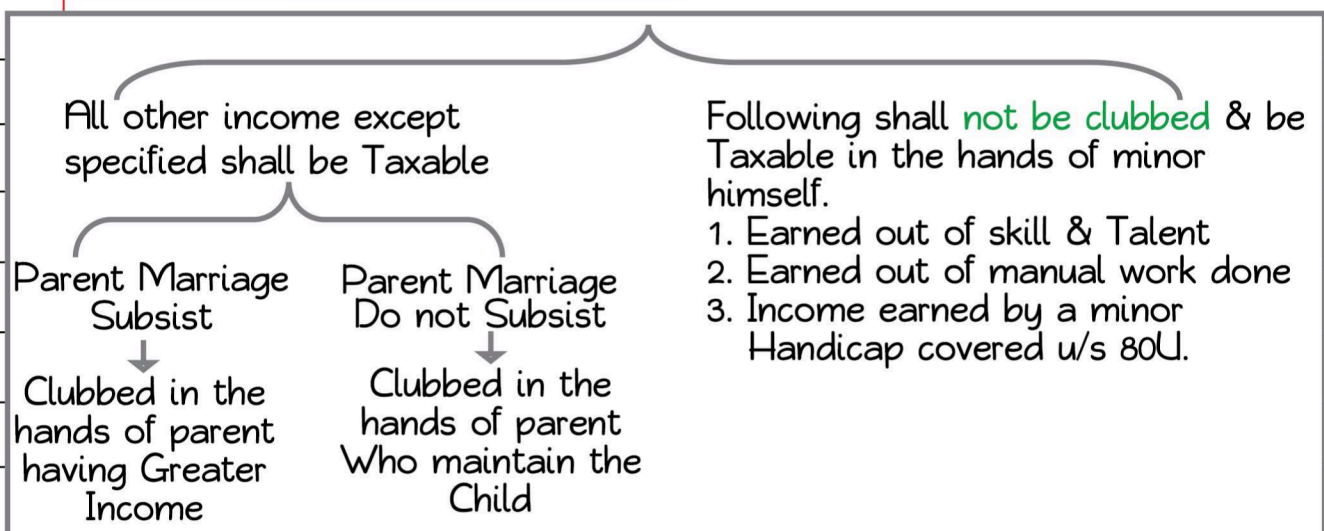
Sec. 61 Revocable Transfer of Assets

Income arising to any person by virtue of revocable transfer shall be included in total income of transferor

Revocable transfer of asset: transfer shall be deemed to be revocable if-
it contains any provision for re-transfer of the whole or any part of the income or assets to the transferor, or
it gives transferor a right to re-assume power over the whole or any part of the income or assets.

Provision of sec 61 shall not apply to transfer which is revocable after the life time of the beneficiary or transferee.

Sec 64[1A] Minor's Income

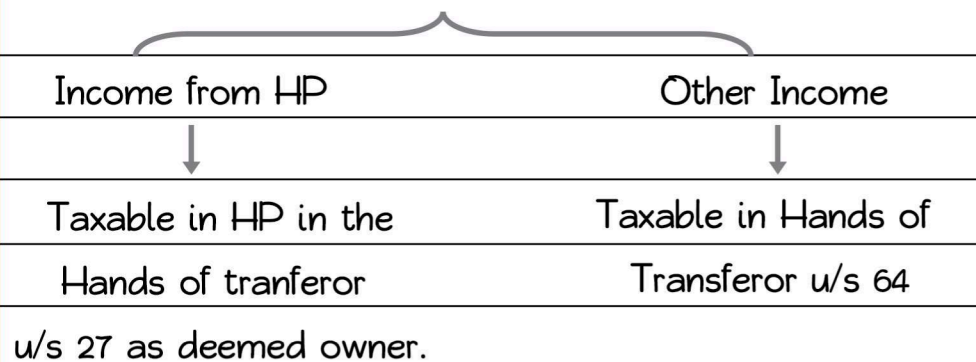


1. where any such income is once included in total income of either parent, any such income arising in any succeeding year shall not be included in total income of the other parent, unless AO is satisfied, after giving that parent an opportunity of being heard, that it is necessary so to do.
2. Once the Income of minor is clubbed then exemption of Rs.1500 per child shall be available [irrespective of no of child] [Sec 10(32)]
3. Child includes step child: Child in relation to an individual, includes a step-child and an adopted child.

10. CLUBBING OF INCOME

- Minor child includes minor married daughter: Provision of section 64(1A) shall apply in case of minor married daughter also
- No clubbing after attaining majority: Where the minor child become major during the previous year, provision of this section will apply till such date

Sec 64(1)(iv) Transfer to spouse for Inadequate or without Consideration



Note: This Section is Not Applicable in following cases

- If the relation of husband and wife does not subsist either at the time of transfer or at the time of accrual of income from such asset.
- If transferred for adequate consideration or under agreement to live apart

Other Note:

- Change in shape: Where the assets transferred has changed its shape and identification then, income from such changed assets is to be clubbed.
- CG on sale of transferred asset: Where the assets transferred is sold by the transferee, the CG arising to transferee, if any, is to be clubbed in the hands of transferor.
- Acquisition of asset out of pin money: Provisions of clubbing won't apply when such assets is acquired by the spouse out of pin money (i.e. small allowances given by her husband for her personal expenses).

10. CLUBBING OF INCOME

Section 64(1)(vi) Transfer to Sons Wife

If Assets are transferred to sons wife for inadequate or without consideration & Income is earned then such income is clubbed in the hands of transferor.

[Father in Law].

Exception: If it is transferred for adequate consideration.



Sec 64(1)(vii),(viii) Assets transferred to 3rd person for benefit of wife / sons wife

If the Assets is transferred for the benefit of wife/sons wife then income from such property shall be clubbed in hands of transferor

Exception

The asset is transferred otherwise than for adequate consideration



Section 64(1)(ii) Salary, comission earned by spouse

If the spouse has earned remuneration from a concern where Individual has substiantial interest & spouse does not posses any professional & technical Qualification then such remuneration shall be clubbed in hands of transferor

Meaning of substantial interest:

- (i) in a case where the concern is a company: 20% of Voting Right.
- (ii) in any other case: 20% of Profit

Notes:

1. Whether both husband & wife has substiantial interest :

The income shall be clubbed in the hands of person having greater income before this clubbing

2. Whether holding of relative is also considered:

Yes holding of relative shall also be counted while considering the substantial Interest. 'Relative' in relation to individual means the husband, wife, brother or sister or any lineal ascendant or descendant.

Business out of Gifted Money

A The profit earned in the business shall be clubbed in the following manner

$$\text{profit} \times \frac{\text{Gifted Amount}}{\text{Total Capital Employed}}$$

B **Investment in the firm:** However where such asset is invested in the nature of contribution of capital as a partner in a firm then, the amount of interest to be included in the total income of the individual in that previous year will be calculated as under

$$\frac{\text{Interest from such firm} \times \text{Investment in firm for inadequate consideration as on the first day of the previous year}}{\text{Total investment in the business by the transferee as on the first day of the PY.}}$$

Sec 64(2) Transfer of Asset to HUF

If any Individual transfers any asset to his HUF without/for inadequate consideration then Income from such asset is received by HUF but taxable in the hands of the Transferor (Member)

After Partition of HUF Income from such asset received, by spouse shall be clubbed in hands of Transferor

Note :

- 1) Income includes loss
- 2) Where an asset transferred is converted into other form, income derived from such converted asset shall be clubbed

10. CLUBBING OF INCOME

- 3) Natural love & affection may be a good consideration but is not adequate consideration for Sec 64
- 4) if asset transferred is sold by transferee then CG is treated as income & shall be clubbed
- 5) If there are 2 transactions & they inter-connected & part of same transaction, it shall be considered to be a device for evasion of tax & therefore clubbing provision shall apply (Cross gift)

Multiple Choice Questions (MCQs)

- | | |
|---|---|
| 1. Income of a minor child suffering from any disability specified in sec 80U is
(a) Assessed in the hands of minor child
(b) Clubbed with parent whose TI, before including minor's income, is higher
(c) Completely exempt from tax
(d) Clubbed with the income of father | income of (a) father (b) Mother
(c) Parent having higher Income |
| 2. Income from asset transferred under revocable transfer shall be taxable in the hands of (a) Transferor (b) transferee
(c) Transferor or transferee, income is higher | 6. Individual has 3 minor child each having income of ₹2,000. What amount shall be taxable in the hands of individual?
(a) ₹6000 (b) ₹4000 (c) ₹1,500 (d) nil |
| 3. When the income of the individual include ₹ 20,000 as the income of the minor child in terms of section 64(1A), taxable income in this respect will be?
(a) Nil (b) ₹20,000 (c) ₹18,500 (d) None | 7. Transfer of Income without transfer of Assets shall be Taxable in section
(a) 60 (b) 61 (c) 62 (d) 63 |
| 4. Section 64(1)(iv) is applicable on all assets except a) House property
b) Share c) Gold d) None of the above | 9. Exemption of Minor Income is
11. Substantial interest for the purpose of clubbing provision u/s 64(1) (ii) shall be of:
(a) Individual (b) a & his spouse
(c) Individual along with relatives |
| 5. When marriage of parents subsist, Income of minor child shall be included in the | Answers :
1. a 2. a 3. c 4. a 5. c
6. a 7. a 8. 1500 9. c |