

CHAPTER 9
CLUBBING OF INCOME

Sec 64(1A): Income of a minor child.

Income of minor child including minor married daughter, shall be **clubbed** with the income of **parent**.

Exceptions - Where income will be taxable in the **hands of minor only**:

- Minor child suffering from **disability** specified **u/s 80U** of the Income-tax Act or;
- Income earned by minor child, on account of **manual work** or;
- Income earned by minor child involving application of **his skill, talent**, specialized knowledge and experience.

Notes:

1. The **income** of the minor child shall be **included**,
 - where the **marriage** of his parents **subsists**, in the income of that parent whose **total income** (excluding the income includible under this sub-sec) is **greater**, or
 - where the **marriage** of his parents **does not subsist**, in the income of that **parent who maintains** the minor child **in the previous year**.
2. **Once included** in hands of either parent, **cannot be changed** in subsequent year, unless Assessing Officer is satisfied.
3. If **none** of the **parent is alive**, minor shall file the return through legal guardian. There shall be **no clubbing**.
4. If the **income** by way of **manual work** or activity involving application of **skill**, etc. which was not clubbed, **is invested by minor**, and **income is earned** thereon, such investment income shall be **clubbed**.
5. If the minor child **becomes major** during the previous year, then the incomes which have **accrued** to him **till the date** he attains majority shall be **clubbed**.
6. If minor child's income is clubbed in the hands of parent, then **exemption u/s 10(32)** of **Rs. 1500 p.a. per child** is allowed to parent. (No Limit on no. of childrens)

Sec 64(1)(iv): Asset transferred to Spouse.

- Assets **transferred by one spouse to another spouse** without consideration or for inadequate consideration (**Except** where transfer is in connection with an **agreement to live apart**)

- Income from such asset shall be **clubbed in the hands of transferor**.
- The **relationship** must exist **both** at the time of **transfer** of asset and at the time when **income accrues**.
- **Sec 64(1)(iv)** applies to all assets **except House Property**:
If a House property is transferred by an individual to his spouse or minor child (Not being a minor married daughter) for without / inadequate consideration then such individual is treated as **Deemed owner** as per **sec 27 & sec 64** shall not apply.

Sec 64(1)(vi): Asset transferred to Son's wife.

- Assets transferred by an individual **to son's wife** without consideration or inadequate consideration.
- Income from such asset shall be **clubbed** in the **hands of transferor**.
- The **relationship** (Father/Mother in law & Daughter in Law) must **exist both** at the time of **transfer** of asset and at the time when **income accrues**.

Sec 64(1)(vii/viii): Asset transferred to any person for the benefit of spouse / son's wife. (Indirect transfer)

- Asset transferred **to a person or an AOP (TRUST)**
- for without consideration or inadequate consideration
- for the immediate or deferred **benefit of his/her spouse/son's wife**
- Income from such asset shall be **clubbed** in the hands of the **transferor**.

Sec 64(1)(ii): Income of spouse from a concern where assessee has **substantial interest**

- In the income of **Individual** there shall be included,
- income of **spouse** by way of **salary, commission**, fees or any form of remuneration,
- in cash or in kind,
- **from a concern** in which the individual or his relatives has **substantial interest** (20% voting power/share in profit by such individual or his relatives at any time during the previous year),

Exception:

- **No clubbing** if spouse **possesses technical or professional qualification**, and
- income is attributable to his or her technical or professional knowledge and experience.

Note:

- In case **both have substantial interest**, remuneration will be **clubbed** in the hands of the individual **whose income** excluding such remuneration is **greater**.
- Once included in hand of either person **cannot be changed** in subsequent year, unless A.O. is satisfied.

Sec 60: Income transfer without transfer of asset.

If an individual transfers any income **without transfer of asset**, then such income is taxable in the hands of **transferor**.

Sec 61: Revocable transfer

In case of revocable transfer, income is received by transferee, but **tax is paid by transferor**.

Exception:

If transfer is revoked after the death of beneficiary or transferee, then the above provision is **not applicable**.

Sec 64(2): Asset transfer to HUF

If any individual **transfers any asset to his HUF** without/for inadequate consideration, then income from such asset received by HUF but taxable in hands of transferor (member of HUF).

After partition of HUF, Income from such asset received, by spouse shall be clubbed in hands of transferor.

Common Notes:

1. **Income shall include loss also**. Therefore, **losses** are also to be **clubbed**.
2. Where an **asset** transferred is **converted into other form**, income derived from such converted asset shall be **clubbed**.
3. **Natural love & affection** is not adequate consideration for the purpose of **Sec 64**.
4. If the asset transferred is **sold by the transferee**, then capital gain is treated as income & shall be **clubbed**.

5. If there are **two transactions** and they are **inter-connected** and part of same transaction, it shall be considered as evasion of tax and therefore **clubbing provision** shall apply. (Cross Transfers).
6. While clubbing the income, the **deductions available** under the five heads of income shall be allowed and the income after such deductions shall be clubbed.
7. Income arising out of **income earned on transferred assets** is **not to be clubbed**.
8. Where any asset is **transferred** by individual to his **spouse / son's wife** & such amount is **invested in Business** by transferee then proportionate profit of such business shall be clubbed in the hands of transferor as per following formula:

Income from Business X Gift by Assesse

Capital of Business on first day of the FY (Only Opening Capital)

Note:

Clubbing shall be applicable only if gifted money is included in opening capital. Therefore, if any gifted money is given in the current FY, then it shall not be included.