CLUBBING OF INCOME

☸ Section 60 : Transfer of income when there is no transfer of asset

Transfer of income when there is ***no transfer of asset*** from which the income arises ------------> Income from asset shall be clubbed with the income of transfe***ror***.

Example :

Mr. A transfers the rental income of house property owned by him to his friend Mr. B for the life time of Mr. B without transferring the ownership of house property to him. In this case rental income of the house property shall be clubbed with the income of Mr. A

☸ Section 61 : Revocable transfer of asset

Income arising from an ***asset*** transferred by way of ***revocable*** transfer ------------------> Income from asset shall be clubbed with the income of transfe***ror***.

Example :

Mr. A transfers the house property owned by him to his friend Mr. B for 7 years. Mr. B lets out the house property. In this case transfer is revocable after 7 years and therefore rental income of the house property shall be clubbed with the income of Mr. A.

☸ Section 62 : Transfer of asset which is not revocable during the life time of the beneficiary/transferee

Income in case of transfer of an ***asset*** by way of trust/other transfer which is not revocable during the life time of the beneficiary/transferee ------------------------> Income from asset taxable in the hands of beneficiary/transfe***ree***.

Example :

Mr. A transfers the house property owned by him to his friend Mr. B for life time of Mr. B. Mr. B lets out the house property. In this case rental income of the house property shall be taxable in the hands of Mr. B and not Mr. A. However after the death of Mr. B, rental income shall be included in the Total Income of Mr. A from the date of the death.

☸ Section 63 : Meaning of "revocable transfer"

Transfer is ***revocable*** if it contains any provision for re-transfer directly/indirectly of whole/part of income/asset to the transfe***ror*** during the life time of the beneficiary/transfe***ree***.

☸ Section 64 (1) (ii) : Clubbing of income of spouse

⇨ Any remuneration received in cash/kind by spouse of an assessee from a concern in which such assessee has ***substantial interest*** shall be clubbed with the income of the assessee.

"Substantial Interest" :

In case of a company : A person, shall be deemed to have substantial interest in a company, if he is *at any time during* the year, ***beneficial owner*** of equity shares carrying 20% or more voting power in the company, owned beneficially by such person or ***partly by such person and partly by one or more of his relatives***.

In case of other person : A person shall be deemed to have substantial interest in a concern, if such person or ***such person and one or more of his relatives*** are *at any time during* the year, ***beneficially*** entitled to at least 20% income of such concern.

⇨ No clubbing shall be done if spouse possesses ***technical or professional qualifications*** and income is earned by him/her by application of his technical or professional knowledge and experience. The words ***"technical or professional qualifications"*** do not necessarily relate to technical or professional qualifications acquired by obtaining a certificate, diploma, degree or in any other form from a recognized body like a university, institute etc.

Example :

If Mrs. X is appointed as a Managing Director of a company in which her husband has substantial interest and she receives salary and she had the experience of working as a Managing director in two companies earlier prior to her appointment, it could be said she had sufficient technical qualification and experience. Therefore, if spouse has technical or professional ***experience***, it can be said that the spouse has technical or professional ***qualification***.

⇨ ***Both husband and wife have substantial interest*** in concern and ***both are in receipt of remuneration*** from concern ---------------------> Clubbed with Total Income of husband or wife whose ***Total Income excluding*** such remuneration is higher.

Example :

Mr. X holds 11% equity shares in A Ltd. Mrs. X also holds 10% equity shares in A Ltd. Neither Mr. X nor Mrs. X possesses any technical or professional qualification. The incomes of Mr. X & Mrs. X are as under :

	Mr. X	Mrs. X
Salary from A Ltd.	1,20,000	1,00,000
Business income	30,000	1,70,000
Income from other sources	20,000	30,000

In this case both Mr. X and Mrs. X have substantial interest in the company. Since the other incomes of Mrs. X (i.e. Rs. 1,70,000 + Rs. 30,000) are higher, the salary income of Mr. X shall be clubbed with the income of Mrs. X. Total Income of Mr. X shall be only Rs. 50,000 (i.e. Rs. 30,000 + Rs. 20,000). Total Income of Mrs. X shall be calculated as under :

A. Profits & Gains from business or profession		1,70,000
B. Income from salaries :		
Salary from A Ltd.	1,00,000	
Add : Salary of Mr. X clubbed u/s 64 (1) (ii)	1,20,000	2,20,000
C. Income from other sources		30,000
Gross Total Income		4,20,000
Less : Deductions u/s 80C to 80U		Nil
Total Income		4,20,000

Example :

Mr. X holds 20% equity shares in A Ltd. Mrs. X does not hold any equity shares in A Ltd. Mrs. X does not possess any technical or professional qualification. The incomes of Mr. X & Mrs. X are as under :

	Mr. X	Mrs. X
Salary from A Ltd.	1,20,000	1,00,000
Business income	30,000	1,70,000
Income from other sources	20,000	30,000

In this case Mr. X has substantial interest in the company. Since Mrs. X does not have any technical and professional qualification, the salary of Mrs. X shall be clubbed with the income of Mr. X under Section 64 (1) (ii). Total income of Mrs. X shall be only Rs. 2,00,000 (Rs. 1,70,000 + Rs. 30,000). Total Income of Mr. X shall be calculated as under :

A. Profits & Gains from business or profession		30,000
B. Income from salaries :		
Salary from A Ltd.	1,20,000	
Add : Salary of Mrs. X clubbed u/s 64 (1) (ii)	1,00,000	2,20,000
C. Income from other sources		20,000
Gross Total Income		2,70,000
Less : Deductions u/s 80C to 80U		Nil
Total Income		2,70,000

Section 64 (1) (iv) : Clubbing of income from asset transferred to spouse

- Any ***asset*** (other than house property) transferred by one spouse to another spouse without adequate consideration or except an agreement to live apart ------------> Income from asset shall be clubbed with income of the transfe***ror***.

- Clubbing shall be done even in the case of ***irrevocable*** transfer.

- Relationship of husband and wife must exist both at the time of ***transfer of asset*** & ***accrual of income***.

Section 64 (1) (vi) : Clubbing of income from asset transferred to son's wife for inadequate consideration

- If ***asset*** is transferred on or after 1-04-1973 ------------> Income from asset shall be clubbed with income of the transfe***ror***.

- Relationship must exist both at the time of ***transfer of asset*** & ***accrual of income***.

Note :

If spouse/son's wife invest the asset in any business ***except partnership*** (by way of capital) then following shall be clubbed :

Investment out of transferred asset (fund) on 1st day of P.Y.
-- X ***Income*** from business to spouse/son's wife
Total investment made by spouse/son's wife on 1st day of P.Y.

In case of investment in partnership :

Investment out of transferred asset (fund) on 1st day of P.Y.
-- X *****Interest*** from firm receivable by spouse/son's wife
Total investment made by spouse/son's wife on 1st day of P.Y.

Since ***Share of Profit* from partnership firm is exempt u/s 10 (2A), there shall be no clubbing of share of profit from partnership firm. Similarly any ***remuneration*** received from partnership firm shall not be clubbed because remuneration has no relation with the capital invested by a partner. Remuneration is paid only to working partners.

Example : Mr. X makes a gift of Rs. 1,00,000 to his wife Mrs. X on 15-08-2009. Mrs. X starts business of stuffed toys on 20-08-2009 by investing Rs. 2,50,000 (Rs. 1,00,000 out of gift and Rs. 1,50,000 of her own). During the year ended 31-03-2010 and 31-03-2011 she earns profit of Rs. 2,50,000 and Rs.

4,00,000 respectively from the business. There shall be no clubbing for the P.Y. 2009-10 since there was no investment out of gifted funds as on 01-04-2009. Mrs. X shall pay tax on Rs. 2,50,000. For the P.Y. 2010-11, Rs. 1,60,000 (Rs. 1,00,000 / Rs. 2,50,000 x 4,00,000) shall be clubbed with the income of Mr. X and Mrs. X shall pay tax on rest of Rs. 2,40,000 (Rs. 4,00,000 – Rs. 1,60,000).

Example : Mr. X makes a gift of Rs. 1,00,000 to his wife Mrs. X on 15-08-2009. Mrs. X invests in a partnership firm as her capital contribution on 20-08-2009 Rs. 2,50,000 (Rs. 1,00,000 out of gift and Rs. 1,50,000 of her own). During the year ended 31-03-2010 and 31-03-2011 she earns an interest of Rs. 17,500 and Rs. 30,000 respectively from the firm. There shall be no clubbing for the P.Y. 2009-10 since there was no investment out of gifted funds as on 01-04-2009. For the P.Y. 2010-11, Rs. 12,000 (Rs. 1,00,000 / Rs. 2,50,000 x 30,000) shall be clubbed with the income of Mr. X.

Section 64 (1) (vii) : Clubbing of income from asset transferred for inadequate consideration to any person for the benefit of the spouse

Income from asset shall be clubbed with the income of the transfe***ror***.

Section 64 (1) (viii) : Clubbing of income from asset transferred for inadequate consideration to any person on or after 1-04-1973 for the benefit of the son's wife

Income from asset shall be clubbed with the income of the transfe***ror***.

Section 64 (1A) : Clubbing of income of minor child

- All income of a minor shall be clubbed in the income of his parent.
- No clubbing shall be done if :
  - Minor child is suffering from any disability of the nature specified under Section 80U.
  - If income is earned by minor child by any manual work.
  - If income is earned by minor child by application of his skill, talent or specialized knowledge and experience.
- Exemption of Rs. 1,500/- under Section 10 (32) for ***each*** minor child to the parent in whose income, income of minor is clubbed.
- If marriage of the parents subsists -------------> Clubbing shall be done with the income of that parent whose TI (excluding minor's income) is greater.
- If marriage of the parents does not subsist -------------> Clubbing shall be done with the income of that parent who maintains the child.
- Clubbing will continue unless Assessing Officer is satisfied that income should be clubbed with other parent's income.
- If both mother and father are dead -------------> No clubbing. Minor will file ROI through legal guardian.
- If minor becomes major during the P.Y. -------------> Clubbing shall be done till the date of attaining majority.
- Since Section 64 (1A) does not exclude minor married daughter, even income arising to minor married daughter would be clubbed. However where Section 27 applies, clubbing of income from house property gifted by the parent shall not be done.

⇨ Only the income arising to minor child from manual work or activity involving the application of his talent, skill or specialized knowledge and experience is not to be clubbed with the income of the parent and such income shall be included in the income of the minor child and minor child shall file the return through the legal guardian. However, if such incomes are invested and income is earned on such investment, such investment income shall be clubbed u/s 64 (1A).

Example : Master A, a child artist earns Rs. 2,00,000/- from acting in a film, then such Rs. 2,00,000/- shall not be clubbed with the income of the parent. If, however, such Rs. 2,00,000/- is invested in Kisan Vikas Patra (KVP) then accrued interest on KVP shall be clubbed with the income of the parent u/s 64 (1A).

Section 64 (2) : Conversion of self-occupied property into HUF property

⇨ Transfer for inadequate consideration -------------> Income from the property shall be clubbed with the income of the member who so converted the self-occupied property into HUF property.

⇨ In case of partition if converted property is received by his/her spouse -------------> Income to spouse from that property will be clubbed with the income of the transferor.

General notes for entire chapter of clubbing of income

⇨ Clubbing shall continue even if transferee converts the asset in some other form. For example, a house property is transferred to son's wife for inadequate consideration and she sells the house property and purchases debentures, then income from debentures shall be clubbed with the income of the transferor.

⇨ Income includes "***loss***" and therefore loss will also be clubbed.

⇨ If transferee sells the transferred asset Capital Gains shall also be clubbed with the income of the transfe***ror***.

⇨ Income from ***income earned on transferred asset*** will not be clubbed with the income of the transferor. For example, if debentures are transferred to son's wife for inadequate consideration and she receives debenture interest which is invested in bank FDR, then debenture interest shall be clubbed with the income of the transferor but bank interest shall not be clubbed.

⇨ Income from accretion to asset (e.g. CG on sale of bonus shares received on transferred shares) will not be clubbed with the income of the transferor.

⇨ Clubbed income will be shown under the same head in which it is earned.

⇨ Deduction under 5 heads of income will be allowed before clubbing. However deduction under Chapter VI-A (i.e. section 80C to Section 80U) are allowed after clubbing.

⇨ Income arising from an asset transferred indirectly or through ***Cross Transfer*** is also to be clubbed. For example if Mr. X makes a gift to Mrs. Y of Rs. 1,50,000 and Mr. Y makes a gift of Rs. 1,50,000 to Mrs. X, there is an indirect transfer from Mr. X to Mrs. X and from Mr. Y to Mrs. Y and therefore clubbing will take place.

Section 65 : Liability of the transferee in respect of clubbed income

$$\text{Liability} = \frac{\text{Clubbed income}}{\text{TI of the transferor after clubbing}} \times \text{Tax on TI of transferor after clubbing}$$

Example : Mr. X transfers his house property to Mr. Y under a revocable transfer. The income from house property is Rs. 2,00,000/-. Mr. X has other incomes of Rs. 3,00,000/-. The Assessing Officer includes Rs. 2,00,000 in assessment of Mr. X in view of Section 61. A notice of demand of Rs. 34,000/- is served on Mr. X and Mr. X goes underground. The Assessing Officer can recover proportionate tax on Rs. 2,00,000/- from Mr. Y under Section 65, i.e., Rs. 13,600/-, which is computed as below :

$$\frac{\text{Rs. } 2,00,000}{\text{Rs. } 5,00,000} \times \text{Rs. } 34,000 = \text{Rs. } 13,600/-.$$

☸ Section 288A : Rounding off of Total Income

Total Income shall be rounded off to the nearest multiple of ten rupees and for this purpose any part of a rupee consisting of paise shall be ignored and thereafter if such amount is not a multiple of ten, then, if the last figure in hat amount is five or more, the amount shall be increased to the next higher amount which is a multiple of ten and if the last figure is less than five, the amount shall be reduced to the next lower amount which is multiple of ten.

☸ Section 288B : Rounding off of tax etc.

The amount of tax (including TDS and advance tax), interest, penalty, fine or any other sum payable, and the amount of refund due, shall be rounded off to the nearest multiple of ten rupees and for this purpose any part of a rupee consisting of paise shall be ignored and thereafter if such amount is not a multiple of ten, then, if the last figure in hat amount is five or more, the amount shall be increased to the next higher amount which is a multiple of ten and if the last figure is less than five, the amount shall be reduced to the next lower amount which is multiple of ten.

EXAMPLES OF SECTION 27

DO YOURSELF

1. Mr. X transfers an immovable property to his wife for adequate consideration or under an agreement to live apart. In this case Section 27 is not applicable and also Section 64 is not applicable. The income from the property will be assessable in the hands of Mrs. X.

2. Mr. X transfers debentures to his wife for adequate consideration or under an agreement to live apart. In this case Section 27 is not applicable and also Section 64 is not applicable. The income from debentures will be assessable in the hands of Mrs. X.

3. Mr. X transfers an immovable property to his wife for inadequate consideration. In this case Section 27 is applicable and Section 64 is not applicable. Mr. X is deemed as the owner of the immovable property and the income from the property will be assessable in the hands of Mr. X.

4. Mr. X. transfers debentures to his wife for inadequate consideration. In this case Section 27 is not applicable and Section 64 is applicable. The income from debentures will be clubbed in the hands of Mr. X.

5. Mr. X transfers an immovable property to his minor unmarried son for adequate consideration. In this case, Section 27 is not applicable and Section 64 (1A) is applicable. The income from the property will be clubbed with the income of the parent whose other incomes are higher. Exemption of Rs. 1,500/- under Section 10 (32) is available to the parent in respect of the income of minor child. (The answer will be remain the same if the property was transferred to minor married son).

6. Mr. X. transfers debentures to his minor unmarried son for adequate consideration. In this case, Section 27 is not applicable and Section 64 (1A) is applicable. The income from the debentures will be clubbed with the income of the parent whose other incomes are higher. Exemption of Rs. 1,500/- under Section 10 (32) is available to the parent in respect of the income of minor child. (The answer will remain the same if the property was transferred to minor married son).

7. Mr. X. transfers an immovable property to his minor unmarried son for inadequate consideration. In this case, Section 27 is applicable and Section 64 (1A) is not applicable. Mr. X is deemed as the owner of the house property and income from property will be included in his hands. Exemption of Rs. 1,500/- under Section 10 (32) is not available. (The answer will remain the same if the property was transferred to minor married son).

8. Mr. X. transfers debentures to his minor unmarried son for inadequate consideration. In this case, Section 27 is not applicable the income from the debentures will be clubbed with the income of the parent whose other incomes are higher. Exemption of Rs. 1500/- under Section 10 (32) is available to the parent in respect of the income of minor child. (The answer will remain the same if the property was transferred to minor married son).

9. Mr. X. transfers an immovable property to his minor unmarried daughter for adequate consideration. In this case, Section 27 is not applicable and Section 64 (1A) is applicable. The income from the property will be clubbed with the income of the parent whose other incomes are higher. Exemption of Rs. 1,500/- under Section 10 (32) is available to the parent in respect of the income of minor child. (The answer will remain the same if the property was transferred to minor married daughter).

10. Mr. X. transfers debentures to his minor unmarried daughter for adequate consideration. In this case, Section 27 is not applicable and Section 64 (1A) is applicable. The income from the debentures will be clubbed with the income of the parent whose other incomes are higher. Exemption of Rs. 1,500/- under Section 10 (32) is available to the parent in respect of the income of minor child. (The answer will remain the same if the property was transferred to minor married daughter).

11. Mr. X. transfers an immovable property to his minor unmarried daughter for inadequate consideration. In this case, Section 27 is applicable and Section 64 (1A) is not applicable. Mr. X is deemed as the owner of the house property and income from property will be included in his hands. Exemption of Rs. 1,500/- under Section 10 (32) is not available. [If the property was transferred to minor married daughter, then Section 27 will not be applicable but Section 64 (1A) shall be applicable. The income will be clubbed with the income of the parent whose other incomes are higher and exemption of Rs. 1,500/- under Section 10 (32) shall be available].

12. Mr. X. transfers debentures to his minor unmarried daughter for inadequate consideration. In this case, Section 27 is not applicable and Section 64 (1A) is applicable. The income from the debentures will be clubbed with the income of the parent whose other incomes are higher. Exemption of Rs. 1,500/- under Section 10 (32) is available to the parent in respect of the income of minor child. (The answer will remain same if the property was transferred to his minor married daughter).

13. A HUF is the holder of impartible estate and is therefore deemed as the owner of the house properties comprised in the impartible estate even though the properties are registered in the name of Karta. The income from such properties will be assessable in the hands of HUF.

14. Mr. X. dies without a will leaving behind his legal heirs Mr. A, Mr. B and Mr. C. the estate is under execution in the court and the court directs Mr. C to hold the properties till the time the partition is effected. In this case Mr. C is the holder of impartible estate and the income from the said properties will be assessable in the hands of Mr. C till the time the partition is affected by the court. Mr. C will file a separate return for the estate under execution and has the right to recover the taxes from the estate. The return will be filed in the status of individual. The status shall be deemed to be resident or non-resident according to the status of the deceased person in the previous year in which the death took place. In case there is more than one executor, then the executors will file the return in the status of AOP.

15. Mr. X. is the owner of a house property. He lease out the property to Mr. Y for 11 years. Mr. Y further sub-leases the property to Mr. Z. in this case, Mr. X is the owner of the property and the lease income will be assessable in his hands as IHP. Mr. Y is not the deemed owner and income from sub-lease will be assessable as IOS. Rent paid to Mr. X will be allowed as deduction to Mr. Y.

16. Mr. X. is the owner of a house property. He lease out the property to Mr. Y for 12 years. Mr. Y further sub-leases the property to Mr. Z. In this case, Mr. X is the owner of the property and the lease income will be assessable in his hands as IHP. Mr. Y is the deemed owner and income from sub-lease will be assessable as IHP.

17. Mr. X. is the owner of a house property. He leases out the property to Mr. Y on monthly basis for 12 years. Mr. Y further sub-leases the property to Mr. Z. In this case, Mr. X is the owner of the property and the lease income will be assessable in his hands as IHP. Mr. Y is not the deemed owner and income from sub-lease will be assessable in his hands as IOS. In computing such income, rent paid to Mr. X shall be allowed as deduction to Mr. Y.

18. Mr. X is the owner of a house property. He leases out the property to Mr. Y on yearly basis for 12 years. Mr. Y further sub-leases the property to Mr. Z. In this case, Mr. X is the owner of the property and the lease income will be assessable in his hands as IHP. Mr. Y is not the deemed owner and income from sub-lease will be assessable in his hands as IOS. In computing such income, rent paid to Mr. X shall be allowed as deduction to Mr. Y.

19. Mr. X is the owner of a house property. He leases out the property to Mr. Y for two years. The lease can be renewed after every two years for 12 years. Mr. Y further sub-leases the property to Mr. Z. In this case, Mr. X is the owner of the property and the lease income will be assessable in his hands as IHP. Mr. Y is the deemed owner and income from sub-lease will be assessable in his hands as IHP.