CHAPTER 5

INCOME OF OTHER PERSONS INCLUDED IN ASSESSEE'S TOTAL INCOME

Question 1

Choose the correct answer with reference to the provisions of the Income-tax Act, 1961 :

Income arising to a minor married daughter is

(a) to be assessed in the hands of the minor married daughter

(b) to be clubbed with the income of that parent whose total income, before including minor's income, is higher

(c) completely exempt from tax

(d) to be clubbed with the income of her husband.

Answer

(b) to be clubbed with the income of that parent whose total income, before including minor's income, is higher.

Question 2

Fill up the blanks:

Mr. A gifts cash of Rs.1,00,000 to his brother's wife Mrs.B. Mr. B gifts cash of Rs.1,00,000 to Mrs. A. From the cash gifted to her, Mrs. B invests in a fixed deposit, income therefrom is Rs.10,000. Aforesaid Rs.10,000 will be included in the total income of ....

Answer

Mr.B.

Question 3

State True or False, with reasons:

Mr. Y, who is a physically handicapped minor (suffering from a disability of the nature specified in section 80U), earns bank interest of Rs.50,000 and Rs.60,000 from marking bags manually by himself. The total income of Mr.Y shall be computed in his hands separately.

Answer

True. The clubbing provisions of section 64(1A) are not applicable in a case where the minor child is suffering from any disability of the nature specified in section 80U. The income of such minor child will not be clubbed in the hands of either of the parents. Consequently, the total income of Mr. Y will be assessed in his hands.

Question 4

Discuss the tax implications of income arising from revocable transfer of assets. When will the clubbing provisions not apply at present, even where there is revocable transfer of assets?

Answer

Income arising from revocable transfer of assets [Sections 61 & 63]

(i) All income arising to any person by virtue of a revocable transfer of assets is to be included in the total income of the transferor.

(ii) A 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, the transferor, a right to re-assume power, directly or indirectly, over the whole or any part of the income or the assets.

Transfer not revocable during the life time of the beneficiary or the transferee [Section 62]

If there is a transfer of asset which is not revocable during the life time of the beneficiary or transferee, the income from the transferred asset is not includible in the total income of the transferor provided the transferor derives no direct or indirect benefit from such income.

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.

Question 5

Discuss the cross transfers in the context of Income-tax.

Answer

Refer to page 5.8 of Study Material.

Question 6

Explain the provisions of the Income-tax Act, 1961, with regard to clubbing of income of spouse under section 64.

Answer

As per section 64(1)(ii), any income arising directly or indirectly to the spouse of an individual by way of salary, commission, fees or any other form of remuneration, whether in cash or in kind, from a concern in which such individual has a substantial interest, would be clubbed. However, such rule does not apply where the spouse possesses technical or professional qualification and the income of the spouse is solely attributable to the application of his or her technical or professional knowledge and experience.

Where both husband and wife have substantial interest in a concern and both are in receipt of salary etc. from the said concern, such income will be clubbed with the income of the spouse whose total income, excluding such income, is greater.

An individual shall be deemed to have substantial interest in a concern under the following circumstances :

(a) If the concern is a company, equity shares carrying not less than 20% of the voting power are, at any time during the previous year, owned beneficially by such person or partly by such person and partly by one or more of his relatives.

(b) In any other case, if such person is entitled, or such person and one or more of his relatives are entitled in the aggregate, at any time during the previous year, to not less than 20% of the profits of such concern.

As per section 64(1)(iv), where there is a transfer of an asset other than house property, directly or indirectly from one spouse to another, otherwise than for adequate consideration or in connection with an agreement to live apart, any income that arises either directly or indirectly to the transferee from the transfer of the asset shall be included in the total income of the transferor.

However, any income from the accretion of transferred asset is not liable to be clubbed. It may be noted that natural love and affection will not constitute adequate consideration for the purpose of section 64(1).

Question 7

Compute the total income of Mr. & Mrs. A from the following information.

		Rs.
(a)	*Salary income (computed) of Mrs.A*	*2,30,000*
(b)	*Income from profession of Mr.A*	*3,90,000*
(c)	*Income of minor son B from company deposit*	*15,000*
(d)	*Income of minor daughter C from special talent*	*32,000*
(e)	*Interest from bank received by C on deposit made out of her special talent*	*3,000*

(f) Gift received by C on 30.09.2010 from friend of Mrs.A 2,500

Brief working is sufficient. Detailed computation under various heads of income is NOT required.

Answer

As per the provisions of section 64(1A) of the Income-tax Act, 1961, all the income of a minor child has to be clubbed in the hands of that parent whose total income (excluding the income of the minor) is greater. The income of Mr. A is Rs.3,90,000 and income of Mrs. A is Rs.2,30,000. Since the income of Mr. A is greater than that of Mrs. A, the income of the minor children have to be clubbed in the hands of Mr. A. It is assumed that this is the first year when clubbing provisions are attracted.

Income derived by a minor child from any activity involving application of his/her skill, talent, specialised knowledge and experience is not to be clubbed. Hence, the income of minor child C from exercise of special talent will not be clubbed.

However, interest from bank deposit has to be clubbed even when deposit is made out of income arising from application of special talent.

The total income of Mrs. A is Rs.2,30,000. The total income of Mr. A giving effect to the provisions of section 64(1A) is as follows :

Computation of total income of Mr. A for the A.Y. 2011-12

Particulars	*Rs.*	*Rs.*
Income from profession		3,90,000
Income of minor son B from company deposit	15,000	
Less: Exemption u/s.10(32)	1,500	
		13,500
Income of minor daughter C		
From special talent – not to be clubbed	-	
Interest from bank	3,000	
Gift of Rs.2,500 received from a non-relative is not taxable u/s.56(2)(vii) being less than the aggregate limit of Rs. 50,000.	Nil	
	3,000	
Less : Exemption u/s.10(32)	1,500	
		1,500
Gross Total Income		**4,05,000**

Question 8

A proprietary business was started by Smt. Rani in the year 2008. As on 1.4.2009 her capital in business was Rs.3,00,000.

Her husband gifted Rs.2,00,000 on 10.4.2009, which amount Smt. Rani invested in her business on the same date. Smt. Rani earned profits from her proprietory business for the Financial year 2009-2010, Rs.1,50,000 and Financial year 2010-2011 Rs.3,90,000. Compute the income, to be clubbed in the hands of Rani's husband for the Assessment year 2011-2012 with reasons.

Answer

Section 64(1) of the Income-tax Act, 1961 provides for the clubbing of income in the hands of the individual, if the income earned is from the assets transferred directly or indirectly to the spouse of the individual, otherwise than for adequate consideration. In this case Smt. Rani received a gift of Rs.2,00,000 from her husband which she invested in her business. The income to be clubbed in the hands of Smt. Rani's husband for A.Y.2011-12 is computed as under :

Particulars	Smt.Rani's Capital Contribution	Capital Contribution Out of gift from husband	Total
	Rs.	**Rs.**	**Rs.**
Capital as at 1.4.2009	3,00,000	--	3,00,000
Investment on 10.04.2009 out of gift received from her husband		2,00,000	2,00,000
	3,00,000	2,00,000	5,00,000
Profit for F.Y. 2009-10 to be apportioned on the basis of capital employed on the first day of the previous year i.e. on 1.4.2009	1,50,000		1,50,000
Capital employed as at 1.4.2010	**4,50,000**	**2,00,000**	**6,50,000**
Profit for F.Y.2010-11 to be apportioned on the basis of capital employed as at 1.4.10 (i.e. 45 : 20)	2,70,000	1,20,000	3,90,000

Therefore, the income to be clubbed in the hands of Smt.Rani's husband for A.Y.2011-12 is Rs.1,20,000.

Question 9

Write short notes on: Clubbing of income of minor children in the hands of parent.

Answer

Income earned by a minor child would be clubbed in the hands of the parent. If both parents are having income, then income of minor child would be clubbed in the hands of that parent whose income is higher before clubbing the income of minor child.

Under the following situations the income of the minor child would not be clubbed in the hands of parent :-

(a) Income earned by minor child through manual work done by him.

(b) Income from activity involving application of his skill, talent or specialised knowledge and experience.

If the relationship of husband and wife does not subsist between the parents, the income of the minor child would be clubbed in the hands of the parent who maintains the child during the previous year. The parent is entitled to claim an exemption u/s 10(32) upto Rs.1,500 per minor child if the income of the minor child is included in his total income.

Question 10

How does the Income-tax Act, 1961 deal with conversion of a self-acquired property into the property of a Hindu Undivided Family?

Answer

Refer to section 64(2) in page 5.9 of Study Material.

Question 11

Mr. Ghose has four minor children consisting 2 daughters and 2 sons. The annual income of 2 daughters was Rs. 7,500 and Rs. 5,000 and of sons was Rs. 5,500 and Rs. 1,250 respectively. The daughter who was having income of Rs. 5,000 was suffering from a disability specified under section 80U. Work out the amount of income earned by minor children to be clubbed in the hands of Mr. Ghose.

Answer

Income earned by minor children to be clubbed with the income of Mr. Ghose

(i)	Income of two daughters (Rs. 7,500 + Nil)	7,500
	Less: Income exempt u/s 10(32)	1,500
	Total (A)	6,000
(ii)	Income of two sons (Rs. 5,500 + Rs. 1,250)	6,750
	Less: Income exempt u/s 10(32) (Rs. 1,500 + Rs. 1,250)	2,750
	Total (B)	4,000
	Total Income to be clubbed as per section 64(1A) (A+B)	**10,000**

The income of daughter suffering from disability specified under section 80U is not to be clubbed with the income of Mr. Ghose.

Question 12

Mr. Vatsan has transferred, through a duly registered document, the income arising from a godown to his son, without transferring the godown. In whose hands will the rental income from godown be charged?

Answer

Section 60 expressly states that where there is transfer of income from an asset without transfer of the asset itself, such income shall be included in the total income of the transferor. Hence, the rental income derived from the godown shall be clubbed in the hands of Mr. Vatsan.

Question 13

Mr. Dhaval and his wife Mrs. Hetal furnish the following information:

		Rs.
(i)	*Salary income (computed) of Mrs. Hetal*	*4,60,000*
(ii)	*Income of minor son 'B' who suffers from disability specified in Section 80U*	*1,08,000*
(iii)	*Income of minor daughter 'C' from singing*	*86,000*
(iv)	*Income from profession of Mr. Dhaval*	*7,50,000*
(v)	*Cash gift received by 'C' on 2.10.2010 from friend of Mrs. Hetal on winning of singing competition*	*48,000*
(vi)	*Income of minor married daughter 'A' from company deposit*	*30,000*

Compute the total income of Mr. Dhaval and Mrs. Hetal for the Assessment Year 2011-12.

Answer

Computation of Total Income of Mr. Dhaval and Mrs. Hetal for the A.Y. 2011-12

Particulars		**Mr. Dhaval Rs.**	**Mrs. Hetal Rs.**
Salaries			4,60,000
Profits and gains of business or profession		7,50,000	
Income from other sources			
Income by way of interest from company deposit earned by minor daughter A [See Note (d)]	30,000		
Less : Exemption under section 10(32)	1,500	28,500	
Total Income		**7,78,500**	**4,60,000**

Notes :

(a) The income of a minor child suffering from any disability of the nature specified in section 80U shall not be included in the hands of the parents. Hence, Rs.1,08,000, being the income of minor son 'B' who suffers from disability specified under section 80U, shall not be included in the hands of either of his parents.

(b) The income derived by the minor from manual work or from any activity involving exercise of his skill, talent or specialised knowledge or experience will not be included in the income of his parent. Hence, in the given case, Rs.86,000 being the income of the minor daughter 'C' shall not be clubbed in the hands of the parents.

(c) Under section 56(2)(vii), cash gifts received from any person/persons exceeding Rs. 50,000 during the year in aggregate is taxable. Since the cash gift in this case does not exceed Rs.50,000, the same is not taxable.

(d) The clubbing provisions are attracted even in respect of income of minor married daughter. The income of the minor will be included in the income of that parent whose total income is greater. Hence, income of minor married daughter 'A' from company deposit shall be clubbed in the hands of the Mr. Dhaval and exemption under section 10(32) of Rs.1,500 per child shall be allowed in respect of such income.

Question 14

Mr. Dhaval has an income from salary of Rs.3,50,000 and his minor children's income are as under:

	Rs.
Minor daughter has earned the following income:	
From a TV show	*50,000*
From interest on FD with a bank (deposited by Mr. Dhaval from his income)	*5,000*
Minor son has earned the following income:	
From the sale of a own painting	*10,000*
From interest on FD with a bank (deposited by Mr. Dhaval from his income)	*1,000*

Answer

Computation of Gross Total Income of Mr. Dhaval

	Amount (Rs.)	**Amount (Rs.)**
Income from Salary		3,50,000

Income from other sources:		
Minor Daughter's income		
Income from T.V. show (See Note below)		Nil
Interest income from FD with a Bank	5,000	
Less : Exempt under section 10(32)	1,500	3,500
Minor son's income		
Income from sale of self made painting (See Note 1)		Nil
Interest income from FD with a Bank	1,000	
Less : Exempt under section 10(32)	1,000	Nil
Gross Total Income		**3,53,500**

Note:

The income derived by the minor from manual work or from any activity involving exercise of his skill, talent or specialised knowledge or experience will not be included in the income of his parent. Hence, in the given case Rs.50,000 being the income of the minor daughter from TV show and Rs.10,000 being the income of minor son shall not be clubbed in the hands of Mr. Dhaval.