Chapter 9
Clubbing of Income

1. Transfer of income where there is no transfer of assets
Section 60

Where there is a transfer of an income by a person to another person, without the transfer of the asset from which the income arises, such income shall be included in the total income of the transferor.

2. Revocable transfer of assets
Section 61

Where there is a revocable transfer of an asset by a person to another person, any income arising/derived from such assets shall be included in the total income of the transferor.

A transfer is revocable if:

(*a*) it contains any provision for the *re-transfer* the whole or any part of the *income or assets* to the transferor, during the life time of the beneficiary or the transferee as the case may be, or

(*b*) it gives the transferor a right to *re-assume power* directly or indirectly over the whole or any part of the *income or assets during* the life time of the beneficiary or the transferee as the case may be.

However, as per section 62(1), the provisions of revocable transfer, discussed above, shall not apply in following circumstances—

(*a*) in the case of transfer by way of trust, the transfer is *not revocable during the life time of the beneficiary*;

(*b*) in the case of any other transfer, the transfer is not revocable *during the life time of the transferee*;

(*c*) in case the transfer is made before 1-4-1961, the transfer is not revocable for a period exceeding 6 years.

3. Income of an individual to include income of spouse, minor child, etc.
Section 64

1 Remuneration of spouse from a concern in which the other spouse has substantial interest [Sec 64(1)(*ii*)]

- Any remuneration derived by a spouse from a concern in which the other spouse has a substantial interest, shall be clubbed in the hands of the *spouse who has a substantial interest in that concern.*
- No clubbing if remuneration is due to technical or professional qualifications of spouse.
- If the husband and wife both have substantial interest in the concern and
  - both are in receipt of remuneration from the concern,
  - then the remuneration of *both* shall be clubbed in the hands *of that spouse*
  - *whose total income, before including such remuneration, is greater*.

Meaning of substantial interest

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

(*i*)	For company -	at least 20% equity shares are held by individual along with his relatives.
(*ii*)	For any other case-	at least 20% of the profits of such concern at *any time during the PY is held by* individual along with his relatives.

Relative means the husband, wife, brother or sister or any lineal ascendant or descendant of the individual.

2 Income from assets transferred to the spouse [Section 64(1)(*iv*)]

If an individual transfers directly or indirectly any asset *other than house property* to his/her spouse, the income from such an asset shall be included in the total income of the transferor.

The income from the transferred assets shall not be clubbed in the following cases:

(*i*) if the transfer is for adequate consideration;

(*ii*) the transfer is under an agreement to live apart;

(*iii*) if the relationship of husband and wife does not exist, either at the time of transfer of such asset or at the time of accrual of the income.

3 Income from assets transferred to son's wife [Section 64(1)(*vi*)]

Any income which arises from assets transferred directly or indirectly by an individual to his or her son's wife, otherwise than for adequate consideration, shall be included in the income of the transferor.

4 Income from assets transferred to any person for the benefit of the spouse of the transferor [Section 64(1)(*vii*)]

Where an asset is transferred to some other person, without adequate consideration for the benefit of the spouse of the individual as well as for some other persons, income on such an asset to the extent of benefit which accrues to the spouse, shall be included in the total income of the individual.

5 Income from assets transferred to any person for the benefit of son's wife [Section 64(1)(*viii*)]

Where an individual transfers any assets to any person or association of persons, otherwise than for adequate consideration, the income from such assets shall be included in the income of the transferor to the extent to which the income is for the immediate or deferred benefit of his or her son's wife.

4. Clubbing of income of a minor child

Section 64(1A)

- The income of a minor child is to be clubbed in the hands of either of his parents.
- The income shall be clubbed in the hands of *that parent* whose total income (excluding the income of the minor) *is greater*.
- If the marriage of his parents does not subsist, the income shall be clubbed in the hands of *that parent who* maintains the minor *child in the previous year*.
- Where any income is once included in the total income of either parent, any such income arising in any succeeding year shall not be included in the total income of the other parent, unless the AO is satisfied, after giving that parent an opportunity of being heard, that it is necessary so to do.
- If income is clubbed in the hands of a parents, the exemption is available to the lower of –
  - Income clubbed
  - Rs. 1500 per child p.a.
- The following income of a minor shall not be clubbed and will be taxable in the hands of the minor himself:

  (*i*) *Any income* of a minor child suffering from **any disability**

  (*ii*) *Such income* which accrues or arises to the minor child on account of any **manual work** done by him

  (*iii*) *Such income* which accrues or arises to the minor child on account of any activity involving application of his **skills, talent or specialised knowledge and experience**.

5. Income from self acquired property converted to joint family property

Section 64(2)

Where an individual, who is a member of the Hindu Undivided Family, after 31-12-1969,—

(*a*) converts, his separate property as the property of the HUF, or

(*b*) throws the property into the common stock of the family, or

(*c*) otherwise transfers his individual property to the family, otherwise than for adequate consideration,

then the income from such property shall continue to be included in the total income of the individual.

Implication in the case of subsequent partition: Where the converted property has been the subject matter of partition (whether partial or total) amongst the members of the family, the income derived from such, converted property as is received by the spouse, on partition, shall be deemed to arise to the spouse from assets transferred indirectly by the individual to the spouse and the income from the portion, received by the spouse, shall be clubbed in the hands of the transferor.