Income Of Other Persons Included In Assessee Total Income.

Section 60 :- Transfer Of Income Without Transfer Of Asset

I. If any person transfer the income accuring to asset without transfer of asset then such Income is to be included in the total income of transferor.

II. Agreement may be Revocable or irrevocable

Section 61 :- Income Arising From Revocable Transfer OF Assets

a) Income arising from revocable transfer of asset is to be included in total income of transferor.

b) As per Section 63 :- Revocable Transfer Means

Contain any provision for "RE-TRANSFER" directly or indirectly

OR

Give right to transferor to Re-Assume power

Section 62 :- Exception Where Clubbing Of Provisions Are Not Attracted Even In Case Of Revocable Transfer

Transfer will be "IRREVOCABLE"

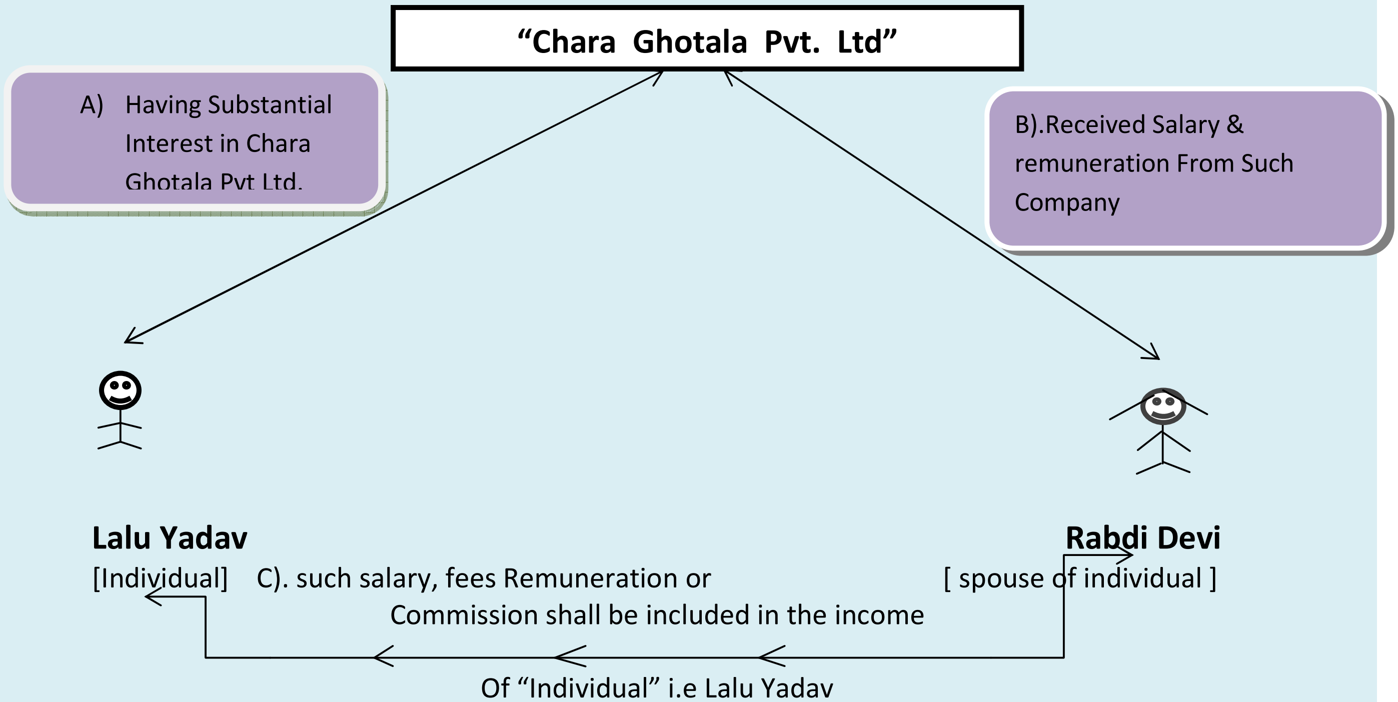
Transfer should not derive any "DIRECT" or "INDIRECT" benefit from such income

****SPECIAL NOTES****

Any contract which is Non-Revocable till death of any person will not considered "Revocable transfer"

<u>Section 64</u>:- Clubbing Of Income In Respect Of Income Of Spouse, Sons, Wife, Minor Child.

<u>Section 64 (1) (ii)</u> :- Remunaretion Received By "Spouse" From Concern In Which individual has "Substantial interest"



Special Notes

a) When both husband and wife having substantial interest & both are getting remuneration from such concern

⇩

Then the income shall be included in total income of that person whose total income [Excluding such income] is greater

AND

If once income taxed in such individual then in any succeeding year if income arise then it shall not be included in "spouse" income unless A.O is satisfied.

b) **MEANING OF SUBSTANTIAL INTEREST**

In case of company

Having a voting right of equity shares ≥ 20% at any time during P.Y. by individual or his relatives

In case of any other

Having a share in profit ≥ 20% by him or his relatives

Relatives include :- Husband, wife, brother, sister, lineal Ascendant or lineal descendant of individual.

c) However if spouse receive salary, commission, **fees & Remuneration based on technical or professional qualification** then such income will be included in "spouse" income & no clubbing will be done.

Section 64 (1) (iv) → Income arising to spouse from an asset transferred without adequate consideration.

Transfer of asset

↓

Directly or indirectly to spouse

For adequate consideration

Or

For in connection with an agreement to live apart (i.e. Divorce)

↓

Shall not be included in the hands of transferor

Any other type of transfer

↓

Shall included in hands of transferor

****Special notes****

i. Natural love & affection ≠ adequate consideration
ii. Income arising on transferred asset alone have to be clubbed. However income earned by investing such income[i.e. arising from transferred asset] cannot be clubbed.

iii. Where the asset transferred directly or indirectly by an individual to his spouse

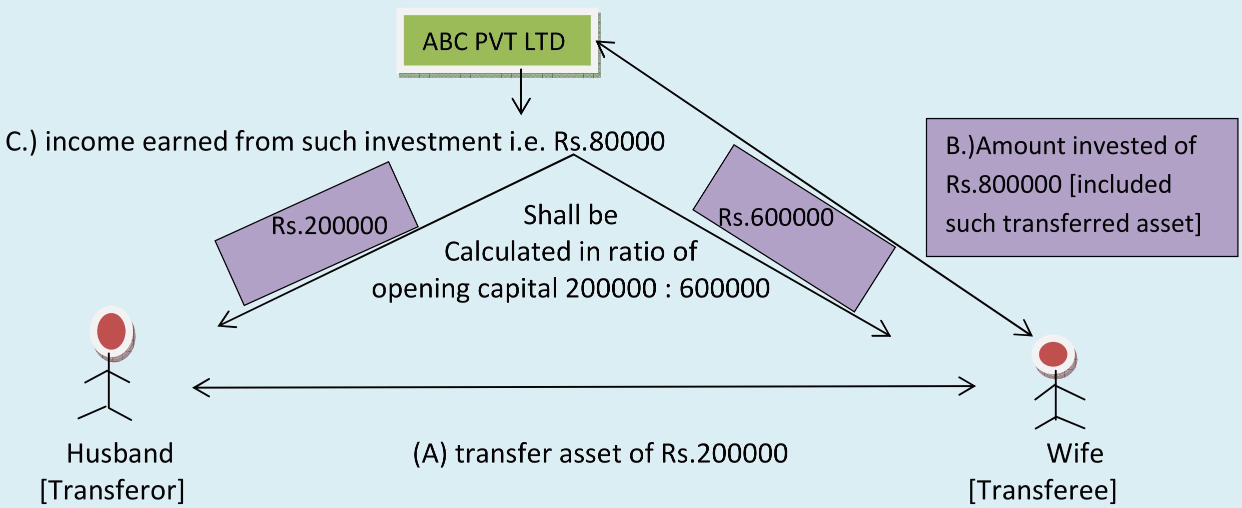
↓

Spouse invested such assets in business

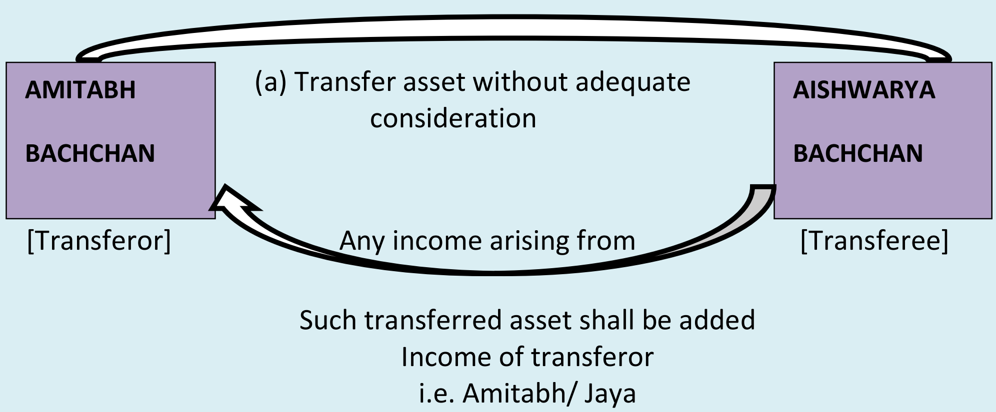
↓

Then proportionate "Income" arising from such investment is to be included in the total income of transferor [for proportionate ratio opening capital shall be taken i.e. 1st day of P.Y. investment.]

<u>e.g. for point no (iii)</u>



Section 64 (1) (vi) :- Income arising to son's wife from the assets transferred without adequate consideration by father in law or mother in law.



Section 64(1A) :- Clubbing of minor's income

All income of minor is to be included in the income of the parent.

<u>Exception</u> [i.e. following income will not be included in the hands of parents]

I. **Income derived by minor** :- Manual work or skills, talent or specialise knowledge.
II. If minor suffering from **disability U/S 80U.**

****Special Note****

I. Income of minor is to be included in that parent whose total income is greater.
II. Once clubbing is done it will be continue to be included in such parent's income in any subsequent year until & unless A.O is satisfied.
III. When marriage of parent does not exist/subsist

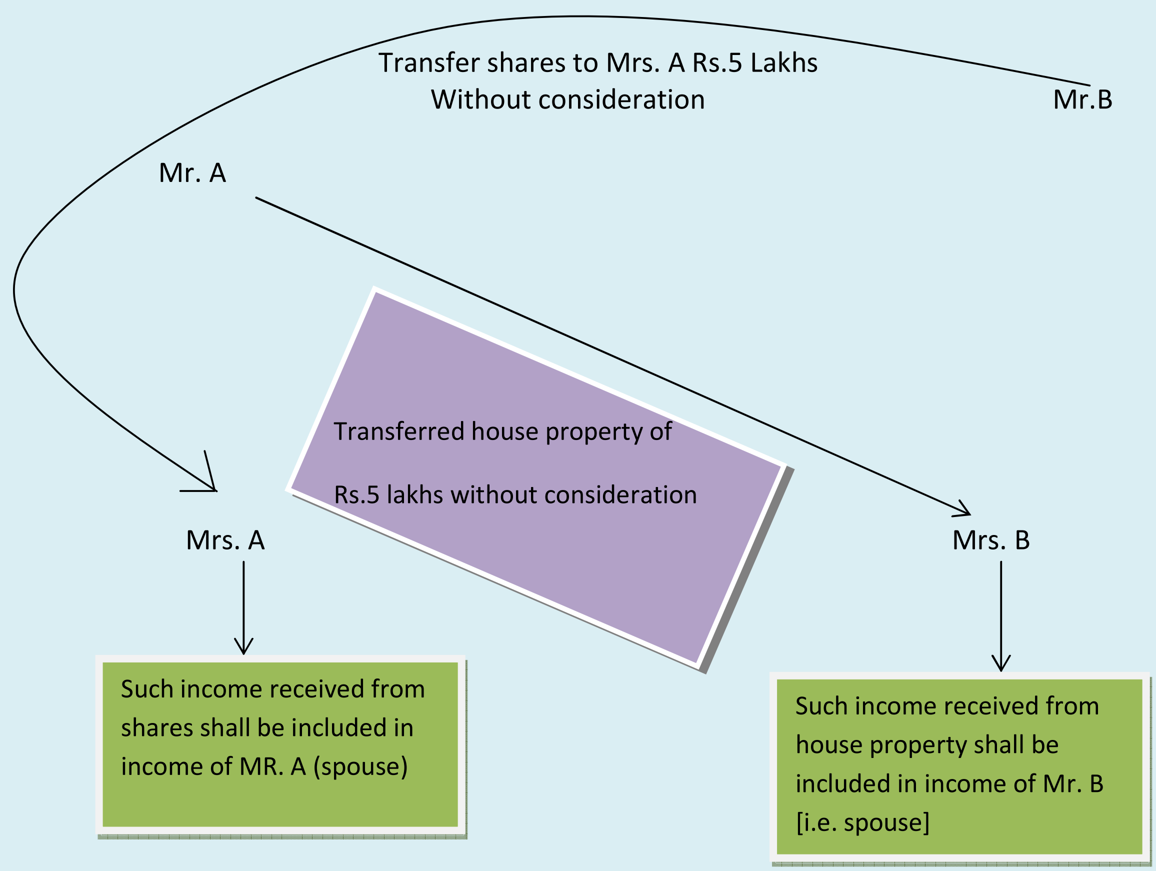
↓

Minor income will be included in the income of that parent "who maintain" the minor child.

Deduction :- (Available for individual in which minor's income has been (lubbed)
Rs.1500 per child.

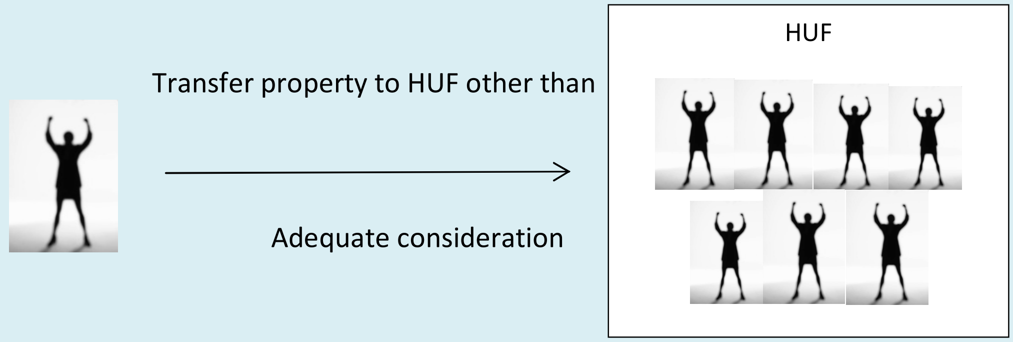
Above Same Provision Will Be Applicable to "MINOR MARRIED DAUGHTER"

CROSS TRANSFER



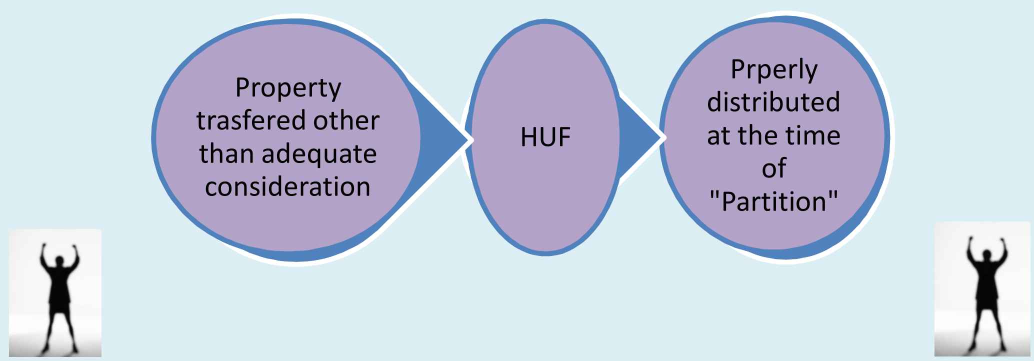
Section 64 (2) :- Conversion of self acquired property of HUF

I.



Member of HUF Income from such property shall be clubbed in the income of member of HUF.

II.



Member of HUF

 any income received to member is spouse shall be taxable in the income of member of HUF.

Spouse of member

→ Set Off & Carry Forward Of Losses

Adjustments

Intra head adjustment [sec 70]	Inter head adjustment [sec71]
↓ Within same head	↓ Within different head

** Intra Head Adjustment (Sec 70)

It means any loss from any head will be adjusted within same head.

Exceptions.

a) Long term capital loss can be set off only against long term capital gain
b) Speculation business loss can be set off only against profit of any other speculation business [however losses from general business (i.e. Non – speculation business) can be set off against profit from speculation business]
c) Loss from business of owning & maintaining horse race can be set off only against profit from such business
d) Loss from a source, income from which is exempt cannot be set off against any income. E.g. long term capital loss on sale of equity shares sold through RSEC (Recognised Stock Exchange) cannot be set off against any long term capital gain.
e) Loss from lottery, card games, gambling, betting cannot be set off against any income.
f) Any loss from specified business (Sec 35 AD) can be set off only against profit of any specified business.

** Inter Head Adjustment (sec 71)

It means any loss of any head can be adjusted with any head.

Exceptions.

a) Loss under capital gain cannot be set off from income under any head.
b) Loss from PGBP cannot be set off against salary head.
c) The exception of section 70 (Intra Head Adjustments)

Note :- Unabsorbed Depreciation cannot be set off against salary.

Summary Of Rules

a) Loss from house property → Can be set off against →
- Salaries
- Business income
- Capital gains
- Income from other source

b) Speculation Business loss → Can be set off against → Speculation Income only

c) Non – Speculation Business loss → Can be set off against →
- Speculation business
- House Property
- Capital gains
- Income from other service

d) Long term capital loss → Can be set off against → Long term capital gain

e) Short term capital loss → Can be set off against →
- Long term capital gain
- Short term capital gain

f) Loss of income from other source → Can be set off against →
- Salary
- House Property
- Business income
- Capital gain

** Section 71B :- Carry forward & set off of loss from house property

a) Loss from house property after applying section 70 & section 71 will be carried forward to next year.
b) **TIME LIMIT** :- UPTO 8 A.Y immediately succeeding the A.Y for which loss was computed.
c) No return of loss is required to be filed.
d) **Maximum loss can be set off in Previous year = Rs.200000**

**Section 72 :- Carry forward & set off of Business losses & speculation losses

a) Loss from PGBP after applying section 70 & 71 will be carried forward to next year.
b) **Time for carried forward** :- upto 8 A.Y
c) **Priority to set of** :-
   1st :- carried forward PGBP loss
   2nd :- unabsorbed Depreciation
   3rd :-unabsorbed capital expenditure on scientific research
   4th :- unabsorbed capital expenditure on family planning.
d) Return of loss file is <u>Mandatory</u>
e) Business in which loss incurred need not be continued to carry forward loss.
f)

Section 73A :- Carry forward & set off lossess by specified business[i.e. 35AD business]

a) Any loss from specified business <u>can be set off</u> against profit from specified business.
b) The unabsorbed loss will be carrie forward & set off against only gains from specified business.
c) **Time Limit for Carrie Forward** :- No time limit.
d) Loss of return need to file on or before due date of filling income tax return U/S 139(1).

** Section 74 :- Losses Under The Head Capital Gain.

a) CIF short term capital loss can be set off against long term capital gain & short term capital gain.
b) Any CIF long term capital loss can be against only against long term capital gain
c) Net loss under head capital gains cannot be set off under any other head.
d) **Time limit for carrie forward** :- 8 A.Y.

Section 74(3) :- loss from the activity of owing & maintaining race horses

I. Loss from activity of owing & maintaining race horses cannot be set off against any other heads of income.
II. **The limit for carrie forward** :- 4 A.Y.