

INCOME OF OTHER PERSONS INCLUDED IN ASSESSEE'S TOTAL INCOME

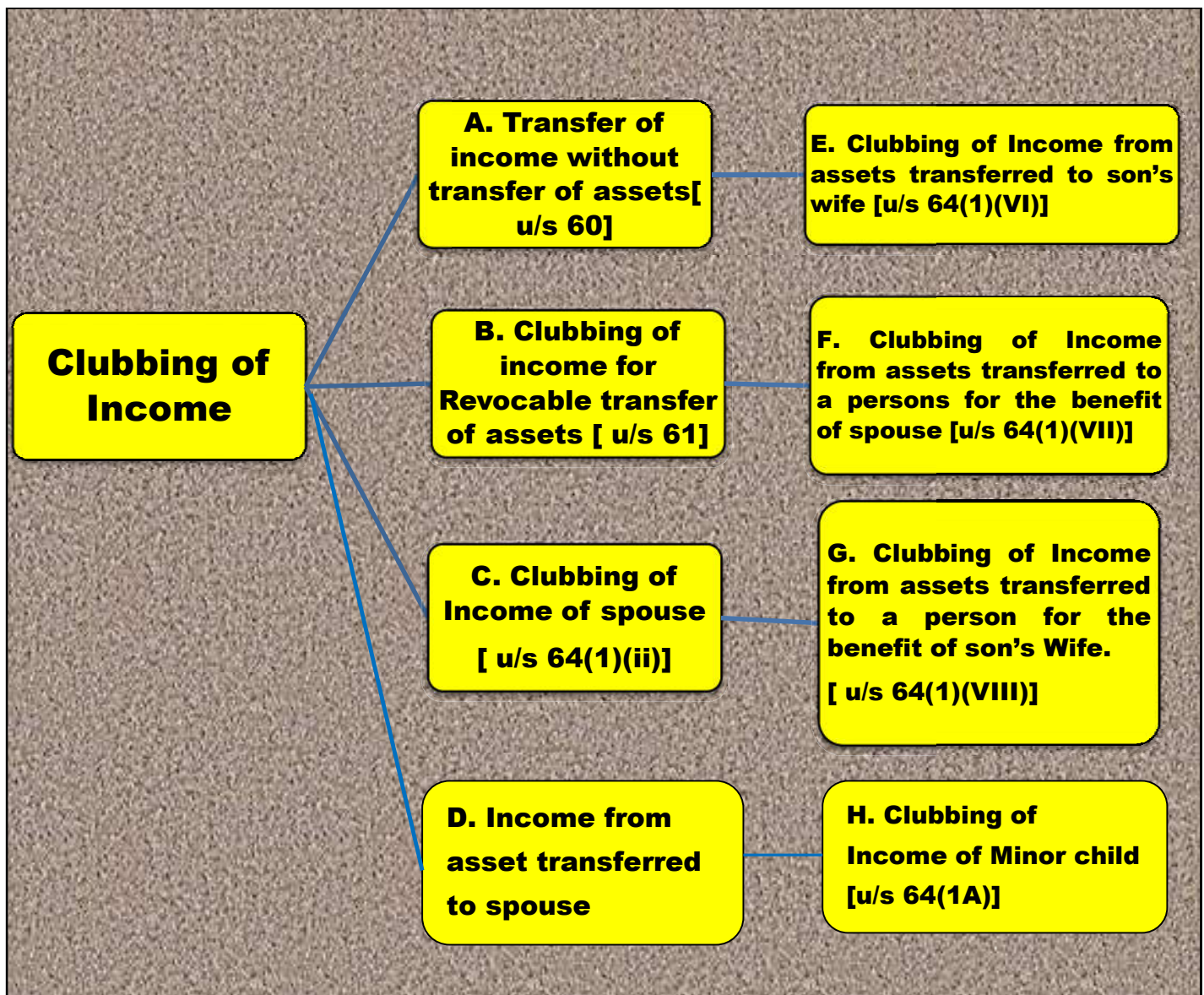
(CLUBBING OF INCOME)

Clubbing of income means including the income of any other person in assessee's total Income.

The Income Tax Act has specified certain cases where income of one person is statutorily required to be included in the income of another person if some conditions are satisfied. This inclusion is known as "Clubbing of Income"

For example, if a husband diverts some part of his income to his wife to reduce his tax burden, Then such transferred income of a wife is added & taxed as income of husband only & not his wife.

Overview of the various aspects of clubbing of income



A. Clubbing of Income for transfer of Income without transfer of Assets. [Sec. 60]

Section 60 is applicable if the following conditions are satisfied –

- ❖ The Taxpayer owns an assets.
- ❖ The ownership of assets is not transferred by him.
- ❖ The Income from the assets is transferred to any person under a settlement , or agreement.

If the above conditions are satisfied , the income from the assets would be taxable in the hands of the transferor.

Example – Mr. Bachan confers the right to receive rent in respect of his house property to his friend Mr. Khan , without transferring the house itself to him.

In this case , the rent received by Mr. Khan will be clubbed with the income of Mr. Bachan.

B. Clubbing of Income for Revocable transfer of Assets (Sec. 61)

Revocable transfer means the transferor of assets assumes a right to re – acquire asset or income from such an asset, either whole or in parts at any time in future, during the lifetime of transferee. It also includes a transfer which gives a right to re- assume power of the income from asset or asset during the lifetime of transferee.

If the following conditions are satisfied section 61 will become applicable.

- ❖ An asset is transferred under a “ Revocable Transfer”.
- ❖ The Transfer for this purpose includes any settlement or agreement.

Then any income from such an asset is taxable in the hands of the transferor.

Exception to Section – 61

- ❖ Where the income arises to any person by virtue of transfer by way to trust which is not revocable during the life time of the beneficiary, & in case of any other transfer which is not revocable during the life time of the transferee
- ❖ Where the income arises to any person by virtue of transfer made before 01.04.1961 which is not revocable for the period of 6 years or more.

C. Clubbing of Income of Spouse [Section 64(1)(ii)]

The following incomes of spouse of an individual shall be included in the total income of the Individual.

Remuneration from a concern in which spouse has substantial Interest –

Concern – Concern could be any form of business or professional concern. It could be a sole proprietor, partnership, company etc.

Substantial Interest – An individual is deemed to have substantial interest, if he/she beneficially holds equity shares carrying not less than 20% voting power or is entitled to not less than 20% profits at any time during the previous year.

If the following conditions are fulfilled this section [64(1)(ii)] becomes applicable]

If spouse of an individual gets any salary, commission, fees etc (remuneration) from a concern.

- The Individual has a substantial interest in such a concern.
- The remuneration paid to the spouse is not due to technical or professional knowledge of the spouse.
- Then such remuneration shall be considered as income of the individual & not for the spouse.

Example- Mr. X has a substantial Interest in A Ltd. & Mrs. X is employed by A Ltd. Without any technical or professional qualification . In this case salary income of Mrs. X shall be taxable in the hands of Mr. X.

When both husband & wife have substantial Interest

Where both the husband & wife have substantial interest in a concern & both are in receipt of the remuneration from such concern , both the remuneration will be included in the total income of husband or wife whose total income excluding such remuneration is greater.

D. Income from Asset transferred to Spouse [section 64(1)(iv)]

Income from assets transferred to spouse becomes taxable under provision 64(1)(iv) as per following conditions –

- The taxpayer is an individual.
- He / She has transferred (directly/indirectly) an asset (other than a house property). The asset is transferred to his/ her spouse.
- The asset is transferred without adequate consideration. Moreover there is no agreement to live apart. If the above conditions are satisfied any income from such asset shall be deemed to be the income of the taxpayer who has transferred the asset.

Example - Mr. B transfer 500 debentures of IFCI to his wife without adequate consideration. Interest Income on these debentures will be included in the Income of Mr. B.

When section 64(1)(iv) is not applicable

- If assets are transferred before marriage
- If assets are transferred for adequate consideration
- If on the date of accrual of income, transferee is not spouse of the transferor.
- If assets are transferred in connection with an agreement to live apart.
- If property is acquired by the spouse out of pin money (i. e an allowance given to the wife by her husband for her dress & usual household expenses.)

E. Clubbing of Income from Assets transferred to son's wife [SECTION 64(1)(vi)]

Income from assets transferred to son's wife attract the provisions of section 64(1)(vi) as per conditions below –

- The taxpayer is an individual.
- He / She has transferred an asset after May 31, 1973. The asset is transferred to son's wife.
- The asset is transferred without adequate consideration.

In the case of such individuals, the income from the asset is included in the income of the taxpayer who has transferred the asset.

Example – Mr. A transfers without any consideration fixed deposit of Rs. 1,50,000 with a bank to his daughter - in-law on May 5,2019. She earns interest income of Rs. 12,500 from such fixed deposit during the year 2019-20 . So, In the given case such income shall be included with the income of Mr. A.

F. Clubbing of Income from Assets transferred to a person for the benefit of spouse. [Section 64(1)(VII)]

Income from the assets transferred to a person for the benefit of spouse attract the provisions of section 64(1)(VII) on clubbing of income. If

- The taxpayer is an individual.
- He / She has transferred an asset to a person or an association of persons. Asset is transferred for the benefit of spouse.
- The Transfer of asset is without adequate consideration.

In case of such individuals income from such an asset is taxable in the hands of the taxpayer who has transferred the asset.

Example – Mr. M transfers 6% debentures of Rs. 2,80,000 of Co. Ltd. to Mr. S without adequate consideration on the condition that interest from such debenture will be utilized for benefits of Mrs. M

In such case, interest income will be included in the total income of Mr. M

G. Clubbing of Income from asset transferred to a person for the benefit of son's wife [section 64(1)(VIII)]

Income from the assets transferred to a person for the benefit of son's wife attract the provisions of section 64(1)(VII) on clubbing of income. If

- The taxpayer is an individual.
- He / She has transferred an asset after May 31, 1973.
- He / She has transferred an asset to a person or an association of persons. Asset is transferred for the benefit of son's wife.
- The Transfer of asset is without adequate consideration

In case of such individuals income from such an asset is included in the income of the person who has transferred the asset.

H. Clubbing of Income of Minor Child [Section 64(1A)]

All income which arises or accrues to the minor child shall be clubbed in the income of his parents, whose total income (excluding minor's income) is greater. However, in case parents are separated, the income of minor child will be included in the income of that parent who maintains the minor child in the relevant previous year.

Exemption to parent[sec. 10(32)]

An individual shall be entitled to exemption of Rs.1,500 p.a. in respect of each minor child if the income of such minor as included u/s 64(1A) exceeds that amount. However if the income of any minor child is less than Rs. 1,500 p. the aforesaid exemption shall be restricted to the income so included in the total income of the individual.

When Section 64(1A) is not applicable

In case of income of minor child from following sources, the income of minor child is not clubbed with the income of his parent.

- Income of minor child on account of any manual work.
- Income of minor child on account of any activity involving application of his skills, talent or specialized knowledge & experience.
- Income of minor child suffering from any disability specified u/s 80U.