CHAPTER 6

INCOME OF OTHER PERSONS INCLUDED IN TOTAL INCOME OF ASSESSEE



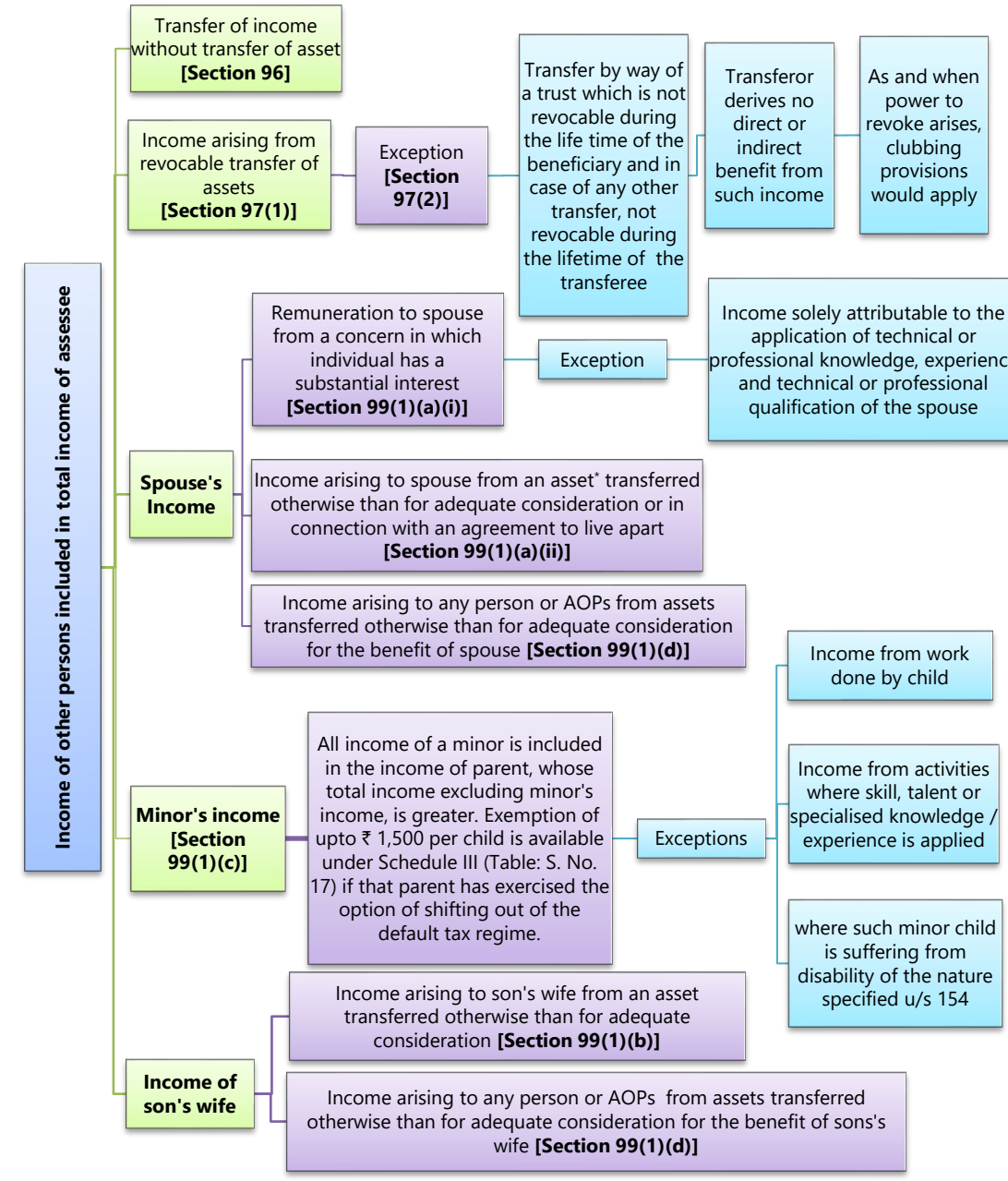
LEARNING OUTCOMES

After studying this chapter, you would be able to -

- **examine** the cases where clubbing provisions would be attracted;
- **examine** the circumstances when income of minor child, has to be included in the hands of parent and exemption available in respect of such included income;
- **examine** the circumstances when the income of HUF has to be included in the hands of its member(s);
- **apply** the clubbing provisions to determine the amount of income which need to be included in the hands of another person;
- **examine** the cases of cross transfers to determine the person in whose hands the income arising from assets transferred has to be included and the portion of income that has to be included;
- **compute** the income under different heads of income after applying the clubbing provisions.

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CHAPTER OVERVIEW



* In case of transfer of house property to spouse without adequate consideration, transferor will be deemed as owner of such property as per section 25(a). In such a case, section 99(1)(a)(ii) will not apply.

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6.1 INTRODUCTION

Under Income-tax, an assessee is generally taxed in respect of his own income. However, there are certain cases where an assessee has to pay tax in respect of income of another person. The provisions for the same are contained in Chapter V of Income-tax Act, 2025, in sections 96 to 100 of the Act. These provisions, also known as clubbing provisions, were introduced with the purpose of discouraging transfer of assets with an intention to escape taxation by the assessees.

These provisions provide that if a person transfers an asset or income with the intention of avoiding or reducing tax liability, the income arising from such asset shall be taxed in the hands of the transferor, provided the conditions specified in the relevant sections are fulfilled. In other words, the income earned by the transferee will be clubbed with the income of the transferor.

These provisions can be categorized as follows:

- Income of other persons included in total income of assessee [Sections 96-98]
- Income of other persons included in total income of individual [Section 99]



In the case of individuals, income-tax is levied on a slab system on the total income. The tax system is progressive i.e., as the income increases, the applicable rate of tax increases. Some taxpayers in the higher income bracket tend to divert some portion of their income to their spouse, minor child etc. to minimize their tax burden. To prevent such tax avoidance, clubbing provisions have been incorporated in the Act, under which income arising to certain persons (like spouse, minor child etc.) have to be included in the income of the person who has diverted his income for the purpose of computing tax liability.

6.2 INCOME OF OTHER PERSONS INCLUDIBLE IN TOTAL INCOME OF ASSESSEE

Transfer of income without transfer of asset [Section 96]

(i) If any person transfers the income from any asset without transferring the asset itself, such income is to be included in the total income of the transferor.

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(ii) It is immaterial whether the transfer is revocable or irrevocable and whether it was made before the commencement of this Act or after its commencement.



Mr. A confers the right to receive rent in respect of his house property on his wife, Mrs. A, without transferring the house itself to her. In this case, the rent received by Mrs. A will be clubbed with the income of Mr. A.

Chargeability of income in transfer of assets [Section 97]

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 [Section 97(1)].

This clubbing provision will operate even if only part of income of the transferred asset had been applied for the benefit of the transferor. Once the transfer is revocable, the entire income from the transferred asset is includible in the total income of the transferor.

Meaning of certain terms [Section 98]

Term	Meaning
Transfer	Transfer includes any settlement, trust, covenant, agreement or arrangement
Revocable transfer	Transfer is deemed to be revocable if - (i) it contains any provision for the direct or indirect re-transfer of the whole or any part of the income or assets to the transferor, or (ii) it, in any way, gives the transferor a right to re-assume power directly or indirectly over the whole or any part of the income or the assets.

Exception where clubbing provisions are not attracted even in case of revocable transfer [Section 97(2)]

Section 97(1) will not apply -

(i) where a transfer is by way of trust which is not revocable during the life time of the beneficiary; and in case of any other transfer, which is not revocable during the life time of the transferee and

(ii) the transferor does not derive any direct or indirect benefit from such income.

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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, as the case may be.

As and when the power to revoke the transfer arises, the income arising by virtue of such transfer will be included in the total income of the transferor.



Mr. Rajesh transfers his house property to a trust for the benefit of Mr. Ramesh till his death. This is a situation of irrevocable transfer till the death of Mr. Ramesh. Hence, till then, the income from house property would be taxable in the hands of the transferee i.e., trust. However, after the death of Mr. Ramesh, the income from house property would be included in the total income of Mr. Rajesh as on that date, the transfer has become revocable.

Income of other persons includible in total income of assessee

Section 96 - Transfer of income without transfer of assets

Income shall be clubbed in the hands of the transferor

Section 97 - Revocable transfer of assets to any person

Income shall be clubbed in the hands of the transferor

Exceptions

Transfer by way of trust which is **not revocable during lifetime of the beneficiary** and transferor does not derive any direct/ indirect benefit from such income

In any other case, transfer is not revocable during the lifetime of transferee and transferor does not derive any direct/indirect benefit from such income

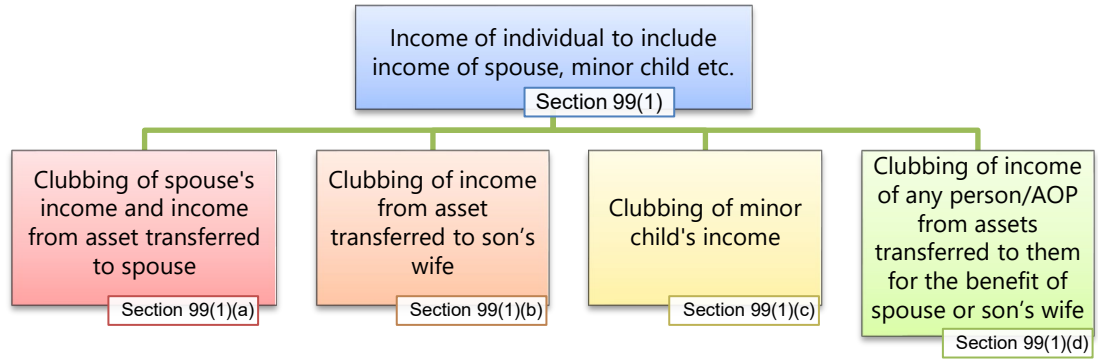
In above two situations, income shall be clubbed in the hands of the transferor if

a. transferor derive any direct/indirect benefit from such income or

b. as and when the power to revoke the transfer arises

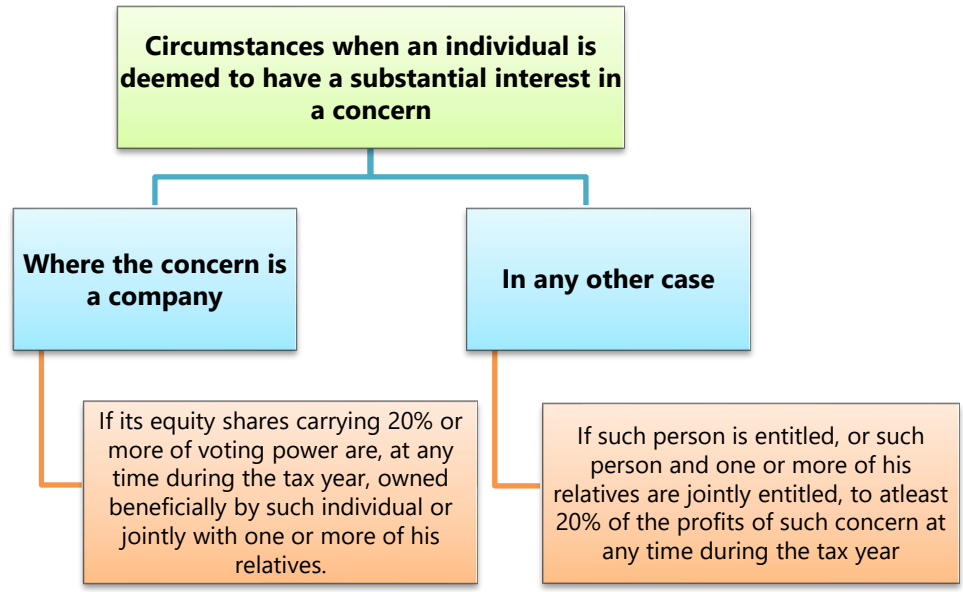
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6.3 INCOME OF OTHER PERSONS INCLUDIBLE IN TOTAL INCOME OF AN INDIVIDUAL



Clubbing of spouse's income and income from asset transferred to spouse [Section 99(1)(a)]

Income by way of remuneration from a concern in which the individual has a substantial interest [Section 99(1)(a)(i)]



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(i) Remuneration in cash or kind to spouse from a concern in which the individual has a substantial interest is to be clubbed: The total income of any individual, for a tax year, shall include all such income which arises, directly or indirectly, to the spouse of such 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.

The term **'relative'** in relation to an individual means the husband, wife, brother or sister or any lineal ascendant (maternal as well as paternal) or descendant of that individual [Section 2(94)].

(ii) Clubbing provisions will not apply where the remuneration is solely attributable to the application of technical or professional knowledge, experience and technical or professional qualification of the spouse: Clubbing provisions, however, do not apply where the income is solely attributable to the application of technical or professional knowledge, experience and technical or professional qualification of the spouse. In such an event, the income arising to such spouse is to be assessed in his/her hands.

(iii) Both husband and wife have substantial interest in a concern: Where both husband and wife have substantial interest in a concern and both are in receipt of income by way of salary etc. from the said concern, such income will be includible in the hands of either of the spouse whose total income before such inclusion is higher*.

Note - *Where such income, once included in the total income of either spouse, for a tax year, shall not be included in the income of the other spouse for any succeeding tax year, unless the Assessing Officer is so satisfied, after giving the other spouse an opportunity of being heard.*

ILLUSTRATION 1

Mr. Arun holds shares carrying 55% voting power in MNO (P) Ltd. Mrs. Anamika, wife of Mr. Arun is working as a computer software programmer in MNO (P) Ltd. at a salary of ₹ 35,000 p.m. She is, however, not qualified for the job. The other incomes of Mr. Arun & Mrs. Anamika are ₹ 7,30,000 & ₹ 4,20,000, respectively. Compute the gross total income of Mr. Arun and Mrs. Anamika for the tax year 2026-27 if they are paying tax under default tax regime.

**CBDT Circular No. 258 dated 14.06.1979.*

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SOLUTION

Mr. Arun holds shares carrying 55% voting power in MNO (P) Ltd i.e., a substantial interest in the company. His wife is working in the same company without any professional qualifications for the same. Thus, by virtue of the clubbing provisions of the Act, the salary received by Mrs. Anamika from MNO (P) Ltd. will be clubbed in the hands of Mr. Arun.

Computation of Gross total income of Mr. Arun

Particulars	₹	₹
Salary received by Mrs. Anamika (₹ 35,000 × 12)	4,20,000	
Less: Standard deduction under section 19(1) (Table: Sl. No. 2)	75,000	3,45,000
Other Income		7,30,000
Gross total income		**10,75,000**

The gross total income of Mrs. Anamika is ₹ 4,20,000.

ILLUSTRATION 2

Will your answer be different if Mrs. Anamika was qualified for the job?

SOLUTION

If Mrs. Anamika possesses professional qualifications for the job, then the clubbing provisions shall not be applicable.

Gross total income of Mr. Arun = ₹ 7,30,000 (other income)

Gross total income of Mrs. Anamika = Salary received by Mrs. Anamika [₹ 35,000×12] *less* ₹ 75,000, being the standard deduction under section 19(1) (Table: Sl. No. 2) *plus* other income [₹ 4,20,000] = ₹ 7,65,000

ILLUSTRATION 3

Mr. Binu holds shares carrying 33% voting power in Yamma (P) Ltd. Mrs. Babita is working as an accountant in Yamma (P) Ltd. getting income under the head salary (computed) of ₹ 3,60,000 without any qualification in accountancy. Mr. Binu also receives ₹ 32,000 as interest on securities. Mrs. Babita owns a house property which she has let out. Rent received from tenants is ₹ 6,500 p.m. Compute the gross total income of Mr. Binu and Mrs. Babita for the tax year 2026-27.

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SOLUTION

Since Mrs. Babita is not professionally qualified for the job, the clubbing provisions shall be applicable.

Computation of Gross total income of Mr. Binu

Particulars	₹
Income from salary of Mrs. Babita (Computed)	3,60,000
Income from other sources	
- Interest on securities	32,000
	3,92,000

Computation of gross total income of Mrs. Babita

Particulars	₹	₹
Income from Salary		Nil
[Clubbed in the hands of Mr. Binu]		
Income from house property		
Gross Annual Value [₹ 6,500 × 12]	78,000	
Less: Municipal taxes paid	-	
Net Annual Value (NAV)	**78,000**	
Less: 30% of NAV [deduction under section 22(1)(a)]	23,400	54,600
Gross total income		**54,600**

Income arising to the spouse from an asset transferred otherwise than for adequate consideration [Section 99(1)(a)(ii)]

(i) **Transfer of asset (other than house property):** Where there is a transfer of an asset (other than house property), directly or indirectly, from one spouse to the other, otherwise than for adequate consideration or in connection with an agreement to live apart, any income arising to the transferee-spouse from the transferred asset, either directly or indirectly, shall be included in the total income of the transferor-spouse.

(ii) **Transfer of house property:** In the case of transfer of house property, the provisions are contained in section 25. If an individual transfers house property (except under an agreement to live apart) to his spouse, without adequate consideration, the person who transfers the property is

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considered as the owner of the transferred property and its annual value will be taxed in his hands.

(iii) Income from accretion of the transferred asset: It may be noted that any income from the accretion of the transferred asset is not to be clubbed with the income of the transferor i.e., the income arising on transferred assets alone has to be clubbed. However, income earned by investing such income (arising from transferred asset) cannot be clubbed.

(iv) Meaning of adequate consideration: It is also to be noted that natural love and affection do not constitute adequate consideration. Therefore, where an asset is transferred without adequate consideration, the income from such asset will be clubbed in the hands of the transferor.

(v) Transferred asset invested in business or firm [Section 99(2)]: If the asset transferred, directly or indirectly, by an individual to his spouse is invested by the spouse in any business or in the nature of capital contributed as a partner in a firm or for being admitted to the benefits of partnership in a firm, then proportionate income is to be included in the hands of the individual for the tax year.

The income to be included in the hands of individual, i.e., the transferor for the tax year shall be as follows:

$$A = B \times \frac{C}{D}$$

Where-

A = Income to be included in the hands of individual i.e., the transferor for the tax year;

B = Income (such as business profits) and interest (interest on capital contribution by partner) or both arising to the spouse i.e., the transferee from the business or firm during the tax year.

C= Value of such assets invested or contributed as capital by the spouse i.e., the transferee (i.e. transferred assets which were invested in business/firm) as on first day of tax year

D = Total investment or total capital contribution by the transferee spouse as on first day of tax year.

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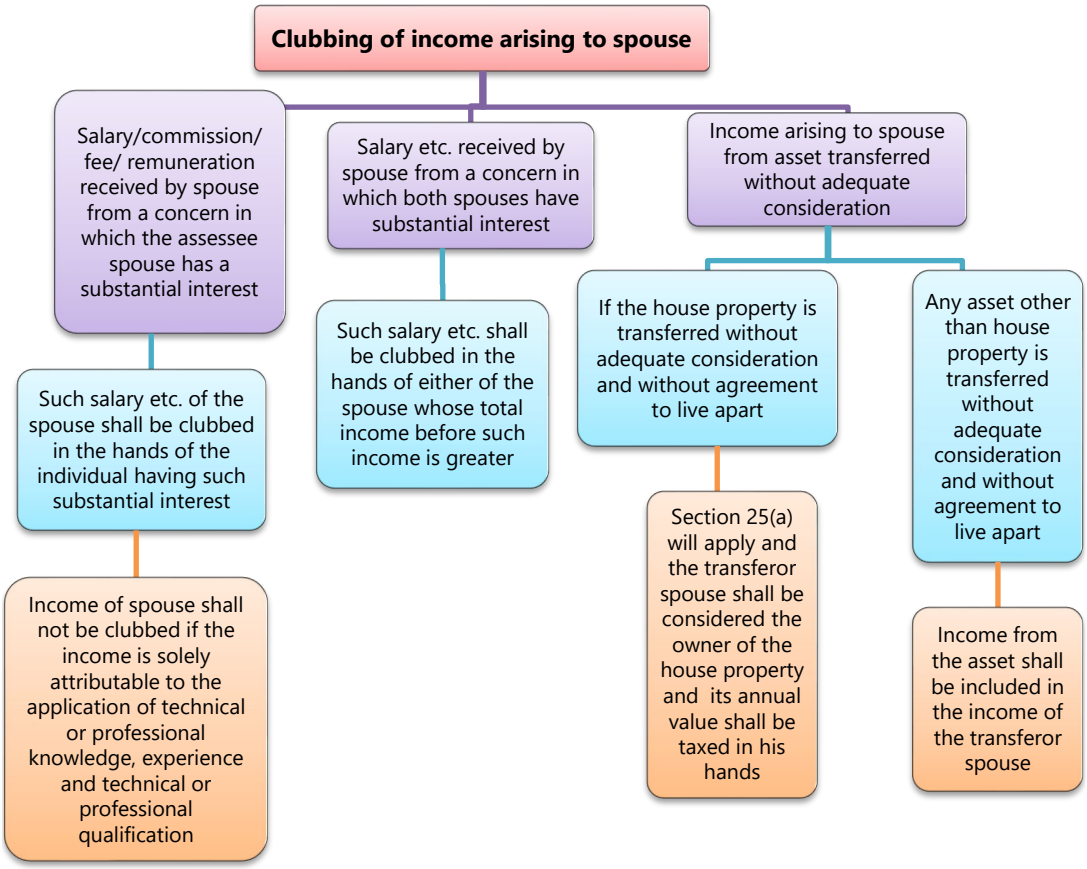


ILLUSTRATION 4

Mr. Rahul started a proprietary business on 01.04.2025 with a capital of ₹ 6,00,000. He incurred a loss of ₹ 3,00,000 during the year 2025-26. To overcome the financial position, his wife Mrs. Radha, a software engineer, gave a gift of ₹ 7,00,000 on 01.04.2026, which was immediately invested in the business by Mr. Rahul. He earned a profit of ₹ 5,00,000 during the year 2026-27. Compute the amount to be clubbed in the hands of Mrs. Radha for the tax year 2026-27. If Mrs. Radha gave the said amount as loan, what would be the amount to be clubbed?

SOLUTION

Section 99(1)(a)(ii) provides for the clubbing of income in the hands of the individual, if the income earned is from the assets (other than house property) transferred directly or indirectly to the spouse of the individual, otherwise than for adequate consideration or in connection with an agreement to live apart.

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Section 99(2) provides the manner of computation of income to be included in the hands of transferor spouse if the asset transferred by the individual is invested by the spouse in any business or in the nature of capital contributed as a partner in a firm or for being admitted to the benefits of partnership in a firm.

In this case, Mr. Rahul received a gift of ₹ 7,00,000 on 1.4.2026 from his wife Mrs. Radha, which he invested in his business immediately. The income to be clubbed in the hands of Mrs. Radha for the tax year 2026-27 is computed as under:

$A = B \times \frac{C}{D}$

A = Income to be included in the hands of Mrs. Radha for the tax year 2026-27;

B = Profits from business arising to Mr. Rahul from the business for the tax year 2026-27 i.e., ₹ 5 lakhs

C= Value of such asset invested by Mr. Rahul as on first day of tax year i.e., on 1.4.2026 i.e., ₹ 7 lakhs

D = Total investment by Mr. Rahul as on first day of tax year i.e., on 1.4.2026 i.e., ₹ 10 lakhs (₹ 6 lakhs - ₹ 3 lakhs + ₹ 7 lakhs)

Income to be clubbed in the hands of Mrs. Radha would be as follows:

$5,00,000 \times \frac{7,00,000}{10,00,000} = ₹\ 3,50,000$

In case, Mrs. Radha gave the said amount of ₹ 7,00,000 as a *bona fide* loan, then, clubbing provisions would not be attracted.



The provisions of section 92(2)(m) would not be attracted in the hands of Mr. Rahul, since he has received a sum of money exceeding ₹ 50,000 without consideration from a relative i.e., his wife.

Clubbing of income from asset transferred to son's wife [Section 99(1)(b)]

Income arising to son's wife from the assets transferred otherwise than for adequate consideration by the father-in-law or mother-in-law

(i) Asset transferred otherwise than for adequate consideration: Where an asset is transferred, directly or indirectly, by an individual to his or her son's

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wife otherwise than for adequate consideration, the income from such asset is to be included in the total income of the transferor.

Natural love and affection do not constitute adequate consideration.

(ii) Transferred asset invested in business or firm [Section 99(2)]: If the asset transferred, directly or indirectly, by an individual to his or her son's wife is invested by the son's wife in any business or in the nature of capital contributed as a partner in a firm or for being admitted to the benefits of partnership in a firm, then proportionate income is to be included in the hands of the individual for the tax year.

The income to be included in the hands of individual, i.e., the transferor for the tax year shall be as follows:

$A = B \times \frac{C}{D}$

Where-

A = Income to be included in the hands of individual i.e., the transferor for the tax year;

B = Income (such as business profits) and interest (interest on capital contribution by partner) or both arising to the son's wife from the business or firm during the tax year.

C= Value of such assets invested or contributed as capital by the son's wife i.e., the transferee (i.e. transferred assets which were invested in business/firm) as on first day of tax year

D = Total investment or total capital contribution by the transferee son's wife as on first day of tax year.

Clubbing of minor child's income [Section 99(1)(c)]

(i) All income of a minor child is to be included in the income of his parent.

(ii) However, the following income will not be included in the income of his parent:

- income accruing or arising on account of work done by such minor child or
- income accruing or arising from activities where his skill, talent or specialized knowledge or experience is applied or

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- where such minor child is suffering from disability of the nature specified in section 154.

(iii) Where the marriage of his parents subsists, the income of the minor child will be included in the income of that parent whose total income before such inclusion is greater.

(iv) Where the marriage of his parents does not subsist, the income of the minor will be included in the income of the parent who maintains such minor child during the tax year.

(v) Such income, once included in the total income of either of the parent, for a tax year, shall not be included in the income of the other parent for any succeeding tax year, unless the Assessing Officer is so satisfied, after giving the other parent an opportunity of being heard.

(vi) It may be noted that the clubbing provisions are attracted even in respect of income of minor married daughter.

Exemption in respect of clubbed income of minor child [Schedule III (Table: Sl. No. 17)]

In case the income of an individual (i.e., the parent) includes the income of his/her minor child in terms of section 99(1)(c), exclusion of such income from the total income to the extent such income does not exceed ₹ 1,500 in respect of each minor child whose income is so includible. However, if income of any minor so includible is less than ₹ 1,500, then the entire income shall be exempt.

Exemption under Schedule III (Table: Sl. No. 17) would be available to the parent only if he/she exercises the option of shifting out of the default tax regime. The same would not be available to him/her under the default tax regime where he/she computes his/her total income as per section 202(1) and pays tax at the concessional rates provided thereunder.

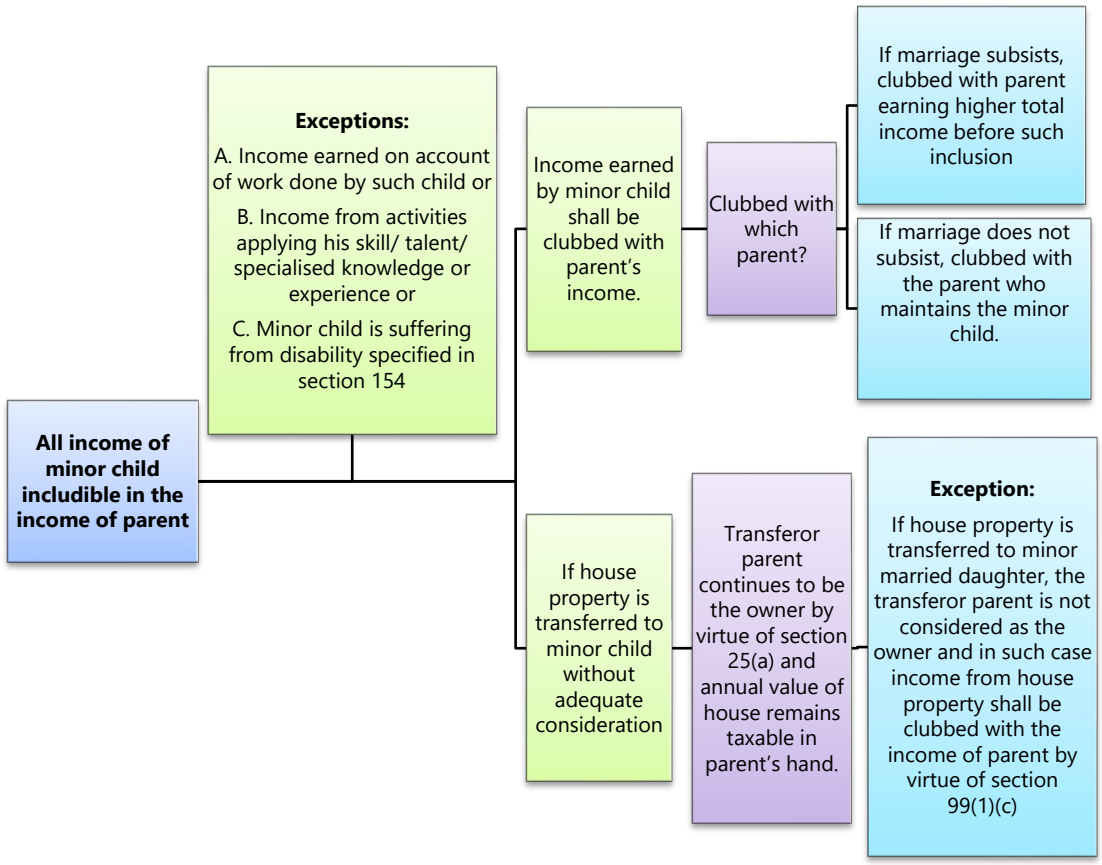
(vii) In case the asset transferred to a minor child (not being a minor married daughter) otherwise than for consideration or for inadequate consideration is a house property, then, by virtue of section 25(a), the transferor-parent will be considered as the owner of the house property. Therefore, the income from house property will be taxable in the hands of the transferor-parent, being the owner and not in the hands of the minor child. Consequently, clubbing provisions under section 99(1)(c) would not be

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attracted in respect of such income, due to which the benefit of exemption under Schedule III (Table: Sl. No.17) cannot be availed against such income.

However, if the house property is transferred by a parent to his or her minor married daughter, otherwise than for consideration or for inadequate consideration, then, section 25(a) is **not** attracted. In such a case, the income from house property will be included u/s 99(1)(c) in the hands of the parent whose total income before including minor child's income is greater; and benefit of exemption under Schedule III (Table: Sl. No.17) can be availed by that parent in respect of the income so included if he/she exercises the option of shifting out of the default tax regime.

Child in relation to an individual includes a step-child and an adopted child of that individual. [Section 2(25)]



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ILLUSTRATION 5

Mr. Arvind has three minor children – twin daughters, aged 12 years, and one son, aged 16 years. Income of the twin daughters is ₹ 2,500 p.a. each and that of the son is ₹ 1,200 p.a. Mrs. Avani (wife of Mr. Arvind) has transferred her flat to her minor son on 1.4.2026 out of natural love and affection. The flat was let out on the same date and the rental income from the flat is ₹ 10,000 p.m. Compute the income, in respect of minor children, to be included in the hands of Mr. Arvind and Mrs. Avani under section 99(1)(c) assuming that Mr. Arvind's total income is higher than Mrs. Avani's total income, before including income of minor children and both Mr. Arvind and Mrs. Avani exercise the option of shifting out of the default tax regime.

SOLUTION

Taxable income, in respect of minor children, in the hands of Mr. Arvind is

Particulars	₹	₹
Twin minor daughters [₹ 2,500 × 2]	5,000	
Less: Exempt under Schedule III (Table: Sl. No. 17) [₹ 1,500 × 2]	3,000	2,000
Minor son	1,200	
Less: Exempt under Schedule III (Table: Sl. No. 17) would be lower of ₹ 1200, being the income of minor son or ceiling limit of ₹ 1500	1,200	Nil
Income to be clubbed in the hands of Mr. Arvind		**2,000**

Note - *As per section 25(a), Mrs. Avani is considered as the owner of house property transferred to her minor son. Natural love and affection do not constitute adequate consideration for this purpose. Accordingly, the income from house property of ₹ 84,000 [i.e., ₹ 1,20,000 (-) ₹ 36,000, being 30% of ₹ 1,20,000) would be taxable directly in her hands as the owner of the said property. Consequently, clubbing provisions under section 99(1)(c) would not be attracted in respect of income from house property, owing to which exemption under Schedule III (Table: Sl. No.17) cannot be availed by her.*

Clubbing of income of any person/AOP from assets transferred to them for the benefit of spouse or son's wife [Section 99(1)(d)]

All income arising directly or indirectly to any person or association of persons, from the assets transferred, directly or indirectly, otherwise than for adequate

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consideration to such person or association of persons by the individual is includible in the total income of the individual to the extent to which the income from such assets is for the immediate or deferred benefit of

- the transferor's spouse or
- the transferor's son's wife



Where any asset is transferred by a person to any other person without consideration or for inadequate consideration, the provisions of 92(2)(m) would get attracted in the hands of transferee, if conditions specified thereunder are satisfied.

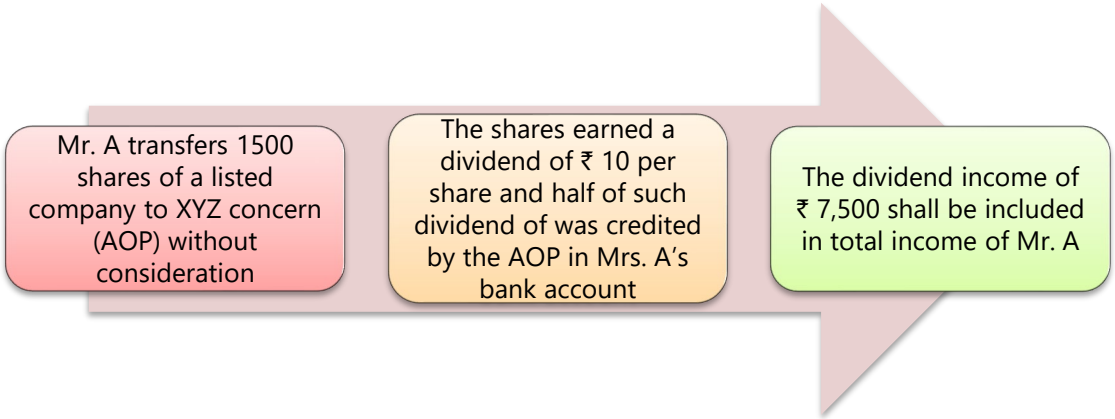


ILLUSTRATION 6

Mrs. Komal transferred her immovable property to TPS Co. Ltd. subject to a condition that out of the rental income, a sum of ₹ 42,000 per annum shall be utilized for the benefit of her son's wife.

Mrs. Komal claims that the amount of ₹ 42,000 (utilized by her son's wife) should not be included in her total income as she no longer owned the property.

Examine with reasons whether the contention of Mrs. Komal is valid in law.

SOLUTION

The clubbing provisions under section 99(1)(d) are attracted in case of transfer of any asset, directly or indirectly, otherwise than for adequate consideration, to any person to the extent to which the income from such asset is for the immediate or deferred benefit of son's wife. Such income shall be included in computing the total income of the transferor individual.

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Therefore, income of ₹ 42,000 meant for the benefit of daughter-in-law is chargeable to tax in the hands of transferor i.e., Mrs. Komal in this case.

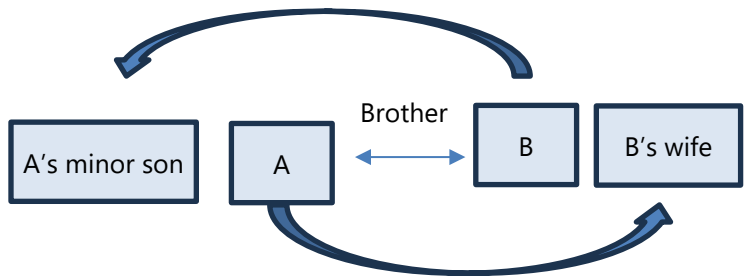
Hence, the contention of Mrs. Komal is not valid in law.

Notes - *In order to attract the clubbing provisions under section 99(1)(d), the transfer should be otherwise than for adequate consideration. In this case, it is presumed that the transfer is otherwise than for adequate consideration and therefore, the clubbing provisions are attracted. Moreover, the provisions of section 92(2)(m) will also get attracted in the hands of TPS Co Ltd., if the conditions specified thereunder are satisfied.*

If it is presumed that the transfer was for adequate consideration, the provisions of section 99(1)(d) and section 92(2)(m) would not be attracted.

6.4 CROSS TRANSFERS

In the case of cross transfers also (e.g., A making gift of ₹ 50,000 to the wife of his brother B for the pur Gift of shares in F Co. worth ₹ 50,000 multaneous gift by B to A's minor son of shares in a foreign company worth ₹ 50,000 owned by him), the income from the assets transferred would be assessed in the hands of the deemed transferor if the transfers are so intimately connected that they form part of a single transaction, and each transfer constitutes consideration for the other by being mutual or otherwise. Thus, in the instant case, the transfers have been made by A and B to persons who are not their spouse or minor child so as to circumvent the provisions of this section, showing that such transfers constituted consideration for each other.



Gift of ₹ 50,000 for purchase of house

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The Supreme Court, in case of *CIT* v. *Keshavji Morarji [1967] 66 ITR 142,* observed that if two transactions are inter-connected and are parts of the same transaction in such a way that it can be said that the circuitous method was adopted as a device to evade tax, the implication of clubbing provisions would be attracted. Accordingly, the income arising to Mrs. B from the house property should be included in the total income of B and the dividend from shares transferred to A's minor son would be taxable in the hands of A, assuming that Mr. A's income is greater than that of Mrs. A income. This is because A and B are the indirect transferors to their minor child and spouse, respectively, of income-yielding assets, so as to reduce their burden of taxation.

ILLUSTRATION 7

Mr. Madan gifted a sum of ₹ 6.5 lakhs to his brother's wife on 14-6-2026. On 12-7-2026, his brother gifted a sum of ₹ 5.2 lakhs to Mr. Madan's wife. The gifted amounts were invested as fixed deposits in banks by Mrs. Madan and wife of Mr. Madan's brother on 01-8-2026 at 9% interest. Examine the consequences of the above under the provisions of the Income-tax Act, 2025 in the hands of Mr. Madan and his brother.

SOLUTION

In the given case, Mr. Madan gifted a sum of ₹ 6.5 lakhs to his brother's wife on 14.06.2026 and simultaneously, his brother gifted a sum of ₹ 5.2 lakhs to Mr. Madan's wife on 12.07.2026. The gifted amounts were invested as fixed deposits in banks by Mrs. Madan and his brother's wife. These transfers are in the nature of cross transfers. Accordingly, the income from the assets transferred would be assessed in the hands of the deemed transferor because the transfers are so intimately connected to form part of a single transaction and each transfer constitutes consideration for the other by being mutual or otherwise.

If two transactions are inter-connected and are part of the same transaction in such a way that it can be said that the circuitous method was adopted as a device to evade tax, the implication of clubbing provisions would be attracted. It was so held by the Apex Court in *CIT vs. Keshavji Morarji (1967) 66 ITR 142.*

Accordingly, the interest income arising to Mrs. Madan in the form of interest on fixed deposits would be included in the total income of Mr. Madan and interest income arising in the hands of his brother's wife would be taxable in the hands of Mr. Madan's brother as per section 99(1), to the extent of amount of cross transfers i.e., ₹ 5.2 lakhs.

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This is because both Mr. Madan and his brother are the indirect transferors of the income to their respective spouses with an intention to reduce their burden of taxation.

However, the interest income earned by his spouse on fixed deposit of ₹ 5.2 lakhs alone would be included in the hands of Mr. Madan's brother and not the interest income on the entire fixed deposit of ₹ 6.5 lakhs, since the cross transfer is only to the extent of ₹ 5.2 lakhs.

6.5 CONVERSION OF SELF-ACQUIRED PROPERTY INTO THE PROPERTY OF A HINDU UNDIVIDED FAMILY [SECTION 99(3)]

Section 99(3) deals with the case of conversion of self-acquired property into property of a Hindu undivided family.

(1) Where a property owned by an individual is converted into property of the HUF of which he is a member, through

- the act of impressing such individual property with the character of property belonging to the family or
- throwing such property into the common stock of the family or
- transfers such individual property, directly or indirectly, to the family

without adequate consideration, then the income from such property shall continue to be included in the total income of the individual.

(2) Where the converted property has been the subject- matter of partition (whether partial or total) amongst the member of the HUF, the income derived from such converted property as is received by the spouse of the individual on partition will be deemed to arise to the spouse from assets transferred indirectly by the individual to the spouse and provisions of section 99(1)(a) shall apply.

(3) Where income from the converted property is included in the total income of an individual under section 99(3), it will be excluded from the total income of the family or the spouse of the individual.

(4) Property includes:

(i) interest in property or

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(ii) movable or immovable property or

(iii) proceeds of sale of such property and any money, property or investment representing such proceeds or

(iv) where property converted into any other property by any method, such other property.

ILLUSTRATION 8

Mr. A transferred his self-acquired property to his HUF consisting of himself, his wife, Mrs. A, minor son X and major son Y. Annual income from the property is ₹ 1,00,000. Discuss the tax implications for the tax year 2026-27 assuming he shifts out of the default regime.

Also examine the tax implication on members of HUF on partition of the transferred property. Assume Mrs. A is a house wife.

SOLUTION

Under section 99(3), the conversion of self-acquired property into HUF property attracts clubbing provisions, hence the annual income of ₹ 1,00,000 from the transferred property shall be assessable in the hands of Mr. A.

If the HUF partitions the said property, the income from the partitioned property shall be taxable as follows:

Particulars	Mr. A (₹)	Mrs. A (₹)	Minor Son X (₹)	Major Son Y (₹)
Share in income of converted property (1/4)	25,000	25,000	25,000	25,000
Share of Mrs. A clubbed with Mr. A	25,000	(25,000)		
Share of minor son [Clubbed in the hands of Mr. A since his income is greater than Mrs. A]	25,000		(25,000)	
Less: Exempt under Schedule III (Table: Sl. No.17)	(1,500)			
Taxable Income	**73,500**	**Nil**	**Nil**	**25,000**

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6.6 INCOME INCLUDES LOSS

It is significant to note that as per section 99(5)(d), 'income' would include 'loss'. Accordingly, where the specified income to be included in the total income of the individual is a loss, such loss will be taken into account while computing the total income of the individual.

6.7 DISTINCTION BETWEEN SECTION 97 AND SECTION 99

It may be noted that the main distinction between the two sections is that section 97 applies only to a revocable transfer made by any person while section 99 applies to revocable as well as irrevocable transfers made only by individuals.



Clubbing provisions are attracted in respect of income arising from the assets transferred, however, income arising on accretion of income arising from transferred asset, would not be clubbed except in case of minor child.

6.8 LIABILITY OF PERSON IN RESPECT OF INCOME INCLUDED IN THE INCOME OF ANOTHER PERSON [SECTION 100]

Sections 96 to 99 provide for clubbing of income of one person in the hands of the other in circumstances specified therein. Section 25(a) specifies the ownership of house property in case of transfer of house property without adequate consideration to spouse (except under an agreement to live apart) or to minor child (other than a minor married daughter).

However, service of notice of demand (in respect of tax on such income) may be made upon the person to whom such asset is transferred (i.e., the transferee) or who is a member of the firm. In such a case, the transferee is liable to pay that portion of tax levied on the transferor which is attributable to the income so clubbed.

Where any such asset is held jointly by more than one person, they shall be jointly and severally liable to pay such tax.

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ILLUSTRATION 9

Mr. Ravi has gifted his only house property to his wife, Mrs. Ravi, and his married daughter, Mrs. Divya. The Assessing Officer has served notice of demand on Mr. Ravi for payment of tax for the income derived from the said house property. Examine the validity of the Assessing Officer's action.

SOLUTION

As per section 25(a), an individual who transfers without adequate consideration any house property to his spouse, except under an agreement to live apart, or to a minor child (other than a minor married daughter) shall be considered to be the owner of the house property so transferred.

Mr. Ravi, in this case, would be considered as the owner only in respect of the share of house property transferred to his wife Mrs. Ravi without consideration and not for the share of the house property transferred to his married daughter Mrs. Divya.

Since Mr. Ravi is the owner of the share of house property transferred to his wife without consideration, the income derived from the house property to the extent attributable to the share of property transferred to his wife without consideration, would be taxable in his hands under the head "Income from house property".

However, as per section 100, the notice of demand can be served on Mrs. Ravi for payment of that portion of tax levied on Mr. Ravi attributable to the income derived, from the share of house property transferred to Mrs. Ravi, and standing in her name.

However, the income derived from house property, attributable to the share of property transferred to his married daughter without consideration, would be taxable in the hands of his daughter. Such income would not be taxable in the hands of Mr. Ravi. Mr. Ravi will not be responsible for the payment of tax attributable to aforesaid share of income of daughter from house property.

Thus, the action of the Assessing Officer in serving notice of demand on Mr. Ravi for payment of tax for the entire income derived from the said house property is not valid.

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TEST YOUR KNOWLEDGE

Questions

1. *Mrs. E, wife of Mr. F, is a partner in a firm. Her capital contribution to the firm as on 01-04-2026 was ₹5 lakhs, out of which ₹3 lakhs was contributed out of her own sources and ₹2 lakhs was contributed out of gift from her husband.*

   As further capital was needed by the firm, she further invested ₹2 lakhs on 01.05.2026 out of the funds gifted by her husband. The firm paid interest on capital of ₹ 80,000 and share of profit of ₹ 60,000 for the financial year 2026-27.

   Advise Mr. F as to the applicability of the provisions of section 99(1)(a) and the manner thereof in respect of the above-mentioned transactions.

2. *Mr. A has gifted a house property valued at ₹50 lakhs to his wife, Mrs. B, who in turn has gifted the same to Mrs. C, their daughter-in-law. The house was let out at ₹25,000 per month throughout the year. Compute the total income of Mr. A and Mrs. C.*

   Will your answer be different if the said property was gifted to his son, husband of Mrs. C?

3. *Mr. Korani transferred 2,000 debentures of ₹100 each of Wild Fox Ltd. to his wife Mrs. Rekha Korani on 01.04.2026 without consideration. The company paid interest of ₹ 30,000 in September, 2026 which was deposited by Mrs. Korani with Kartar Finance Co. in October, 2026. Kartar Finance Co. paid interest of ₹3,000 upto March, 2027. How would both the interest income be charged to tax in tax year 2026-27?*

4. *Mr. Rose, out of his own funds, had taken an FDR for ₹ 10,00,000 bearing interest @10% p.a. payable half-yearly in the name of his wife, Lilly. The interest earned during the tax year 2026-27 of ₹ 1,00,000 was invested by Mrs. Lilly in the business of packed spices which resulted in a net profit of ₹ 55,000 for the year ended 31.03.2027. How shall the interest on FDR and income from business be taxed for the Tax Year 2026-27?*

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5. *Naresh is a fashion designer having lucrative business. His wife is a model. Naresh pays her monthly salary of ₹ 10,000. The Assessing Officer while admitting that the salary is an admissible deduction, in computing the total income of Naresh had applied the provisions of section 99(1)(a) and had clubbed the income (salary) of his wife in Naresh hands.*

Discuss the correctness of the action of the Assessing Officer.

Answers

1. As per section 99(1)(a)(ii), the total income of any individual, for a tax year, shall include the income arises, directly or indirectly to the spouse of such individual from assets transferred directly or indirectly to the spouse by such individual otherwise than for adequate consideration or in connection with an agreement to live apart, subject to the provisions of section 25(a).

Section 99(2) provides the manner of computation of income to be included in the hands of transferor spouse if the asset transferred by the individual is invested by the spouse in the nature of capital contributed as a partner in a firm.

In this instant case, Mr. F has gifted money to his wife, Mrs. E. Mrs. E, in turn, invested such gifted money in the capital of a partnership firm, of which she is a partner. Mrs. E has also contributed a sum of ₹ 3 lakhs out of her own resources to the capital of the firm.

The income to be included in the hands of Mr. F for the tax year shall be as follows:

$A = B \times \frac{C}{D}$

A = Income to be included in the hands of Mr. F for the tax year 2026-27

B = Interest on capital contribution by partner arising to Mrs. E from the firm for tax year 2026-27 i.e., ₹ 80,000

C = Value of capital contributed by Mrs. E (i.e. transferred assets which were invested in firm) as on 1.4.2026 i.e., ₹ 2 lakhs

D = Total capital contribution by Mrs. E as on 1.4.2026 i.e., ₹ 5 lakhs.

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In view of the above provision, interest received by Mrs. E from the firm shall be included in total income of Mr. F to the extent of ₹ 32,000 i.e., ₹ 80,000 x ₹ 2,00,000/ ₹ 5,00,000.

Share of profit amounting to ₹ 60,000 is exempt from income tax under Schedule III (Table: Sl. No. 2) subject to the condition that the share of profit is as per the profit sharing ratio as provided in the partnership deed. The provisions of section 99 will not apply if the income from the transferred asset itself is exempt from tax.

Note - *It is assumed that rate of interest on capital contributed by Mrs. E does not exceed 12% p.a.*

2. As per section 25(a), an individual who transfers without adequate consideration any house property to his spouse (except under an agreement to live apart), shall be considered to be the owner of the house property so transferred.

Therefore, in this case, Mr. A would be the owner of the house property transferred to his wife Mrs. B without consideration.

As per section 99(1)(b), income arising to the son's wife from assets transferred, directly or indirectly, to her by an individual otherwise than for adequate consideration would be included in the total income of such individual.

Income from let-out property is ₹ 2,10,000 [i.e., ₹ 3,00,000, being the actual rent calculated at ₹ 25,000 per month *less* ₹ 90,000, being deduction under section 22(1)(a) @30% of ₹ 3,00,000]

In this case, income of ₹ 2,10,000 from let-out property arising to Mrs. C, being Mr. A's son's wife, would be included in the income of Mr. A, applying the provisions of section 25(a) and section 99(1)(b). Such income would, therefore, not be taxable in the hands of Mrs. C.

In case the property was gifted to Mr. A's son, the clubbing provisions under section 99 would not apply, since the son is not a minor child. Therefore, the income of ₹ 2,10,000 from letting out of property gifted to the son would be taxable in the hands of the son.

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It may be noted that the provisions of section 92(2)(m) would not be attracted in the hands of the recipient of house property, since the receipt of property in each case was from a "relative" of such individual. Therefore, the stamp duty value of house property would not be chargeable to tax in the hands of the recipient of immovable property, even though the house property was received by her or him without consideration.

Note - *The first part of the question can also be answered by applying the provisions of section 99(1)(b) directly to include the income of ₹ 2,10,000 arising to Mrs. C in the hands of Mr. A. [without first applying the provisions of section 25(a) to consider Mr. A as the owner of the house property transferred to his wife Mrs. B without consideration], since section 99(1)(b) speaks of clubbing of income arising to son's wife from indirect transfer of assets to her by her husband's parent, without consideration. Gift of house property by Mr. A to Mrs. C, via Mrs. B, can be viewed as an indirect transfer by Mr. A to Mrs. C.*

3. As per section 99(1)(a)(ii), income arising from assets transferred without adequate consideration by an individual to his spouse is liable to be clubbed in the hands of the individual. It may be noted that income on the asset transferred has to be clubbed but if there is accretion to the asset, any further income derived on such accretion should not be clubbed.

Therefore, applying the provisions of section 99(1)(a)(ii), ₹ 30,000, being the interest on debentures received by Mrs. Rekha Korani in September, 2026 will be clubbed with the income of Mr. Korani, since he had transferred the debentures of the company without consideration to her in April, 2026.

However, the interest of ₹ 3,000 upto March, 2027 earned by Mrs. Rekha Korani on the interest on the debentures deposited by her with Kartar Finance Company shall be taxable in her individual capacity and will not be clubbed with the income of Mr. Korani.

Note - *The provisions of section 92(2)(m) would not be attracted in the hands of Mrs. Rekha Korani, since she has received the debentures exceeding ₹ 50,000 without consideration from a relative i.e., her husband.*

4. Section 99(1)(a)(ii) specifies that the income derived by the spouse of an assessee from the assets transferred directly or indirectly without adequate

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consideration (except under an agreement to live apart) shall be clubbed with the income of the transferor. Therefore, the interest income of ₹ 1 lakh on the FDR of ₹ 10 lakhs for the F.Y.2026-27 shall be clubbed with the income of Mr. Rose.

When Mrs. Lilly invested the interest income in a business and earned profits therefrom, such profits shall not be clubbed with the income of her husband but shall be taxable in her individual capacity. This is so because the income from the accretion of the transferred assets is not to be clubbed with the income of the transferor *[CIT v. M. S. S. Rajan (2001) 252 ITR 126 (Mad)]*.

5. This question is based on the principles laid down by Madras High Court in the case of *CIT v. Smt. R. Bharati (1999) 240 ITR 697* where the interpretation of the terms "professional qualifications" and "knowledge" came up for consideration as per the provisions of section 99(1)(a).

These words do not necessarily connote a qualification conferred by a recognized university after examining the candidate who has undergone a course of study in a technical subject or course of study preparing him for a profession of law, accountancy etc. Accordingly, the term "qualification" must be given a wide meaning as referring to the qualities which are required to be possessed by a person performing the work that he does, so long as that work is capable of being regarded as technical or professional.

The word "professional" is a term capable of very broad meaning and would encompass a variety of occupations. A large number of occupations are being practiced which form a source of livelihood and are capable of being regarded, as professions as long as they require certain degree of skill. A person having skill, experience and competence in a line of work can be regarded as professionally qualified for the purpose of section 99(1)(a).

Applying the rationale of the Madras High Court ruling, a model, having skill, competence and experience in her line can be considered as a professional. Hence, the action of the Assessing Officer is not correct.

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