

10. CLUBBING PROVISIONS**ASSIGNMENT SOLUTIONS****PROBLEM NO. 1**

Computation of Income earned by minor children to be clubbed with the Income of Mr. Mittal

	Particulars	Amount (Rs.)
(i)	Income of first daughter [See Notes 1 & 2]	5,000
	Less: Income exempt under section 10(32) [See Note 4]	1,500
	Income to be clubbed	3,500
(ii)	Income of second daughter [See Note 1]	8,500
	Less: Income exempt under section 10(32) [See Note 4]	1,500
	Income to be clubbed	7,000
(iii)	Income of son [See Note 5]	40,000
	Less: Income exempt under section 10(32) [See Note 4]	1,500
	Income to be clubbed	38,500
	Total Income to be clubbed as per section 64(1A) [(i)+(ii)+(iii)]	49,000

Notes:

- As per section 64(1A), in computing the total income of an individual, all such income accruing or arising to his minor child shall be included.
- The income accruing or arising to a minor child on account of activity involving application of their skill, talent or specialized knowledge and experience is not includible in the total income of the parent. Therefore scholarship received by the first daughter is not includible in the hands of Mr. Mittal, assuming that the same is received on account of skill, talent or specialized knowledge of the minor daughter. The balance income of Rs. 5,000 (Rs. 10,000 - Rs. 5,000) is includible in the hands of Mr. Mittal after providing deduction of Rs. 1,500 under section 10(32).
- Further, as per the provisions of section 64(1A), income of a minor child suffering from any disability of the nature specified in section 80U would not be included in the total income of the parent. Therefore, in this case, the income of third daughter suffering from disability specified under section 80U is not includible in the total income of Mr. Mittal.
- Under section 10(32), income of each minor child includible in the hands of the parent under section 64(1A) would be exempt to the extent of the actual income or Rs.1,500, whichever is lower.
- The specific provision under Explanation 3 to section 64 for inclusion of income from business where the assets transferred directly or indirectly by an individual are invested by the transferee in business are applicable in cases of transfer to spouse or son's wife only. In case of minor, all income accruing or arising to him or her is, in any case, includible in the hands of the parent.

PROBLEM NO. 2

Computation of Total Income of Mr. Sangram, Mrs. Sangeeta and their Minor son for the A.Y. 2019-20

Particulars	Mr. Sangram (Rs.)	Mrs. Sangeeta (Rs.)	Master Avi (Rs.)
Salary income (of Mrs. Sangeeta)	-	1,44,000	-
Pension income (of Mr. Sangram) (Rs. 50,000×12)	6,00,000		
Income from House Property [See Note(3) below]	5,12,000	-	-
Income from other sources			
Interest on Mr. Sangram's fixed deposit with Canara Bank (Rs. 2,00,000×9%) [See Note (1) below]	18,000	-	-

Remuneration received by Mrs. Sangeeta from a partnership firm, in which Mr. Sangram has substantial interest [See Note (2) below]	<u>32,500</u>	50,500	-	-
Income before including income of minor son under section 64(1A)		11,62,500	1,44,000	-
Income of the Master Aayu from the investment made in the business out of the amount gifted by Mr. Sangram [See Note (4) below]		49,500	-	-
Income of the Master Avi through an activity involving application of his skill and talent [See Note (5) below]		-	-	35,000
Total Income		12,12,000	1,44,000	35,000

Notes:

- As per section 60, in case there is a transfer of income without transfer of asset from which such income is derived, such income shall be treated as income of the transferor. Therefore, the fixed deposit interest of Rs. 18,000 transferred by Mr. Sangram to Mr. Babloo shall be included in the total income of Mr. Sangram.
- As per section 64(1)(ii), in case the spouse of the individual receives any amount by way of income from any concern in which the individual has substantial interest (i.e. holding shares carrying at least 20% voting power or entitled to at least 20% of the profits of the concern), then, such income shall be included in the total income of the individual. The only exception is in a case where the spouse possesses any technical or professional qualifications and the income earned is solely attributable to the application of her technical or professional knowledge and experience, in which case, the clubbing provisions would not apply.

In this case, the remuneration of Rs. 32,500 received by Mrs. Sangeeta from the partnership firm has to be included in the total income of Mr. Sangram, as his wife does not possess any technical or professional qualification for earning such remuneration and Mr. Sangram has substantial interest in the partnership firm as he holds 75% share in the firm.

- According to section 27(i), an individual who transfers any house property to his or her spouse otherwise than for adequate consideration or in connection with an agreement to live apart, shall be deemed to be the owner of the house property so transferred. Hence, Mr. Sangram shall be deemed to be the owner of the flat gifted to Mrs. Sangeeta and hence, the income arising from the same shall be computed in the hands of Mr. Sangram.

Note: The provisions of section 56(2)(x) would not be attracted in the hands of Mrs. Sangeeta, since she has received immovable property without consideration from a relative i.e., her husband.

- As per section 64(1A), the income of the minor child is to be included in the total income of the parent whose total income (excluding the income of minor child to be so clubbed) is greater. Further, as per section 10(32), income of a minor child which is includible in the income of the parent shall be exempt to the extent of Rs. 1,500 per child.

Therefore, the income of Rs. 51,000 received by Master Aayu from the investment made out of the sum gifted by Mr. Sangram shall, after providing for exemption of Rs. 1,500 under section 10(32), be included in the income of Mr. Sangram, since Mr. Sangram's income of Rs.11,62,500 (before including the income of the minor child) is greater than Mrs. Sangeeta's income of Rs. 1,44,000. Therefore, Rs.49,500 (i.e., Rs. 51,000 - Rs.1,500) shall be included in Mr. Sangram's income. It is assumed that this is the first year in which clubbing provisions are attracted.

Note: The provisions of section 56(2)(x) would not be attracted in the hands of the Master Aayu, since he has received a sum of money exceeding Rs. 50,000 without consideration from a relative i.e., his father.

- In case the income earned by the minor child is on account of any activity involving application of any skill or talent, then, such income of the minor child shall not be included in the income of the parent, but shall be taxable in the hands of the minor child.

Therefore, the income of Rs. 35,000 derived by Master Avi through an activity involving application of his skill and talent shall not be clubbed in the hands of the parent. Such income shall be taxable in the hands of the minor son.

PROBLEM NO. 3**Computation of Total income of Mr. Shashank and Mrs. Kajal for the A.Y. 2019-20**

Particulars	Mr. Shashank (Rs.)	Mrs. Kajal (Rs.)
Salary income (Rs. 30,000 x 12)	3,60,000	
Income from house property [Rs. 2,40,000 (Rs. 20,000 x 12) less standard deduction of 30%] (Note 1)	1,68,000	
Income from other sources		
Interest on fixed deposit with State bank of India (Rs. 4,00,000 x 10%) (Note 2)	40,000	
Profits and gains from business or profession		
Profits earned by Mrs. Kajal from her business (Note 3)	3,00,000	6,00,000
Income before including income of minor child under sec. 64(1A)	8,68,000	6,00,000
Income from other sources		
Minor son Sandeep - Income from company deposit (Note 4)	1,48,500	
Total income	10,16,500	6,00,000

Notes:

- According to section 27(i), an individual who transfers any house property to his or her spouse otherwise than for adequate consideration or in connection with an agreement to live apart, shall be deemed to be the owner of the house property so transferred. Hence, Mr. Shashank shall be deemed to be the owner of the flat gifted to Mrs. Kajal and hence, the income arising from the same shall be computed in the hands of Mr. Shashank.

Note: The provisions of section 56(2)(x) would not be attracted in the hands of Mrs. Kajal, since she has received immovable property without consideration from a relative i.e., her husband.

- As per section 60, in case there is a transfer of income without transfer of asset from which such income is derived, such income shall be treated as income of the transferor. Therefore, the fixed deposit interest of Rs. 40,000 transferred by Mr. Shashank to Mr. Ram shall be included in the total income of Mr. Shashank.
- Section 64(1)(iv) 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 or in connection with an agreement to live apart. In this case Mrs. Kajal received a gift of Rs. 10,00,000 on 01.04.2017 from her husband which she invested in her business on the same day. The income to be clubbed in the hands of Mr. Shashank for the A.Y. 2019-20 is computed as under:

Particulars	Mrs. Kajal's capital contribution (Rs.)	Capital contribution out of gift from Mr. Shashank (Rs.)	Total (Rs.)
Capital as on 01.04.2018	20,00,000	10,00,000	30,00,000
Profit for P.Y. 2018-19 to be apportioned on the basis of capital employed on the first day of the previous year i.e. as on 01.04.2018 (2:1)	6,00,000 (9,00,000 x 2/3)	3,00,000 (9,00,000 x 1/3)	9,00,000

Therefore, the income to be clubbed in the hands of Mr. Shashank for the A.Y.2019-20 is Rs. 3,00,000.

Note: The provisions of section 56(2)(x) would not be attracted in the hands of Mrs. Kajal, since she has received a sum of money exceeding Rs. 50,000 without consideration from a relative i.e., her husband.

- As per section 64(1A), the income of the minor child is to be included in the total income of the parent whose total income (excluding the income of minor child to be so clubbed) is greater. Further, as per section 10(32), income of a minor child which is includible in the income of the parent shall be exempt to the extent of Rs. 1,500 per child.

Therefore, the income of Rs. 1,50,000 received by minor son Sandeep from company deposit shall, after providing for exemption of Rs. 1,500 under section 10(32), be included in the income of Mr. Shashank, since Mr. Shashank's income of Rs. 8,68,000 (before including the income of the minor child) is greater than Mrs. Kajal's income of Rs. 6,00,000. Therefore, Rs. 1,48,500 (i.e., Rs. 1,50,000 - Rs. 1,500) shall be included in Mr. Shashank's income. It is assumed that this is the first year in which clubbing provisions are attracted.

PROBLEM NO. 4

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 Gross 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 gross total income of Mr. A for the A.Y. 2019-20

Particulars	Amount (Rs.)	Amount (Rs.)
Income from profession		3,90,000
Income of minor son B from company deposit	15,000	
Less: Exemption under section 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 under section 56(2)(x) being less than the aggregate limit of Rs. 50,000	Nil	
	3,000	
Less: Exemption under section 10(32)	1,500	1,500
Gross Total Income		4,05,000

PROBLEM NO. 5

Computation of Gross Total Income of Mr. Dhaval

Particulars	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 below)		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 from sale of own painting, shall not be clubbed in the hands of Mr. Dhaval.

PROBLEM NO. 6

Clubbing of income and other tax implications: As per the provisions of section 64(1A), in case the marriage of the parents subsist, the income of a minor child shall be clubbed in the hands of the parent whose total income, excluding the income of the minor child to be clubbed, is greater. In this problem, it has been assumed that the marriage of Mr. B and Mrs. B subsists.

Further, in case the income arises to the minor child on account of any manual work done by the child or as a result of any activity involving application of skill, talent, specialized knowledge or experience of the child, then, the same shall not be clubbed in the hands of the parent.

Tax implications:

- i) Income of Rs.45,000 from Mr. B's profession shall be taxable in the hands of Mr. B under the head "Profits and gains of business or profession".
- ii) Salary of Rs. 36,000 (Rs. 76,000 less standard deduction under section 16(ia) of 40,000) shall be taxable as "Salaries" in the hands of Mrs. B. (**Note:** Rectified as per Finance Act, 2018).
- iii) Income from fixed deposit of Rs.10,000 arising to the minor son D, shall be clubbed in the hands of the mother, Mrs. B as "Income from other sources", since her income is greater than income of Mr. B before including the income of the minor child.

As per section 10(32), income of a minor child which is includible in the income of the parent shall be exempt to the extent of Rs.1,500 per child. The balance income would be clubbed in the hands of the parent as "Income from other sources".

- iv) Income of Rs.95,000 arising to the minor daughter P from sports shall not be included in the hands of the parent, since such income has arisen to the minor daughter on account of an activity involving application of her skill.
- v) Income of Rs.1,95,000 arising to minor son D from lottery shall be included in the hands of Mrs. B as "Income from other sources", since her income is greater than the income of Mr. B before including the income of minor child.

Note: Mrs. B can reduce the tax deducted at source from such lottery income while computing her net tax liability.

PROBLEM NO. 7

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

Particulars	Amount (Rs.)	Amount (Rs.)
Twin minor daughters [Rs. 2,000 × 2]	4,000	
Less: Exempt under section 10(32) [Rs. 1,500 × 2]	3,000	1,000
Minor son	1,200	
Less: Exempt under section 10(32)	1,200	Nil
Income to be clubbed in the hands of Mr. A		1,000

PROBLEM NO. 8

As per section 64(1A), in computing the total income of an individual, all such income accruing or arising to a minor child shall be included. However, income of a minor child suffering from disability specified under section 80U would not be included in the income of the parent but would be taxable in the hands of the minor child. Therefore, in this case, the income of daughter suffering from disability specified under section 80U should not be clubbed with the income of Mr. Sharma.

Under section 10(32), income of each minor child will be includible in the hands of the parent under section 64(1A), would be exempt to the extent of the actual income or Rs. 1,500, whichever is lower. The remaining income would be included in the hands of the parent.

Computation of income earned by minor children to be clubbed with the income of Mr. Sharma

	Particulars	Amount (Rs.)
(i)	Income of one daughter	9,000
	Less: Income exempt under section 10(32)	1,500
	Total (A)	7,500

(ii)	Income of two sons (Rs. 6,200 + Rs. 4,300)	10,500
	Less: Income exempt under section 10(32) (Rs. 1,500 + Rs. 1,500)	3,000
	Total (B)	7,500
	Total Income to be clubbed as per section 64(1A) (A+B)	15,000

Note: It has been assumed that:

- All the four children are minor children;
- The income does not accrue or arise to the minor children on account of any manual work done by them or activity involving application of their skill, talent or specialized knowledge and experience;
- The income of Mr. Sharma, before including the minor children's income, is greater than the income of Mrs. Sharma, due to which the income of the minor children would be included in his hands; and
- This is the first year in which clubbing provisions are attracted.

PROBLEM NO. 9

Section 64(1)(iv) 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 (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.

In this case, Mr. Vaibhav received a gift of Rs. 5,00,000 on 01.04.2018 from his wife Mrs. Vaishali, which he invested in his business immediately. The income to be clubbed in the hands of Mrs. Vaishali for the A.Y. 2019-20 is computed as under:

Particulars	Mr. Vaibhav's capital contribution (Rs.)	Capital contribution out of gift from Mrs. Vaishali (Rs.)	Total (Rs.)
Capital as on 01.04.2018	3,00,000 (5,00,000 - 2,00,000)	5,00,000	8,00,000
Profit for P.Y. 2018-19 to be apportioned on the basis of capital employed on the first day of the previous year i.e. as on 01.04.2018 (3:5)	1,50,000 (4,00,000 × $\frac{3}{8}$)	2,50,000 (4,00,000 × $\frac{5}{8}$)	4,00,000

Therefore, the income to be clubbed in the hands of Mrs. Vaishali for the A.Y.2019-20 is Rs. 2,50,000.

In case Mrs. Vaishali gave the said amount of Rs. 5,00,000 as a bona fide loan, then, clubbing provisions would not be attracted.

Note: The provisions of section 56(2)(x) would not be attracted in the hands of Mr. Vaibhav, since he has received a sum of money exceeding Rs. 50,000 without consideration from a relative i.e., his wife.

PROBLEM NO. 10

The clubbing provisions under section 64(1)(viii) 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. Therefore, income of Rs. 36,000 meant for the benefit of daughter-in-law is chargeable to tax in the hands of transferor i.e., Mrs. Kasturi in this case. The contention of Mrs. Kasturi is, hence, not valid in law.

Note: In order to attract the clubbing provisions under section 64(1)(viii), 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. If it is presumed that the transfer was for adequate consideration, the provisions of section 64(1)(viii) would not be attracted.

PROBLEM NO. 11

Computation of Gross Total Income of Mr. Sameer

Particulars	Rs.	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 below)		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 from sale of own painting, shall not be clubbed in the hands of Mr. Sameer.

PROBLEM NO. 12

In computing the total income of any individual, there shall be included all such income as 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.

Interest on loan: Accordingly, Rs.50,000, being the amount of interest on loan received by Mrs. Suman, wife of Mr. Akash, would be includible in the total income of Mr. Akash, since such loan was given by her out of the sum of money received by her as gift from her husband.

Short-term capital gain: The short-term capital gain of Rs.20,000 (Rs.70,000, being the sale consideration less Rs.50,000, being the cost of acquisition) arising in the hands of Ms. Suman from sale of shares acquired by investing the interest income of Rs.50,000 earned by her (from the loan given out of the sum gifted to her by her husband), would not be included in the hands of Mr. Akash. Since securities transaction tax has been paid, such short-term capital gain on sale of listed shares is taxable @15%

Income from the accretion of the transferred asset is not liable to be included in the hands of the transferor and, therefore, such income is taxable in the hands of Ms. Suman

ADDITIONAL PROBLEMS FOR STUDENTS SELF PRACTICE SOLUTIONS

PROBLEM NO. 1

There is only one exception to the aforesaid rule. Income arising by virtue of transfer of an asset to any person is not taxable in the hands of the transferor if the following conditions are satisfied:

- If the transfer is by way of trust which is not revocable during the lifetime of the beneficiary or, in the case of any other transfer, is not revocable during the lifetime of the transferee or, if transfer is made prior to April 1, 1961, is not revocable for a period exceeding 6 years [sec. 62(1)].
- It should not contain any provision for the retransfer (directly or indirectly) of the whole or any part of the income or the asset to the transferor [sec. 63(a)(i)].
- It should not in any way give the transferor a right to reassume power, directly or indirectly, over the whole or any part of the asset/income [sec. 63(a)(ii)].
- The transferor should not derive any direct or indirect benefit from the income.

If all the above-mentioned conditions are satisfied, then section 61 is not applicable or income is not taxable in the hands of transferor. When, however, the power to revoke arises to the transferor (though it may not be actually exercised) the application of section 61 would be attracted.

PROBLEM NO. 2

- i) Rs.12,000 shall be taxable in the hands of M
 ii) Income from house property shall be taxable in the hands of R
 iii) Amount to be taxed in the hands of R

Particulars	Amount (Rs.)	Amount (Rs.)
R's own share 1/5th		8,400
Mrs. R's Share 1/5th		8,400
R's Minor son share 1/5th	8,400	
Less: Exempt u/s 10(32)	(1,500)	6,900
Total income		23,700

- iv) Interest on debentures amounting to Rs.60,000 to be taxable in the hands of R and interest on FDR amounting to Rs.5,000 shall be taxable in the hands of Mrs. R.

PROBLEM NO. 3

This problem is based on section 2(22)(e) and section 64(1)(iv).

According to section 2(22)(e), any payment by a company, (other than a company in which the public are substantially interested), of any sum by way of advance or loan,-

- i) to a equity shareholder, holding not less than ten per cent of the voting power; or
 ii) to any concern in which such shareholder (holding not less than 10% voting power) is a member or a partner and in which he has a substantial interest; or
 iii) any payment by any such company on behalf, or for the individual benefit, of any such shareholder.

is deemed as dividend to the extent of accumulated profits (excluding capitalised profits):

This provision is applicable only with effect from 1st June, 1987 and is applicable only to companies in which the public is not substantially interested i.e. closely held companies.

Accordingly, Rs.60,000 shall be treated as dividend in the hands of G on which the company shall have to pay tax @ 30%.

Further section 64(1)(iv) provides that in computing the total income of an individual, all such income as arises directly or indirectly to the spouse of such individual from assets (other than house property) transferred directly or indirectly to the spouse of such individual otherwise than for adequate consideration or in connection with an agreement to live apart shall be included.

As Rs.60,000 is deemed dividend in the hand of G due to these shares it shall not part of total income of her husband R as it is exempt but as the company shall pay tax on such dividend.

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