

## Income of individual to include income of spouse, minor child, etc.

**64.** (1) In computing the total income of any individual, there shall be included all such income as arises directly or indirectly—

(i) *Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.*

(ii) 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 :

**Provided** that nothing in this clause shall apply in relation to any income arising to the spouse where the spouse possesses technical or professional qualifications and the income is solely attributable to the application of his or her technical or professional knowledge and experience ;

(iii) *Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.*

(iv) subject to the provisions of clause (i) of section 27, [\* \* \*] 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 ;

(v) *Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.*

(vi) to the son's wife, [\* \* \*] of such individual, from assets transferred directly or indirectly on or after the 1st day of June, 1973, to the son's wife [\* \* \*] by such individual otherwise than for adequate consideration; [\* \* \*]

(vii) to any person or association of persons from assets transferred directly or indirectly otherwise than for adequate consideration to the person or association of persons by such individual, to the extent to which the income from such assets is for the immediate or deferred benefit of his or her spouse [\* \* \*]; and

(viii) to any person or association of persons from assets transferred directly or indirectly on or after the 1st day of June, 1973, otherwise than for adequate consideration, to the person or association of persons by such individual, to the extent to which the income from such assets is for the immediate or deferred benefit of his son's wife [\* \* \*].

*Explanation 1.*—For the purposes of clause (ii), the individual in computing whose total income the income referred to in that clause is to be included, shall be the husband or wife whose total income (excluding the income referred to in that clause) is greater ; and where any such income is once included in the total income of either spouse, any such income arising in any succeeding year shall not be included in the total income of the other spouse unless the Assessing Officer is satisfied, after giving that spouse an opportunity of being heard, that it is necessary so to do.

*Explanation 2.*—For the purposes of clause (ii), an individual shall be deemed to have a substantial interest in a concern—

(i) in a case where the concern is a company, if its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than twenty per cent of the voting power are, at any time during the previous year, owned beneficially by such person or partly by such person and partly by one or more of his relatives ;

- (ii) in any other case, if such person is entitled, or such person and one or more of his relatives are entitled in the aggregate, at any time during the previous year, to not less than twenty per cent of the profits of such concern.

*Explanation 2A.*—Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.

*Explanation 3.*—For the purposes of clauses (iv) and (vi), where the assets transferred directly or indirectly by an individual to his spouse or son's wife (hereafter in this *Explanation* referred to as "the transferee") are invested by the transferee,—

- (i) in any business, such investment being not in the nature of contribution of capital as a partner in a firm or, as the case may be, for being admitted to the benefits of partnership in a firm, that part of the income arising out of the business to the transferee in any previous year, which bears the same proportion to the income of the transferee from the business as the value of the assets aforesaid as on the first day of the previous year bears to the total investment in the business by the transferee as on the said day ;
- (ii) in the nature of contribution of capital as a partner in a firm, that part of the interest receivable by the transferee from the firm in any previous year, which bears the same proportion to the interest receivable by the transferee from the firm as the value of investment aforesaid as on the first day of the previous year bears to the total investment by way of capital contribution as a partner in the firm as on the said day,

shall be included in the total income of the individual in that previous year.

(1A) In computing the total income of any individual, there shall be included all such income as arises or accrues to his minor child, not being a minor child suffering from any disability of the nature specified in section 80U:

**Provided** that nothing contained in this sub-section shall apply in respect of such income as arises or accrues to the minor child on account of any—

- (a) manual work done by him ; or
- (b) activity involving application of his skill, talent or specialised knowledge and experience.

*Explanation.*—For the purposes of this sub-section, the income of the minor child shall be included,—

- (a) where the marriage of his parents subsists, in the income of that parent whose total income (excluding the income includible under this sub-section) is greater ; or
- (b) where the marriage of his parents does not subsist, in the income of that parent who maintains the minor child in the previous year,

and where any such income is once included in the total income of either parent, any such income arising in any succeeding year shall not be included in the total income of the other parent, unless the Assessing Officer is satisfied, after giving that parent an opportunity of being heard, that it is necessary so to do.

(2) Where, in the case of an individual being a member of a Hindu undivided family, any property having been the separate property of the individual has, at any time after the 31st day of December, 1969, been converted by the individual into property belonging to the family through the act of impressing such separate property with the character of property belonging to the

family or throwing it into the common stock of the family or been transferred by the individual, directly or indirectly, to the family otherwise than for adequate consideration (the property so converted or transferred being hereinafter referred to as the converted property), then, notwithstanding anything contained in any other provision of this Act or in any other law for the time being in force, for the purpose of computation of the total income of the individual under this Act for any assessment year commencing on or after the 1st day of April, 1971,—

- (a) the individual shall be deemed to have transferred the converted property, through the family, to the members of the family for being held by them jointly ;
- (b) the income derived from the converted property or any part thereof [\* \* \*] shall be deemed to arise to the individual and not to the family ;
- (c) where the converted property has been the subject-matter of a partition (whether partial or total) amongst the members of the family, the income derived from such converted property as is received by the spouse [\* \* \*] on partition shall be deemed to arise to the spouse [\* \* \*] from assets transferred indirectly by the individual to the spouse [\* \* \*] and the provisions of sub-section (1) shall, so far as may be, apply accordingly:

**Provided** that the income referred to in clause (b) or clause (c) shall, on being included in the total income of the individual, be excluded from the total income of the family or, as the case may be, the spouse [\* \* \*] of the individual.

*Explanation 1.*—For the purposes of sub-section (2),—

[\* \* \*] “property” includes any interest in property, movable or immovable, the proceeds of sale thereof and any money or investment for the time being representing the proceeds of sale thereof and where the property is converted into any other property by any method, such other property.

[\* \* \*]

*Explanation 2.*—For the purposes of this section, “income” includes loss.