



# RAMA UNIVERSITY

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**FACULTY OF COMMERCE AND MANAGEMENT**

**COURSE: B.COM III SEM.**

**SUBJECT: Direct Tax Laws and Practice**

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**LECTURE: 28**

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## LECTURE-28



# CLUBBING OF INCOMES

## CLUBBING OF INCOME UNDER SECTION 64

There are many occasions when you might have to club income of someone else with your income. If you are planning to transfer any of your assets/income to another person as a means of tax planning to avoid the income getting taxed in your hands, hold on. Such transfers could result in attraction of clubbing provisions. under the Indian income tax laws.

Even genuine gifts extended to your kith and kin could have these income tax implications. It would help you immensely if you get some insights on the clubbing provisions under the Indian Income Tax Law. Hence, let us understand these provisions a little more in detail.

1. Clubbing of income?
2. Specified persons to club income?
3. Specified scenarios when you can club income?

### 1. Clubbing of income?

As the term suggests, clubbing of income means adding or including the income of another person (mostly family members) to one's own income. This is allowed under Section 64 of the IT Act. However, certain restrictions pertaining to specified person(s) and specified scenarios are mandated to discourage this practice.

### 2. Specified persons to club income?

Income of any and every person cannot be clubbed on a random basis while computing total income of an individual and also not all income of specified person can be clubbed. As per Section 64, there are only certain specified income of specified persons which can be clubbed while computing total income of an individual.

### 3. Specified scenarios when you can club income?

Specified person	Specified scenario	Income to be clubbed
Any person	Transferring income without transferring asset either by way of an agreement or any other way,	Such income would be clubbed in the hands of the taxpayer.

	Transferring asset on the condition that it can be revoked	Any income from such asset will be clubbed in the hands of the taxpayer
Spouse**	If your spouse receives any remuneration irrespective of its nomenclature such as Salary, commission, fees or any other form and by any mode i.e., cash or in kind from any concern in which you have substantial interest*	<p>Income shall be clubbed in the hands of the taxpayer or spouse, whose income is greater (before clubbing).</p> <p><b><i>Exception to clubbing:</i></b></p> <p>Clubbing is not attracted if spouse possesses technical or professional qualifications in relation to any income arising to the spouse and such income is solely attributable to the application of his/her technical or professional knowledge and experience</p>
Spouse**	Direct or indirect transfer of assets to your spouse by you for inadequate consideration	<p>Income from out of such asset is clubbed in the hands of the taxpayer.</p> <p><b><i>Exceptions to clubbing</i></b></p> <p>No clubbing of income in following cases:</p> <ul style="list-style-type: none"> <li>• Where asset is received as part of divorce settlement</li> <li>• If assets are transferred before marriage</li> <li>• No husband and wife relationship subsists on the date of accrual of income</li> <li>• Asset is acquired by the spouse out of pin money (i.e. an allowance given to the wife by her husband for her</li> </ul>

		personal and usual household expenses)
Daughter-in-law	Transfer of assets transferred directly or indirectly to your daughter in-law by you for inadequate consideration	Any income from such assets transferred is clubbed in the hands of the transferor
Any person or association of person	Transferring any assets directly or directly for an inadequate consideration to any person or association of persons to benefit your spouse either immediately or on deferred basis	Income from such assets will be considered as your income and clubbed in your hands
Any person or association of person	Transferring any assets directly or directly for an inadequate consideration to any person or association of persons to benefit your daughter in-law either immediately or on deferred basis	Income from such assets will be considered as your income and clubbed in your hands
Minor child	Any income arising or accruing to your minor child where <i>child includes both step child and adopted child</i>	<p>Income will be clubbed in the hands of higher earning parent.  However, if marriage of child's parents does not subsist, income shall be clubbed in the income of that parent who maintains the minor child in the previous year</p> <p><b>Exceptions to clubbing</b></p> <ul style="list-style-type: none"> <li>Income of a disabled child (disability of the nature specified in section 80U)</li> </ul>

		<ul style="list-style-type: none"> <li>• Income earned by manual work done by the child or by activity involving application of his skill, talent specialised knowledge and experience</li> <li>• Income earned by a major child. This would also include income earned from investments made out of money gifted to the adult child. Also, money gifted to an adult child is exempt from gift tax under gifts to 'relative'.</li> </ul>
Trust for the minor child	Income of a trust created for the benefit of minor child will also be clubbed in the hands of parent as above.	Clubbing provision is attracted only when the income from the trust is received by the minor during the tenure of his minority
Hindu Undivided Family	In case, a member of HUF transfers his individual property to HUF for inadequate consideration or converts such property into HUF property	Income from such converted property shall be clubbed in the hands of individual

*\*An individual is said to have **the substantial interest** in the concern if*

- *in a case of a company, individual either by himself or along with his relative/s beneficially owns shares having 20% or more voting power (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits)*
- *in any other case, such individual either alone or along with his relative/s is entitled to 20% or more of profits in the aggregate of such concern at any time during the previous year*

*\*\*Income from reinvestment of clubbed income by a spouse is not clubbed in the hands of individual*

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