

## ***IT and a minor's income***

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Upto the Asst. Yr. 1992-93 minors were assessed to tax directly with either of the parents acting as his guardian. With the Introduction of Section 64(1A) from the assessment year 1993-94 there is a great departure in the taxation of minor's income whereby. income of a minor will have to be classified into two categories:

### **(1) Incomes liable for clubbing**

The income of minor liable for clubbing will have to be aggregated with the income of the parent, whoever has higher income before inclusion of such minor's income. Thereafter a nominal deduction of Rs. 1500 is to be given against the minor's income

Suggestion:

This exemption amount does not look practical and needs revision atleast to Rs. 25000/- per child.

### **(2) Incomes not liable for clubbing but taxable in the assessment of minor.**

- Income of Physically handicapped minor child .
- Income of minor child from any manual work done by him.
- Income of minor child on account of any activity involving application of his skill, talent or specialized knowledge or experience.

The child dancers, singers, dramatist, artists performing for TV, Radio and films etc. may be included in such categories. The wage earning self employed children will also come in the purview these categories.

Income which are not liable for clubbing will be assessed directly in the hands of the minor, who will be represented by either of his parents as guardians.

Some of the issues emerging out of these provision are as follows:

Q1: Under which head of income, the income of minor will be considered in the computation of total income of the parent?

Ans: The income of minor child which is to be clubbed with the income of parent is to be computed under each prescribed head of income and the income under each such head shall be included in the same head in the return of parent.

Q2: Whether the claim for TDS deducted from any income of the minor will be considered in the case of the parent, with whom minor's income is clubbed?

Ans: Yes, the A.O will give credit for any TDS deducted on any income of the minor, to the parent in whose income the minor child's income has been clubbed. Refund of TDS may also be granted to such parent

Q3: In case the income of the minor is to be clubbed with mother but the advance tax in relation to minor's income has been deposited in the name of father, Whether the A.O. can give credit of such advance tax in the case of mother?

Ans: Where a particular income of a minor child is includible with the income of an individual, the advance tax paid by such minor child even with reference to such income, is not eligible for adjustment towards the tax liability of the individual in whose hands such income has been included. In such case, it is open to the minor child to apply for the refund of the advance tax paid by him or her, as the case may be.

Refer Case law: Shantilal vs. CIT(145 ITR 789)

Q4: If any income is generated from investing capital or funds accumulated by the minor prior to 01.04.92, whether such an income will also be liable to be clubbed in the hands of parents?

Ans: Any income generated even by utilizing the assets or capital accumulated in earlier years will attract clubbing provisions of section 64(1A).

Q5: Whether minor child will include a step-child, adopted child and an illegitimate child for the clubbing provisions?

Ans: For this purpose, minor child will include a step child and adopted child but not an illegitimate child.

Q6: Where an individual himself incurs loss from business and his minor son has income from business, in the event of clubbing, Can the business loss of such individual be adjusted against the minor's business profit?

Ans: Yes, in the event of clubbing, the business loss of such individual can be adjusted against the minor's business profit.