

Finance Act 1970

Section 21 - Substitution of New Section for Section 164

For section 164 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1971, namely :-

"164. Charge of tax where share of beneficiaries unknown. -(1) Subject to the provisions of sub-sections (2) and (3), where any income in respect of which the persons mentioned in clause (iii) and (iv) of sub-section (1) of section 160 are liable as representative assessee or any part thereof is not specifically receivable on behalf or for the benefit of any one person or where the individual shares of the persons on whose behalf or for whose benefit such income or such part thereof is receivable are indeterminate or unknown (such income, such part of the income and such persons being hereafter in this section referred to as "relevant income", "part of relevant income" and "beneficiaries", respectively), tax shall be charged -

(i) as if the relevant income or part of relevant income were the total income of an association of persons, or

(ii) at the rate of sixty-five per cent.,

whichever course would be more beneficial to the revenue :

Provided that in a case where -

(i) none of the beneficiaries has any other income chargeable under this Act; or

(ii) the relevant income or part of relevant income is receivable under a trust declared by will; or

(iii) the relevant income or part of relevant income is receivable under a trust created before the 1st day of March, 1970, by a non-testamentary instrument and the Income-tax Officer is satisfied, having regard to all the circumstances existing at the relevant time, that the trust was created bona fide exclusively for the benefit of the relatives of the settlor, or where the settlor is a Hindu undivided family, exclusively for the benefit of the members of such family, in circumstances where such relatives or members were mainly dependent on the settlor for their support and maintenance; or

(iv) the relevant income is receivable by trustees on behalf of a provident fund, superannuation fund, gratuity fund, pension fund or any other fund created bona fide by a person carrying on a business or profession exclusively for the benefit of persons employed in such business or profession,

tax shall be charged as if the relevant income or part of relevant income were the total income of an association of person.

(2) In the case of relevant income which is derived from property held under trust wholly for charitable or religious purposes, tax shall be charged on so much of the relevant income as is not exempt under section 11, as if the relevant income not so exempt were the income of an association of persons.

(3) In a case where the relevant income is derived from property held under trust in part only for charitable or religious purposes and either the relevant income applicable to purposes other than charitable or religious purposes (or any part thereof) is not specifically receivable on behalf of any on person or the individual shares of the beneficiaries in the income so applicable are indeterminate or unknown, the tax chargeable on the relevant income shall be either -

(a) the tax which would be chargeable if the whole of the relevant income (as reduced by the income, if any, which is exempt under section 11) were the total income of an association of persons; or

(b) the aggregate of -

(i) the tax which would be chargeable on that part of the relevant income which is applicable to charitable or religious purposes (as reduced by the income, if any, which is exempt under section 11) as if such part (or such part as so reduced) were the total income of an association of persons; and

(ii) the tax on that part of the relevant income which is applicable to purposes other than charitable or religious purposes, and in respect of which the shares of the beneficiaries are indeterminate or unknown, at the rate of sixty-five per cent.,

whichever course would be more beneficial to the revenue :

Provided that in a case where -

(i) none of the beneficiaries in respect of the part relevant income which is not applicable to charitable or religious purposes has any other income chargeable under this Act; or

(ii) the relevant income is receivable under a trust declared by will; or

(iii) the relevant income is receivable under a trust created before the 1st day of March, 1970, by a non-testamentary instrument and the Income-tax Officer is satisfied, having regard to all the circumstances existing at the relevant time, that the trust, to the extent it is not for charitable or religious purposes, was created bona fide exclusively for the benefit of the relatives of the settlor, or where the settlor is a Hindu undivided family, exclusively for the benefit of the members of such family in circumstances where such relatives or members were mainly dependant on the settlor for their support and maintenance,

tax shall be chargeable as if the relevant income (as reduced by the income, if any, which is exempt under section 11) were the total income of an association of persons."
