

TAXATION OF ULIPs FINANCE ACT, 2021

Definition of ULIP

“Unit Linked Insurance Policy” has been defined as

- (a) a life insurance policy which has components of both investment and insurance, and
- (b) is linked to a unit as defined in regulation 3(ee) of the Insurance Regulatory and Development Authority of India (Unit Linked Insurance Products) Regulations, 2019.

Withdrawal of Exemption under Section 10(10D)

Section 10(10D) provides that any sum received under a Life Insurance Policy including sum allocated by way of bonus **is exempt from tax**. It also provides that exemption shall not be available in respect of any sum received under an insurance policy issued on or after **01.04.2012** in respect of which the premium payable for any of the year during the **term of policy exceeds 10% of capital sum assured**.

Following **fourth proviso, fifth proviso and sixth proviso have been added by Finance Act, 2021:**

Provided also that nothing contained in this clause shall apply with respect to any unit linked insurance policy, issued on or after the 1st day of February, 2021, if the amount of premium payable for any of the previous year during the term of such policy exceeds **two lakh and fifty thousand rupees**:

Provided also that if the premium is payable, by a person, **for more than one unit linked insurance policies, issued on or after the 1st day of February, 2021**, the provisions of this clause shall apply only with respect to those unit linked insurance policies, where the **aggregate amount of premium does not exceed the amount referred to in fourth proviso** in any of the previous year during the term of any of those policies:

Provided also that the provisions of the fourth and fifth provisos shall not apply to any sum received on the death of a person:

Notes:

1. ULIP issued prior to 01.02.2021 will continue to remain exempt under section 10(10D) even if premium is paid on or after 01.02.2021.
2. **FOR ULIP issued on or after 01.02.2021**
 - (a) If premium on one policy exceeds ₹ 2,50,000 in any year, then exemption under section 10(10D) shall not apply to such policy.
 - (b) Exemption under section 10(10D) is available for ULIP whose premium in any year does not exceed ₹ 2,50,000. However, if more than one ULIP is taken and premium for each ULIP does not exceed ₹ 2,50,000, then exemption under section 10(10D) shall be available in respect of those ULIP whose aggregate premium does not exceed ₹ 2,50,000 in a year.

Example 1: Determine whether an exemption is available under section 10(10D) for a single policy purchased by four different persons in the following scenarios:

(₹ in lakhs)

Particulars	Person A	Person B	Person C	Person D
Date of investment in ULIP	31-12-20	15-01-21	15-02-21	28-02-21
Premium payable every year	2.60	2.00	2.30	2.55
Sum assured	50.00	18.00	20.00	35.00
Whether the amount of premium exceeds 10% of the capital sum assured?	No	Yes	Yes	No
Whether the amount of premium during the year exceeds ₹ 2.5 lakhs?	Not applicable	Not applicable	No	Yes
Whether exemption available under Section 10(10D)?	Yes	No	No	No

AMENDMENT IN DEFINITION OF CAPITAL ASSETS TO INCLUDE ULIP [SECTION 2(14)]

In order to enable levy of capital gains tax on the transfer of ULIP, the definition of capital asset in section 2(14) has been amended with effect from the assessment year 2021-22 to provide that any ULIP to which exemption under section 10(10D) does not apply on account of applicability of the fourth and fifth proviso to section 10(10D) is to be considered as a capital asset.

INSERTION OF SECTION 45(1B) IN CHAPTER OF CAPITAL GAINS

Notwithstanding anything contained in sub-section (1), where any person receives at any time during any previous year any amount under a unit linked insurance policy, to which exemption under clause (10D) of section 10 does not apply on account of the applicability of the fourth and fifth provisos thereof, including the amount allocated by way of bonus on such policy, then, any profits or gains arising from receipt of such amount by such person shall be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of such person of the previous year in which such amount was received and the income taxable shall be calculated in such manner as may be prescribed.

TDS

Section 194DA provides that any sum payable to a resident under a life insurance policy which is not exempt under section 10(10D) is liable to tax deduction at source @ 5% on

the amount of income comprised in such receipt. Hence, the maturity proceeds of ULIP not exempt under section 10(10D) would be liable to TDS @ 5%.

RATE OF TAX [SECTION 112A]

Section 112A relating to tax on long term capital gains in certain cases has been amended to provide that Long Term capital gains from ULIPs shall be taxable @ 10%:

Note 1: Therefore, ULIP which are not exempt under section 10(10D) are treated as units of equity oriented funds.

Note 2: Capital Gains = Amount received on maturity of ULIP **minus** Premiums paid

Note 3: Long Term capital gains shall arise if ULIP is held for more than 12 months since ULIP is treated as unit of equity oriented mutual fund.

Note 4: No indexation will be there as per section 112A.

Note 5: Long Term capital gains on ULIP shall be taxable @ 10% ₹ 1,00,000 exemption as per section 112A shall be available.

Example 1:

The assessee has the following policies all of which satisfy all the conditions laid down in clause (10D) of section 10 of the Act (other than the conditions provided under the fourth and fifth proviso of the said clause, applicability whereof is being explained in the example). The assessee did not receive any consideration under any other eligible ULIPs in earlier previous years preceding the previous year 2030-31.

ULIP	X	A	B	C
Date of issue	1-4-2020	1-4-2021	1-4-2021	1-4-2021
Annual premium (₹)	2,50,000	1,00,000	1,50,000	3,00,000
Sum assured (₹)	25,00,000	10,00,000	15,00,000	30,00,000
Consideration received as on 1-11-2030 on maturity	30,00,000			
Consideration received as on 1-11-2031 on maturity		12,00,000	18,00,000	34,00,000

Taxability as per fifth proviso to clause (10D) of section 10 of the Act:

- The consideration under ULIP "X" will be exempt under clause (10D) as the policy has been issued before 01.02.2021 and it is not covered by recently introduced provisions.
- The consideration received under ULIP "C" will not be exempt under clause (10D) as per the provisions of fifth proviso since aggregate of the annual premium payable for ULIP "A", ULIP "B" and ULIP "C" exceeds ₹ 2,50,000 during the term of these policies.
- However, the consideration received under ULIPS "A" and "B" shall be exempt under clause (10D), since aggregate of annual premium payable for these two policies does not exceed ₹ 2,50,000 for any previous year during the term of these two policies.

Example 2:

The assessee has the following policies all of which satisfy all the conditions laid down in clause (10D) of section 10 of the Act (other than the conditions provided under the fourth and fifth proviso of the said clause, applicability whereof is being explained in the example). The assessee did not receive any consideration under any other eligible ULIPS in earlier previous years preceding the previous year 2031-32.

ULIP	X	A	B	C
Date of issue	1-4-2021	1-4-2022	1-4-2022	1-4-2022
Annual premium (₹)	2,00,000	1,00,000	1,50,000	3,00,000
Sum assured (₹)	20,00,000	10,00,000	15,00,000	30,00,000
Consideration received as on 1-11-2031 on maturity	25,00,000			
Consideration received as on 1-11-2032 on maturity		12,00,000	18,00,000	34,00,000

Taxability as per fifth proviso to clause (10D) of section 10 of the Act:

- The consideration under ULIP "X" will be exempt for the previous year 2031-32 under clause (10D) since the annual premium does not exceed ₹ 2,50,000.
- The consideration received under ULIPS "A", "B" and "C" will not be exempt under clause (10D) as per the provisions of fifth proviso since aggregate of the annual premium payable for these three ULIPS and ULIP "X" exceeds ₹ 2,50,000 for the previous years 2022-23 to 2031-32 which fall under the tenure of these policies. The consideration under ULIP "A" will also not be eligible for exemption under the said clause as the aggregate of annual premium of ULIPS "X" and "A" exceeds ₹ 2,50,000.

Example 3:

The assessee has the following policies all of which satisfy all the conditions laid down in clause (10D) of section 10 of the Act (other than the conditions provided under the fourth and fifth proviso of the said clause, applicability whereof is being explained in the example). The assessee did not receive any consideration under any other eligible ULIPs in earlier previous years preceding the previous year 2031-32.

ULIP	X	A	B	C
Date of issue	1-4-2021	1-4-2022	1-4-2022	1-4-2022
Annual premium (₹)	1,00,000	1,00,000	1,50,000	3,00,000
Sum assured (₹)	10,00,000	10,00,000	15,00,000	30,00,000
Consideration received as on 1-11-2031 on maturity	12,00,000			
Consideration received as on 1-11-2032 on maturity		12,00,000	18,00,000	34,00,000

Taxability as per fifth proviso to clause (10D) of section 10 of the Act:

- The consideration under ULIP X will be exempt under clause (100) for the previous year 2031-32 since the annual premium does not exceed ₹ 2,50,000.
- The consideration received under ULIP "B" only will be exempt under clause (100) during the previous year 2032-33 while consideration received under ULIPS "A" and "C" will be taxable as per the provisions of fifth proviso.
- The exemption is restricted to consideration under ULIP "B" since aggregate of the annual premium payable for the ULIPS "X" and "B" together did not exceed ₹ 2,50,000 for any of the previous years during the term of ULIP "B".
- Here instead of ULIP "B", we could have taken ULIP "A" as the aggregate of annual premium payable for ULIPS "X" and "A" is also less than ₹ 2,50,000 during the term of these ULIPs. However, since including ULIP "B" instead of ULIP "A" is more beneficial to the assessee, ULIP "B" has been considered for exemption.

Example 4:

The assessee has the following policies all of which satisfy all the conditions laid down in clause (10D) of section 10 of the Act (other than the conditions provided under the fourth and fifth proviso of the said clause, applicability whereof is being explained in the example). The assessee did not receive any consideration under any other eligible ULIPS in earlier previous years preceding the previous year 2031-32 (It needs to be specified that consideration under ULIP "X" has not been claimed exempt)

ULIP	X	A	B	C
Date of issue	1-4-2021	1-4-2022	1-4-2022	1-4-2022
Annual premium (₹)	1,00,000	1,00,000	1,50,000	3,00,000
Sum assured (₹)	10,00,000	10,00,000	15,00,000	30,00,000
Consideration received as on 1-5-2031 on maturity	12,00,000			
Consideration received as on 1-5-2032 on maturity		12,00,000	18,00,000	34,00,000

Taxability as per fifth proviso to clause (10D) of section 10 of the Act:

The consideration under ULIP "X" was not claimed to be exempt under clause (100) by the assessee therefore it is not covered within the definition of old ULIP

The consideration received under ULIPS "A" and "B" will be exempt under clause (10D). However, since aggregate of the annual premium payable for the ULIPS "A" and "B" together did not exceed ₹ 2,50,000 for any of the previous years during the term of any of these ULIPS "A" or "B" and ULIP "X" was not claimed to be exempt under clause (10D) the consideration received under ULIP "C" will be taxable as per the provisions of fifth proviso to the said clause (10D) of section 10 of the Act.