



# TAXATION OF UNIT LINKED INSURANCE POLICY (ULIP)

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Section 10(10D) provides exemption in respect of sum received under a life insurance policy if the premium payable for any of the years during the terms of the policy does not exceed 10% of sum assured. Considering the instances that **high net worth individuals are claiming exemption under said section by investing in ULIP with huge premium**, the Finance Bill has proposed that the exemption under section 10(10D) shall not be available with respect to any ULIP issued on or after the 01-02-2021, if the amount of premium payable during the term of the policy exceeds Rs. 2,50,000 per annum. Further, it has also been provided that a ULIP (not eligible for exemption under section 10(10D)) shall be treated as capital asset.

## Finance Act 2021: Taxation of unit linked insurance policy (ULIP)

**Example:** Let us Analyse a particular case and impact of taxation: Mr S. Chandrashekar, individual, purchased Unit linked Insurance Plan (ULIP), a unique Asset allocation pension fund, (plan name under Bajaj Allianz future secure), from Bajaj Allianz Life Insurance company limited, covering with two option i.e., [i] option 'A' without life cover (i.e., pure Investment plan) or [ii] Option 'B' covering life with sum assured minimum of five times Annualized premium. The Assessee had opted for option [i] i.e., Investment option, with a lock-in period of 3 years. Further there following **four** different type of investment plan for allocation of funds.

Sl No	Investment in Bajaj Allianz Plan Name	Assessee allocation %		Amt Invested	Face Value	Unit price	Number of units
		Yr	%				
1	Asset Allocation Pension Fund	23/11/2021	90%	270000	300000	11.453	23574.61
		23/11/2022	98%	294000	300000	12.5775	23375.07
		23/11/2023	98%	294000	300000	11.9123	24680.37
2	Bond Pension Fund	23/11/2021	90%	90000	100000	14.0310	6414.37
		23/11/2022	98%	98000	100000	15.1042	6488.26
		23/11/2023	98%	98000	100000	16.2779	6020.43
3	Equity Index Pension Fund II	23/11/2021	90%	360000	400000	16.1250	22325.58
		23/11/2022	98%	392000	400000	19.1814	20436.46
		23/11/2023	98%	392000	400000	14.8498	26397.66
4	Liquid Pension Fund	23/11/2021	90%	180000	200000	13.5260	13307.70
		23/11/2022	98%	196000	200000	14.5645	13457.38
		23/11/2023	98%	196000	200000	15.7695	12429.06

The units were redeemed by insurance company, at the following NAV per unit by pay service tax 0.35% and Admin expense 0.1%.

Sl No	Redemption of Investment in Bajaj Allianz	Unit price at end of 3 <sup>rd</sup> year [25/11/2026]
1	Asset Allocation Pension Fund	15.99
2	Bond Pension Fund	19.56
3	Equity Index Pension Fund II	21.68
4	Liquid Pension Fund	19.20

**Step 1: what is the meaning of ULIP?**

Explanation 3 to section 10(10D) defines for the purpose of exemption.

'Explanation 3. — For the purposes of this clause, "unit linked insurance policy" **means**

— a **life insurance policy**

— which has **components of both**

- investment and
- insurance

**and**

— is **linked to a unit** as defined in clause (ee) of regulation 3 of the Insurance Regulatory and Development Authority of India (Unit Linked Insurance Products) Regulations, 2019 issued by the Insurance Regulatory and Development Authority under the Insurance Act, 1938 and the Insurance Regulatory and Development Authority Act, 1999.

**Step 2: Is the Maturity value is Exempt – Yes if all the conditions of section 10(10D) is met.**

- i. The Assessee is entitled to exemption under section 10(10D), if the ULIP was received on life cover, and not paid the sum in excess of 10% of capital sum assured.
- ii. Further w.e.f FA 2021 – 01/04/2021 – if any sum paid, is in excess of Rs 2,50,000/- (though the said amount is not exceeding 10%), the assessee is not eligible for exemption, as there is specific restriction vide 4<sup>th</sup> proviso to clause (10D) of section 10. Further the said Rs 2,50,000/- limits is computed considering aggregate value of all the policy, as per 5<sup>th</sup> proviso.
- iii. However as per 6<sup>th</sup> proviso the limit of Rs 2,50,000/- is not applicable, (however limit of 10% continuous to be applicable).

**Relevant extract of section is as under**

**10. Incomes not included in total income.**

10. In computing the total income of a previous year of **any person**,

→ any income falling within **any** of the following **clauses shall not be included**—

**(10D) sum received under a life insurance policy including bonus**

(10D) any sum received under a **life insurance policy**,

including the sum allocated by way of **bonus** on such policy,

**other than—**

(a) any sum received under

- sub-section (3) of section **80DD** or
- sub-section (3) of section **80DDA**; or

(b) any sum received under a **Keyman** insurance policy; or

(c) any sum received under an insurance **policy issued on** or after the 1st day of April, 2003 but on or **before the 31st day of March, 2012** in respect of which the **premium** payable for any of the years during the term of the policy **exceeds twenty** per cent of the actual capital **sum assured** ; or

(d) any sum received under an insurance **policy issued on** or **after** the 1st day of April, 2012 in respect of which the premium payable for any of the years during the term of the policy **exceeds ten** per cent of the **actual capital sum assured**: **Provided** that the provisions of sub-clauses (c) and (d) shall **not apply to** any sum received on the **death** of a person:

**Provided further** that for the purpose of **calculating** the actual capital sum assured under sub-clause (c), **effect shall be given to**

- the *Explanation* to sub-section (3) of section **80C** or
- the *Explanation* to sub-section (2A) of section **88**, as the case may be

**Provided also** that where the **policy, issued on** or **after** the 1st day of April, 2013, is for insurance **on life** of any person, **who is—**

- (i) a person with **disability** or a person with severe disability as referred to in section **80U**; or
- (ii) suffering from **disease or ailment** as specified in the rules made under section **80DDB**,

the provisions of this sub-clause shall have **effect as if** for the words "ten per cent", the words "**fifteen** per cent" had been substituted.

**Below amendments will take effect from 1st April, 2021 and will, accordingly, apply in relation to the assessment year 2021-2022 and subsequent assessment years.**

**(c) in clause (10D),--**

(i) after the third proviso and before Explanation 1, the following provisos shall be inserted, namely:--

*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:

*Provided also that*

- if any difficulty arises in giving effect to the provisions of this clause,
- the Board may,
  - with the previous approval of the Central Government,
  - issue guidelines for the purpose of removing the difficulty
- and
- every guideline issued by the Board under this proviso
  - shall be laid before each House of Parliament, and
  - shall be binding on the income-tax authorities and the assessee.”;

*Explanation 1.—.....*

*Explanation 2.—.....;*

**Below amendments will take effect from 1st April, 2021 and will, accordingly, apply in relation to the assessment year 2021-2022 and subsequent assessment years.**

**(c) in clause (10D),--**

(ii) after Explanation 2, the following Explanation shall be inserted, namely:--

*‘Explanation 3.— For the purposes of this clause, “unit linked insurance policy” means*

- a life insurance policy
  - which has components of both
    - investment and
    - insurance
- and
- is linked to a unit as defined in clause (ee) of regulation 3 of the

*Insurance Regulatory and Development Authority of India (Unit Linked Insurance Products) Regulations, 2019 issued by the Insurance Regulatory and Development Authority under the Insurance Act, 1938 and the Insurance Regulatory and Development Authority Act, 1999.*

**Step 3: What it 4<sup>th</sup> and 5<sup>th</sup> proviso attracts?**

Assessee is not eligible for exemption under section 10(10D), but taxable as Capital gain (not as business Income or other source), therefore indexation benefit is applicable.

**Step 4 : Taxed as capital gain** The ULIP is an security, which is subject to security transaction Tax, is treated as capital asset as per section 2 clause 14, and he same shall be taxable under section 45(1B) in the year of receipt, as income tax is calculated in a prescribed vide rules. Further the ULIP is sold by paying STT, the rate of Income tax is 10% under section 112A.

**2. Definitions.**

**Section 2.** In this Act, unless the context otherwise requires,—

(14) "capital asset" means—

- (a) property of **any kind** held by an assessee,
  - whether or not connected with his business or profession;
- (b) any **securities** held **by a Foreign Institutional Investor** which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992 (15 of 1992),

(c) any 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 proviso thereof;

but does **not include**— ....

**Section 45(1B)**

**Capital Gain – Charging Section**

**Section 45 (1B)** 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 proviso 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.

**Step 5 : Payment of STT on such transaction.**

Relevant extract of STT – Finance Act 2004 is as under (after FA 2021 amendment)

**Definitions.**

**97.** In this Chapter, unless the context otherwise requires,—

(5) "equity oriented fund" means a fund—

- (i) where the investible funds are invested by way of equity shares in domestic companies to the extent of more than 3[sixty-five] per cent of the total proceeds of such fund; and
- (ii) which has been set up under a scheme of a Mutual Fund:

**Provided that** the percentage of equity shareholding of the fund shall be computed with reference to the annual average of the monthly averages of the opening and closing figures;

- (13) "taxable securities transaction" means a transaction of--
- (a) ....
  - (b) sale of a unit of an equity oriented fund to the Mutual Fund; or
  - (ba) sale or surrender or redemption of a unit of an equity oriented fund to an insurance company, on maturity or partial withdrawal, with respect to unit linked insurance policy issued by such insurance company on or after the 1st day of February, 2021;

(13A) "unit linked insurance policy" shall have the meaning assigned to it in Explanation 3 of clause (10D) of section 10 of the Income-tax Act, 1961;

**Step 5 :** Special rate of taxation as per section 112A (subject to fulfillment of all the conditions), else the same is taxable under section 112 of income tax Act.

**Tax on long-term capital gains in certain cases.**

**112A.** (1) Notwithstanding anything contained in section 112, the tax payable by an assessee on his total income shall be determined in accordance with the provisions of sub-section (2), if—

- (i) the total income includes any income chargeable under the head "Capital gains";
- (ii) the capital gains arise from the transfer of a long-term capital asset being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust;
- (iii) securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004 (23 of 2004) has,—
  - (a) in a case where the long-term capital asset is in the nature of an equity share in a company, been paid on acquisition and transfer of such capital asset; or
  - (b) in a case where the long-term capital asset is in the nature of a **unit of an equity oriented fund** or a unit of a business trust, been paid on transfer of such capital asset.

(2) The tax payable by the assessee on the total income referred to in sub-section (1) shall be the aggregate of—

- (i) the amount of income-tax calculated on such long-term capital gains **exceeding one lakh rupees** at the rate of **ten per cent**; and
- (ii) the amount of income-tax payable on the total income as reduced by the amount of long-term capital gains referred to in sub-section (1) as if the total income so reduced were the total income of the assessee:

*Explanation.*—For the purposes of this section,—

- (a) "equity oriented fund" means a fund set up
  - under a scheme of a mutual fund specified under clause (23D) of section 10 or
  - **under a scheme of an insurance company comprising unit linked insurance policies to which exemption under clause (10D) of the said section does not apply on account of the applicability of the fourth and fifth proviso thereof**
  - **and**—
  - (i) in a case where the fund invests in the units of another fund which is traded on a recognised stock exchange,—
    - (A) a minimum of **ninety per cent** of the total proceeds of such fund is invested in the units of such other fund; and
    - (B) such other fund also invests a minimum of **ninety** per cent of its total proceeds in the equity shares of domestic companies listed on a recognised stock exchange; and
  - (ii) in any other case, a minimum of **sixty-five per cent** of the total proceeds of such fund is invested in the equity shares of domestic companies listed on a recognised stock exchange:
 

**Provided that** the **percentage** of equity shareholding or unit held in respect of the fund, as the case may be, shall be **computed** with reference to the annual average of the monthly averages of the opening and closing figures;

## Solution of the above example (Note Dated are not changed)

Bifurcation of Loss between short term and long term											
Asset Allocation Pension Fund SFIN: ULIF04628/01/08/ASALLOCPEN116											
Year	Transaction Date	Transaction				Unit price	Allocated Units.	Index value	Index Cost	Short	Long
	25/04/2014	Redemption				15.9953	71222.94	1024		1139232.223	
		Service Tax					329.46			3812.06	
		Total Policy Admn Charges					77.66			1003.87	
	> 12 months	<b>Net Consideration</b>								<b>1134416.293</b>	<b>390866.8798</b>
			Amount	Allocation Ratio	Net Investment						
1	23/11/2009	New Business Regular	300000	90%	270000	11.453	23574.61	632	437468.354	Long	437468.3544
2	23/11/2010	Regular Premium Renew	300000	98%	294000	12.5775	23375.07	711	423426.16	Long	423426.1603
3	23/11/2011	Regular Premium Renew	300000	98%	294000	11.9123	24680.37	785	24680.3724	Short	24680.37239
					858000		71630.06			885574.8872	
		Capital Gain / Loss								248841.406	366186.507
											-117345.101

Bond Pension Fund SFIN: ULIF03524/07/06/BONDPENFUND116											
Year	Transaction Date	Transaction				Unit price	Allocated Units.	Index value	Index Cost	Short	Long
	25/04/2014	Redemption				19.5626	18812.96	1024		368030.4394	
		Service Tax	0.35%				89.26			1289.39	
		Total Policy Admn Charge	0.09%				20.84			346.37	
	> 12 months	<b>Net Consideration</b>								<b>366394.6794</b>	<b>30795.09627</b>
			Amount	Allocation Ratio	Net Investment						
1	23/11/2009	New Business Regular	100000	90%	90000	14.0310	6414.37	632	145822.785	Long	145822.7848
2	23/11/2010	Regular Premium Renew	100000	98%	98000	15.1042	6488.26	711	141142.053	Long	141142.0534
3	23/11/2011	Regular Premium Renew	100000	98%	98000	16.2779	6020.43	785	6020.43261	Short	6020.432611
					286000		18923.06			<b>292985.2709</b>	
		Capital Gain / Loss								73409.4086	24774.664
											48634.745

Equity Index Pension Fund II -- SFIN: ULIF03724/07/06/EQINDPEN02116											
Year	Transaction Date	Transaction				Unit price	Allocated Units.	Index value	Index Cost	Short	Long
	25/04/2014	Redemption				21.6838	68773.41	1024		1491268.935	
		Service Tax	0.09%				73.73			1297.29	
		Total Policy Admn Charge	0.34%				312.56			4996.27	
	> 12 months	<b>Net Consideration</b>								<b>1484975.375</b>	<b>547254.6023</b>
			Amount	Allocation Ratio	Net Investment						
1	23/11/2009	New Business Regular	400000	90%	360000	16.1250	22325.58	632	583291.139	Long	583291.1392
2	23/11/2010	Regular Premium Renew	400000	98%	392000	19.1814	20436.46	711	564568.214	Long	564568.2138
3	23/11/2011	Regular Premium Renew	400000	98%	392000	14.8498	26397.66	785	26397.6619	Short	26397.66192
					1144000		69159.71			<b>1174257.015</b>	
		Capital Gain / Loss								310718.360	520856.940
											-210138.580

Liquid Pension Fund SFIN: ULIF03524/07/06/BONDPENFUND116											
Year	Transaction Date	Transaction				Unit price	Allocated Units.	Index value	Index Cost	Short	Long
	25/04/2014	Redemption				19.2065	38965.88	1024		748398.0977	
		Service Tax	0.34%				185.08			2580.16	
		Total Policy Admn Charge	0.09%				43.19			692.50	
	> 12 months	<b>Net Consideration</b>								<b>745125.4377</b>	<b>129292.1764</b>
			Amount	Allocation Ratio	Net Investment						
1	23/11/2009	New Business Regular	200000	90%	180000	13.5260	13307.70	632	291645.57	Long	291645.5696
2	23/11/2010	Regular Premium Renew	200000	98%	196000	14.5645	13457.38	711	282284.107	Long	282284.1069
3	23/11/2011	Regular Premium Renew	200000	98%	196000	15.7695	12429.06	785	12429.0561	Short	12429.05609
					572000		39194.14			<b>586358.7326</b>	
		Capital Gain / Loss								158766.705	116863.120
											41903.585

sl No	Investment	Net Loss/gai	Short	Long
1	Asset Allocation Pension	248841.41	366186.51	-117345.10
2	Bond Pension Fund SFIN:	73409.41	24774.66	48634.74
3	Equity Index Pension Fu	310718.36	520856.94	-210138.58
4	Liquid Pension Fund SFIN	158766.71	116863.12	41903.58
	<b>Total Loss</b>	<b>791735.88</b>	<b>1028681.23</b>	<b>-236945.35</b>