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TAX FLASH NEWS

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Computation of capital gains on amounts received under a unit-linked insurance policy

Background

The Finance Act 2021 had proposed to tax[1] the maturity proceeds from unit-linked insurance policy (ULIP) issued on or after 1 February 2021, if the aggregate annual premium exceeds INR 250,000 in any of the financial year during the term of any of those policies. Such taxable ULIPs to be considered as capital asset and subject to capital gains.

In this regard, the Central Board of Direct Taxes (CBDT), vide Notification[2] dated 18 January 2022, has inserted a new Rule[3], wherein the method of computation of capital gains has been specified.

Method to compute the capital gains

1. Amounts received under ULIP for the first time:
   In case a taxpayer receives any amount for the first time under a specified ULIP[4], including bonus on such policy at any time during a particular tax year, then the capital gains arising from receipt of such amount shall be calculated as below:

   Capital gains= A-B

   where A refers to the amount received for the first time under a specified ULIP during the previous year, including the amount allocated by way of bonus on such policy; and B refers to the aggregate of the premium paid during the term of the specified ULIP till the date of receipt of the amount (as referred to in A above)

2. Amounts received under ULIP during a tax year after the receipt of amount for the first time (as mentioned above in point 1):

   In case a taxpayer receives any amount under a specified ULIP, at any time after the receipt of the amount as mentioned in point 1 above, then the capital gains arising from receipt of such amount shall be calculated as below:

   Capital gains= C-D

   where C refers to the amount received under a specified ULIP during the previous year, at any time after the receipt of the amount as referred above in point 1, including the amount allocated by way of bonus on such policy but excluding the amount that has already been considered for calculation of the taxable amount in previous years (refer A); and D refers to the aggregate of the premium paid during the term of the specified unit-linked insurance policy till the date of receipt of the amount (as referred to C) as reduced by the premium that has already been considered for calculation of the taxable amount in previous years (refer B).

Further, it has also been clarified that the capital gains as computed above shall be deemed to be the capital gains arising from the transfer of a unit of an equity-oriented fund set up under a scheme of an insurance company comprising unit-linked insurance policies.

Our comments

Sum received under a ULIP, in respect of which the premium payable for any of the years during the term of the policy does not exceed ten per cent of the actual capital sum assured, is tax-exempt[5]. However, as per Finance Act 2021[1], with respect to any ULIP issued on

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[1] Section 45(1B) of the Income-tax Act, 1961 (the Act)
[2] CBDT Notification No. 8/2022/F. No. 370142/61/2021-TPL, dated 18 January 2022
[3] Rule 8AD under Income-tax Rules, 1962, for computation of capital gains for the purposes of sub-section (1B) of section 45-(1) of the Act
[4] Specified ULIP shall mean any ULIP referred to in sub-clause (c) of clause (14) of section 2 of the Act

[5] Section 10(10D) of the Act

or after 1 February 2021, if the amount of premium payable for any of the years during the term of the policy exceeds INR 250,000, then maturity proceeds from such ULIP/ ULIPs would be subjected to tax.

The CBDT has now notified the method of computation of gains arising from receipt of amount under a specified ULIP. It is also clarified that such gains have to be taxed similar to gains on equity-oriented funds and, accordingly, would be subjected to tax at 15 per cent[6] or 10 per[7]Plus surcharge and education cess, as applicable to short term or long-term capital gain on equity oriented mutual funds, respectively.

Separately, premium paid on ULIPs continues to be eligible for a deduction[8] up to a maximum of INR 150,000 during a tax year.

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[6] Section 111A of the Act
[7] Section 112A of the Act
[8] under Section 80C of the Act

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