

IRISH VAT EXEMPTION UNIT LINKED LIFE INSURANCE FUNDS

The management of life policies is exempt from VAT in Ireland. This is in contrast to most EU countries where it is generally subject to VAT. Therefore, acquiring a life policy from an Irish insurance company provides significant savings compared to acquiring a life policy from an insurance company located in another EU country.

The purpose of this note is to outline the technical basis underpinning the Irish VAT exemption in the Irish tax legislation and the Irish Revenue guidance notes.

1. BACKGROUND

Article 135 (1) (g) of Council Directive 2006/112/EC states that European Union (EU) member states shall treat the management of special investment funds as exempt from VAT. The Court of Justice of the EU has held that member states may exercise their discretion in determining the types of funds that may benefit from the exemption but that they must respect the objective of facilitating investment in securities through investment undertakings, while guaranteeing the principle of fiscal neutrality.

Most EU countries have implemented the Directive for collective investment undertakings such as UCITS funds but Ireland has also provided for other investment undertakings such as unit linked life insurance funds to benefit from the VAT exemption. The basis for including unit linked life insurance funds is that these products are in competition with UCITS funds and therefore this adheres to the principle of fiscal neutrality.

2. IRISH LEGISLATION / REVENUE PUBLICATIONS

The Irish legislative basis for the VAT exemption is as follows:

TAX TREATMENT	REFERENCE
1. The management of certain investment undertakings is an exempt service for Irish VAT purposes	<i>Para 6 (1)(g) Sch 1 Irish VAT Act 2010</i>
2. There are 6 different types of investment undertakings that qualify for the VAT exemption	<i>Para 6 (2) (a) - (f) Sch 1 Irish VAT Act 2010</i>
3. One of the 6 types of investment undertaking is a fund administered by an Irish authorised and regulated life insurance company	<i>Para 6 (2)(c) Sch 1 Irish VAT Act 2010</i>
4. The Irish Revenue published guidance in July 2016 to outline the conditions for the management of unit linked life insurance policies to qualify for VAT exemption: <ul style="list-style-type: none"> › For Irish tax resident policyholders, the life policy must not be regarded as a personal portfolio policy as defined under Irish tax law (i.e. generally not allow the policyholder to select or influence the selection of assets in the underlying policy) › For non-Irish tax resident policyholders, the life policy must not be subject to a tax treatment in the foreign jurisdiction that is equivalent to the Irish personal portfolio policy legislation › The life policy must only permit assets that are available to the general public or a particular class of investors › The policyholder funds the investment and bears the investment risk; and › The assets of the policy are pooled with other investors (although assets and returns can be linked to individual policyholders). 	<i>Revenue publication - VAT treatment of management services supplied in relation to Self-Directed Life Assurance Bonds and equivalent products - July 2016</i>
5. The management of the fund must consist of one or more of the 3 functions listed in the Annex II of the UCITS Directive, which are Investment Management, Administration or Marketing.	<i>Para 6 (4) Sch 1 Irish VAT Act 2010</i>

3. DISCRETIONARY AND ADVISORY SERVICES

Utmost PanEurope dac ('Utmost' or 'UPE') products managed on a discretionary basis qualify for the VAT exemption, which provides savings to Utmost policyholders compared to other EU life insurance companies.

In addition, UPE products managed on an advisory basis can also qualify for the VAT exemption where it can be clearly demonstrated that the service is supplied to UPE and not the policyholder from a VAT perspective.

In order to demonstrate that UPE, and not the policyholder, is receiving the advisory service, the following practical steps should be in place:

- › Advisory agreement between UPE and adviser
- › Invoices issued by adviser to UPE
- › Whilst the adviser can deal with the policyholder in providing day to day advice, the adviser should also send a summary of the advice provided to UPE on an agreed regular basis (i.e. quarterly/ annually etc.)

4. VAT SAVINGS

The indicative example below illustrates total savings of €69,626 (or an additional 0.17% return per annum) for a €1m premium over a 20 year period. The figures are based on a typical charging structure applicable to our PWP product in one of our core European markets and assumes asset management fees of 1% per annum.

UTMOST PANEUROPE DAC - NO VAT ON ASSET MANAGEMENT FEES

PROJECTED AT 5% P.A. INVESTMENT RETURN (EUR)				
END OF POLICY YEAR	CUMULATIVE PREMIUMS PAID	CUMULATIVE GROWTH	CUMULATIVE DEDUCTIONS	INVESTMENT VALUE
5	1,000,000	267,373	68,100	1,199,273
10	1,000,000	588,180	149,233	1,438,947
15	1,000,000	973,100	246,581	1,726,519
20	1,000,000	1,434,947	363,384	2,071,563

OTHER EU LIFE INSURANCE COMPANY - VAT ON ASSET MANAGEMENT FEES @ 17%

PROJECTED AT 5% P.A. INVESTMENT RETURN (EUR)				
END OF POLICY YEAR	CUMULATIVE PREMIUMS PAID	CUMULATIVE GROWTH	CUMULATIVE DEDUCTIONS	INVESTMENT VALUE
5	1,000,000	266,180	77,113	1,189,067
10	1,000,000	582,838	168,279	1,414,559
15	1,000,000	959,546	276,734	1,682,812
20	1,000,000	1,407,692	405,755	2,001,937

If you have any questions on this article, contact your usual Utmost PanEurope sales representative or email salesupport@utmost.ie

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Utmost Wealth Solutions is registered in Ireland as a business name of Utmost PanEurope dac.

UPE PR 00099 | 02/24