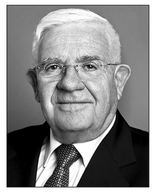
Israel

Alon Kaplan



Lyat Eyal

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1 Connection Factors

1.1 To what extent is domicile or habitual residence relevant in determining liability to taxation in your jurisdiction?

There is no concept of domicile under Israeli tax laws. The Israeli tax system, governed by the Israeli Income Tax Ordinance, (the "Income Tax Ordinance") imposes taxes based on residence (described further below). Israeli residents are subject to income taxes on their worldwide income whereas non-residents are subject to Israeli taxes on income derived from Israeli sources.

1.2 If domicile or habitual residence is relevant, how is it defined for taxation purposes?

See the answer to question 1.4.

1.3 To what extent is residence relevant in determining liability to taxation in your jurisdiction?

An Israeli resident is subject to tax on his/her worldwide income in accordance with the Income Tax Ordinance.

1.4 If residence is relevant, how is it defined for taxation purposes?

Israeli residence for individuals is based on an individual's centre of life. A rebuttable presumption determines that one is an Israeli resident if he/she is present in Israel: (i) for at least 183 days in a tax year; or (ii) at least 30 days in a current tax year and at least 425 days cumulatively in the current tax year and the immediately preceding two tax years. This presumption may be rebutted by either the tax payer or the Israeli tax authority based upon the centre of life test set forth below.

The centre of life test is based upon specific facts, including, without limitation: (i) the location of the individual's permanent home/residence; (ii) the location of residence of the individual's immediate family members; (iii) the individual's employment/ business activities; (iv) the location of the individual's economic interests/investments; and (v) the location of the individual's activity in non-profit organisations, volunteering activities or other organisations.

1.5 To what extent is nationality relevant in determining liability to taxation in your jurisdiction?

The Israeli tax system is based on an individual's residence in Israel and not on Israeli citizenship/nationality.

1.6 If nationality is relevant, how is it defined for taxation purposes?

See the answer to question 1.5.

1.7 What other connecting factors (if any) are relevant in determining a person's liability to tax in your jurisdiction?

Israel does not impose estate or gift taxes (subject to the answer to question 2.1 below). Non Israeli residents are subject to Israeli income taxes on income derived from Israeli sources and may be entitled to certain benefits, including, without limitation, exemptions from: (i) capital gains taxes from the sale of publicly traded securities subject to the capital gain not stemming from a permanent establishment of the company in Israel (excluding real estate transactions); (ii) capital gains taxes from the sale of private securities; (iii) taxes on income from foreign currency bank deposits; and (iv) taxes on interest from corporate bond holdings.

2 General Taxation Regime

2.1 What gift or estate taxes apply that are relevant to persons becoming established in your jurisdiction?

See the answer to question 1.7.

Gifting assets by an Israeli resident to a foreign resident is subject to tax as though the asset is sold on the date of the transfer by the Israeli resident to the foreign resident in accordance with fair market value of the asset (a capital gains tax). Where the transfer is of an asset other than cash, capital gains (or loss) are imposed on the transaction. Where a new immigrant wishes to transfer foreign assets to a foreign resident, planning should be reviewed during the new immigrant's exemption period (see the answer to question 2.2). Where the transfer is of cash, it is not subject to tax.

2.2 How and to what extent are persons who become established in your jurisdiction liable to income and capital gains tax?

The Income Tax Ordinance grants benefits to new immigrants and Israelis returning to reside in Israel after residing abroad in accordance with the provisions of the Income Tax Ordinance. New immigrants are those who immigrate to Israel for the first time and their centre of life is in Israel. Long term returning residents are former Israeli residents who resided abroad and their centre of life was abroad for a period of at least 10 years and return to reside in Israel. New immigrants and long term returning residents are entitled to an exemption from the payment of Israeli taxes on all foreign source income and gains for a period of 10 years. In addition to the tax exemptions, there are no reporting obligations for these individuals on foreign assets and income for a period of 10 years.

Returning residents are former Israeli residents who resided abroad and their centre of life was abroad for a period of at least six years. Said individuals are entitled to an exemption from the payment of Israeli taxes for a period of five years on current income (interest, dividends, royalties, rentals, pensions) from sources abroad, as well as an exemption from capital giants from the sale of assets abroad for a period of 10 years if the assets were purchased while the individual was a non-resident of Israel.

2.3 What other direct taxes (if any) apply to persons who become established in your jurisdiction?

Notwithstanding the benefits provided in the answer to question 2.2, real estate taxes from the sale of real property in Israel are not included in the exemptions. In addition, income derived from other Israeli sources, such as employment income, rental income or investment income is subject to tax. Notwithstanding, non-residents are subject to capital gains taxes and purchase taxes in connection with real estate transactions depending on the dates of purchase and sale and the purchase and sale prices. Certain relief may be granted to new immigrants.

Non-residents (as well as Israeli residents (even if new immigrants)) are subject to taxes on rental income from the rental of real property in Israel, depending on the monthly income amounts and the type of rental (residential/commercial).

2.4 What indirect taxes (sales taxes/VAT and customs & excise duties) apply to persons becoming established in your jurisdiction?

Israeli residents are subject to VAT at the rate of 17% on the purchase of certain products and services in Israel. Customs and excise duties are imposed on the import of good depending on the value of the goods imported. The general rule is that items over a value of US $70 are subject to said taxes.

2.5 Are there any anti-avoidance taxation provisions that apply to the offshore arrangements of persons who have become established in your jurisdiction?

See the answer to question 2.2.

2.6 Is there any general anti-avoidance or anti-abuse rule to counteract tax advantages?

There are a few anti-avoidance rules, below are a few: (i) controlled foreign company (CFC) rules provide that a shareholder of a CFC (as defined in the Income Tax Ordinance) is subject to taxes on the passive profits of the CFC as a deemed dividend; (ii) artificial transactions under Section 86 of the Income Tax Ordinance whereby the Tax Authority may disregard any steps/actions/transactions that the assessment officer believes is artificial or was entered into for the sole purpose of reducing or avoiding taxes even if not contrary to any laws; (iii) a foreign professional corporation whereby the substantial shareholder is subject to taxes as a deemed dividend on the foreign corporation's income from professional services provided via the foreign corporation; (iv) 'Wallet' companies whereby the income of the company is deemed the income of the substantial shareholder if it is derived from said shareholder's personal services as a manager, director or similar service provided by an employee to an employer; (v) income of a 'minority' company as defined in Section 76 of the Income Tax Code that is not a professional corporation derived from activities of an individual significant shareholder is regarded as the individual's income; and (v) various anti-avoidance provisions relating to trusts.

2.7 Are there any arrangements in place in your jurisdiction for the disclosure of aggressive tax planning schemes?

Section 131 (g) of the Tax Ordinance grants the Finance Minister the power, with the approval of the Finance Committee, to establish transactions requiring reporting, the scope of the reporting required, the transactions to be reported, including transactions involving capital gains and land betterment taxes. As a result, the Finance Minister issued Regulations (Tax Planning Requiring Reporting) 2006 listing transactions requiring reporting to the Tax Authority. Section 131(a)(5e) provides that a person (including an individual and a corporate entity) who entered into transactions requiring reporting must file an annual report including details on the transactions in the abovementioned regulations.

In addition, where an individual receives a professional opinion aiming at reducing taxes, must file an annual return evidencing the opinion provided. A report is also required where a taxpayer takes steps contrary to the Tax Authority's formally published position with respect to various tax issues in certain situations.

The transactions may not be an offence but reporting provides notice thereof to the Tax Authority and the opportunity to review the details and if necessary, have a court resolve disputes.

In addition, the Income Tax Authority's Circular 2/2008 provides guidelines for tax planning steps/activities requiring reporting to the Tax Authority. Failure to report based on the regulations may result in significant fines.

3 Pre-entry Tax Planning

3.1 In your jurisdiction, what pre-entry estate and gift tax planning can be undertaken?

Israel does not impose gift or estate taxes (subject to the answer to question 2.1). Nonetheless, the taxation of trusts settled by individuals entitled to tax benefits under the Income Tax Ordinance for the benefits of non-residents or individuals entitled to benefits under the Income Tax Ordinance grants said trusts the exemptions allowed to individuals entitled to the exemptions. Said benefits permit certain planning options, including, without limitations, the transfer of assets to foreign residents prior to immigrating to Israel or during the exemption period.

3.2 In your jurisdiction, what pre-entry income and capital gains tax planning can be undertaken?

As new immigrants and returning residents are not subject to taxes on all foreign source income (see the answer to question 2.2), they may hold assets and maintain business activities individually abroad which will not be subject to Israeli taxes in accordance with their residence status as provided in the Income Tax Ordinance.

An important issue should be mentioned relating to Israeli income (which is not exempt as provided above). In the modern world where some services are provided via the internet, electronic means, etc., careful consideration should be given to providing services while in Israel as it may be the Tax Authority's position that said part (provided from Israel) is subject to Israeli taxes. A basis for the calculation of the portion of income attributed to Israel is the number of days spent in Israel vs. the number of days abroad on an annual basis. The result may be Israeli taxes imposed on part or all of the income in addition to reporting requirements. In addition, while the management and control by a new immigrant does not subject the corporate structure to Israeli taxes, part or all of the corporate income may be viewed by the Tax Authority as attributed to a permanent establishment of the company in Israel and as so as liable to taxes in Israel. Careful planning may be required.

3.3 In your jurisdiction, can pre-entry planning be undertaken for any other taxes?

See the answers to questions 3.1 and 3.2 above Specific consideration should be given to the purchase of foreign assets by returning residents, gifting assets by new immigrants to foreign residents during the exemption period and the establishment of business activities.

4 Taxation Issues on Inward Investment

4.1 What liabilities are there to tax on the acquisition, holding or disposal of, or receipt of income from investments in your jurisdiction?

Subject to the answers in section 2 above, income derived from Israeli sources is subject to the tax system in Israel.

4.2 What taxes are there on the importation of assets into your jurisdiction, including excise taxes?

Taxes on the importation of assets include customs and excise taxes, purchase taxes and value added taxes (VAT).

4.3 Are there any particular tax issues in relation to the purchase of residential properties?

The purchase of residential real property is subject to purchase tax, calculated based on the purchase price of the real property at percentages determined by the Taxation of Real Property Law (Betterment and Purchase) 1963, generally at the rate of 8%–10%. New immigrants may, under certain circumstances, be eligible for certain reduced rates when purchasing their first residential apartment.

5 Taxation of Corporate Vehicles

5.1 What is the test for a corporation to be taxable in your jurisdiction?

A company incorporated in Israel or a company which is controlled and managed from Israel is deemed an Israeli company and is subject to taxes in Israel. A foreign company conducting business activities in Israel or having a permanent establishment in Israel is subject to Israeli taxes on the activity in Israel or income that can be attributed to the permanent establishment.

See also, the answer to question 2.6 relating to CFC rules.

5.2 What are the main tax liabilities payable by a corporation which is subject to tax in your jurisdiction?

A corporation is subject to corporate tax at the rate of 24% (dividends are then subject to taxes by the shareholders, generally at the rate of 30%.) Capital gains taxes are imposed on the sale of shares.

5.3 How are branches of foreign corporations taxed in your jurisdiction?

Branches of foreign corporations are subject to taxes in Israel on the branch's worldwide income if it conducts business activities abroad. If it conducts business activities only in Israel, it is subject to Israeli taxes on Israeli source income.

6 Tax Treaties

6.1 Has your jurisdiction entered into income tax and capital gains tax treaties and, if so, what is their impact?

Israel is a party to over 50 double taxation treaties, most of which are based on the OECD model treaty. With the enactment of FACTA and CRS relevant legislation and regulations, automatic exchange of information will be implemented with many jurisdictions.

6.2 Do the income tax and capital gains tax treaties generally follow the OECD or another model?

See the answer to question 6.1.

6.3 Has your jurisdiction entered into estate and gift tax treaties and, if so, what is their impact?

As Israel does not impose estate or gift taxes, this is irrelevant.

6.4 Do the estate or gift tax treaties generally follow the OECD or another model?

See the answer to question 6.3.

7 Succession Planning

7.1 What are the relevant private international law (conflict of law) rules on succession and wills, including tests of essential validity and formal validity in your jurisdiction?

The Succession Law 1956 (the "Succession Law") provides that an Israeli court has jurisdiction to hear matters involving the inheritance of an individual residing in Israel at the time of his death or an individual who owned assets in Israel. The Succession Law further provides the general principle that an estate is subject to the laws of the jurisdiction in which a testator resides at the time of the testator's death. For the purpose of the Succession Law, one's residence is defined as the place of the individual's centre of life.

7.2 Are there particular rules that apply to real estate held in your jurisdiction or elsewhere?

Israel does not recognise foreign probate court orders. The transfer of Israeli assets, including, but not limited to, real estate, pursuant to one's demise requires an order from the Israeli family court.

The inheritance of real estate is not subject to estate/inheritance taxes but the sale by the heirs may be subject to capital gains taxes and land betterment taxes.

8 Trusts and Foundations

8.1 Are trusts recognised in your jurisdiction?

The Trust Law 1979 (the "Trust Law") recognises Israeli trusts. The Income Tax Ordinance recognises trusts and foundations established in foreign jurisdictions for Israeli tax purposes.

8.2 How are trusts taxed in your jurisdiction?

As mentioned in the answer to question 8.1, the Income Tax Ordinance governs the taxation of trusts depending on the jurisdiction of residence of the settlor/grantor, the beneficiaries and the location of the assets/sources of income. Where the trust is subject to Israeli taxes, the rates are the rates imposed on individuals for the same income. As a general rule, for passive income such as dividends, capital gains or interest, the tax rate is 25%.

8.3 How are trusts affected by succession and forced heirship rules in your jurisdiction?

There are no forced heirship rules under Israeli laws. *Inter vivos* trusts settled under the rules of the Trust Law and the Succession law and managed in accordance therewith (or similar foreign laws) are not subject to succession issues in Israel as the trust assets do not form part of the decedent's estate.

8.4 Are foundations recognised in your jurisdiction?

Israel does not have a separate law governing foundations. Nonetheless, courts may recognise a foundation as a separate foreign legal entity as it recognises foreign companies in accordance with private international law rules. For tax issues, see the answer to question 8.5.

8.5 How are foundations taxed in your jurisdiction?

The Income Tax Ordinance governs foundations (taxed as trusts) established under foreign laws for Israeli tax purposes.

8.6 How are foundations affected by succession and forced heirship rules in your jurisdiction?

See the answer to question 8.3.

9 Matrimonial Issues

9.1 Are civil partnerships/same sex marriages permitted/ recognised in your jurisdiction?

Legislation in Israel does not provide for civil marriages. Nonetheless, courts recognise civil/same sex marriages and the distribution of assets following the separation of such couples.

The Succession Law grants rights to a common law spouse upon the demise of one of the common law spouses.

9.2 What matrimonial property regimes are permitted/ recognised in your jurisdiction?

Israel follows a community property marital regime governed by the Spouses Property Law 1973 (the "Spouses Property Law") for marriages entered into after 1974.

9.3 Are pre-/post-marital agreements/marriage contracts permitted/recognised in your jurisdiction?

The Spouses Property Law provides for pre- and post-nuptial agreements following the terms and conditions of the Spouses Property Law.

9.4 What are the main principles which will apply in your jurisdiction in relation to financial provision on divorce?

The Spouses Property Law provides that assets accumulated during the marriage are considered joint property irrespective of the legal registration of said assets and each of the spouses may claim a balancing of resources upon divorce; i.e., the separation of assets in equal shares between the spouses upon divorce.

Maintenance payments are also awarded by the family court in accordance with issues such as child custody, lifestyle prior to the divorce, earning capabilities and other factors.

Pre/post nuptial agreements may alter the community property regime as well as other financial arrangements upon divorce.

10 Immigration Issues

10.1 What restrictions or qualifications does your jurisdiction impose for entry into the country?

The Law of Return 1950 permits individuals of the Jewish faith to immigrate to Israel, reside in it with no restrictions upon evidence of the Jewish faith and obtain citizenship.

Individuals of other faiths may travel to Israel (visa requirements may apply depending on the country of citizenship). Residence may be applicable to all individuals in accordance with their visa requirements.

Security clearances may be required for citizens of certain jurisdictions or for individuals who resided/visited certain jurisdictions in their travels.

10.2 Does your jurisdiction have any investor and/or other special categories for entry?

There are no specific investor visas.

10.3 What are the requirements in your jurisdiction in order to qualify for nationality?

See the answer to question 10.1.

10.4 Are there any taxation implications in obtaining nationality in your jurisdiction?

See section 1 above.

The tax benefits granted to new immigrants are not subject to the individuals' religions thereby entitling any individual immigrating to Israel to said benefits.

10.5 Are there any special tax/immigration/citizenship programmes designed to attract foreigners to become resident in your jurisdiction?

See the answer to question 2.2.

11 Reporting Requirements/Privacy

11.1 What automatic exchange of information agreements has your jurisdiction entered into with other countries?

Israeli legislation has been amended to incorporate FATCA rules and CRS legislation. Automatic exchange of information is applicable.

11.2 What reporting requirements are imposed by domestic law in your jurisdiction in respect of structures outside your jurisdiction with which a person in your jurisdiction is involved?

Israeli residents (unless subject to new immigrants/returning resident rules) are subject to reporting and tax obligations on worldwide income.

An Israeli resident holding shares of a privately held foreign corporation as well as one holding controlling shares of a listed company (as a general rule 10% or more but may be control with less) must file annual reports to the Israeli Tax Authority together with a description of the relevant company.

Trusts are subject to reporting and tax obligations by the trustee in accordance with the Income Tax Ordinance based on the jurisdictions of residence of the settlor/grantor, the beneficiaries and the location of the assets and sources of income.

Israeli resident beneficiaries of trusts (whether Israeli trusts or foreign trusts) are required to file annual reports in any given year under the circumstances listed below:

a. if they receive a distribution during that year; and

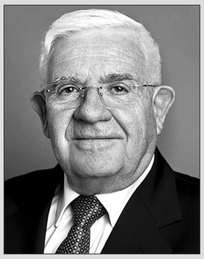
b. if they are 25 years of age or older and the trust holds assets in the amount of at least 500,000 Shekels.

Israeli resident beneficiaries of trusts (whether Israeli or foreign) are required to file annual reports if they receive a distribution in any given year or if they are 25 years of age and the trust holds assets in the amount of at least 500,000 Shekels.

11.3 Are there any public registers of owners/beneficial owners/trustees/board members of, or of other persons with significant control or influence over companies, foundations or trusts established or resident in your jurisdiction?

The Registrar of Companies is a public register for corporations with information on the corporate structure, including, without limitation, shareholders, board of directors, officers and registered address. No financial reporting is filed with the Registrar of Companies.

There is no public register for private trusts or beneficial owners. Nevertheless, the Tax Authority keeps the details of any settlor, trustee or beneficiary in a reportable trust. Foreign settlors and foreign trustees will also receive an Israeli tax number for reference purposes only. Charitable public trusts are subject to registration with the trust registrar.



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Alon Kaplan is a member of the Israel, New York State and German Bars and also the chairman of the Israel Bar Association's private international law committee.

Alon is a member of the International Board of the Weizman Institute, member of the board of trustees of "Impact" the scholarship organisation of the FIDF, and Director of the Israel Switzerland and Liechtenstein Chamber of Commerce Israel.

Alon is a member of the Society of Trusts and Estates Practitioners (STEP) and President of STEP Israel. He is an Academician at the International Academy of Estate and Trust Law, and a Fellow of the American College of Trust and Estate Counsel. Alon publishes regularly in distinguished professional publications and speaks at seminars and conferences internationally.

He is the general editor of *Trusts in Prime Jurisdictions* (4th edition, 2016, Globe Law and Business and author of *Trust and Estate Practice in Israel* (2016 Juris publications).

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Lyat Eyal was admitted to the New York State Bar in 1998 and to the Israel Bar in 2015. Lyat practiced law at Faust Rabbach Oppenheim, LLP, a New York law firm from 1999–2004, and at Alon Kaplan Law Firm, an Israeli firm from 2005–2014 in the area of private client practice. Lyat is one of the founding partners of Aronson, Ronkin-Noor, Eyal Law Firm. Lyat is a member of Society of Trusts and Estates Practitioners (STEP), the New York State Bar Association International Section and Trusts and Estates Section. Lyat is an Academician at the International Academy of Estate and Trust Law, and a Fellow of the American College of Trust and Estate Counsel. Lyat publishes regularly in distinguished professional publications and speaks at seminars and conferences internationally.

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Alon Kaplan, Advocate and Notary firm was established in 1975.

The firm provides advice to private clients, focusing on international trust and estate planning, cross border estate and inheritance matters, advice and services to trustees and trust companies on trust, taxation of trusts, incentives for immigrants to Israel and international taxation.

The Practice also provides legal advice in matters of structuring and organising family businesses, creation of trusts, and drafting of wills and pre-immigration planning.

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The Law Firm **Aronson, Ronkin-Noor, Eyal,** was established in 2015 by Alan Aronson, Adv., Orna Ronkin-Noor, Adv. and Lyat Eyal, Adv. who had been colleagues at Alon Kaplan Law Firm for more than 10 years.

Aronson, Ronkin-Noor, Eyal Law Firm advises individuals residents and non-residents of Israel in the areas of private client practice, estate planning, private banking, commercial activities and international taxation in these areas. The firm also has significant expertise in the area of complex real estate transactions, including those involving trust structures.

The firm also provides legal services to foreign corporations and entities seeking to set up operations in Israel via subsidiaries or branches, or through contractual arrangements with local entities, including advice on employment law issues which are unique to the Israeli legal system.