The Golden Visa Market: How Israel, Europe Intersect

Alon Kaplan and Lyat Eyal, 15 August 2019

This article reviews the immigration, residence and tax regime in Israel.

The term "golden visa" or "golden passport" is applied to arrangements offered to those wishing to acquire residence in certain countries (European countries are very popular) where eventually they will be eligible to obtain citizenship. In this article, Alon Kaplan, advocate, and Lyat Eyal, Aronson, Ronkin-Noor Eyel Law Firm and Notary, look at the connections in this field between Europe and Israel.

Israel is a jurisdiction that perhaps deserves to receive more attention than it currently gets an international financial centre. The editors of this news service are pleased to share the views of these experts and invite readers to respond. The editors do not necessarily endorse all views of guest writers.

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There are various programmes specific to each country with a similar pattern: a requirement of a sizable investment in real estate or financial instruments in addition to some processing procedures which require payment for the professional services of lawyers, accountants or other specialists.

A number of examples below include the countries and the amount of investments required (in euro):

- Cyprus 2 Million
- Malta 0.8 Million
- Spain 0.5 Million
- Portugal 0.35 Million

In addition to the countries listed above, other countries offer different systems:

-- Italy: (i) the first option is an "investment programme" requiring an investment in the amount of €2 million ($2.24 million) in Italian government bonds, or €1 million in Italian publicly listed companies or €0.50 million in an innovative startup; or (ii) the second option is a "flat tax regime" whereby the HNW individual pays a fixed annual amount of €100,000 to the Italian tax authority and is granted a tax relief from tax payments on any foreign income earned or accumulated outside Italy.
-- Cyprus: An investment of €2 million in real estate is required, plus a donation of €75,000 to the Government's Research and Development fund and €75,000 to the Land Development Organisation. Citizenship may be obtained within six months of said investments. It is obvious that the "golden visa" regimes are available to HNW individuals who can afford to pay the costs and the investments required. It is important to note that any person considering such an option should obtain proper professional advice as to the consequences of relocation from their home country, including issues of health and life insurance, tax, including estate tax, gift tax, inheritance laws, and marital agreements.
This article will review the immigration, residence and tax regime in Israel. It is important to note that there is no capital investment required and any individual is eligible to participate if that individual meets the criteria of the Law of Return 1950 as described below.

Introduction

Israel was formed as an independent state in 1948 and has ever since been a country founded on immigration. Because of historical events, the Law of Return 1950 was enacted to allow individuals of the Jewish faith to immigrate to Israel and receive Israeli citizenship.

Individuals who do not wish to immigrate or those who cannot receive Israeli citizenship may also reside in Israel under certain circumstances and conditions following certain administrative procedures such as visa applications.

Over the years, various governmental policies were implemented, and legislation was enacted (and revised) in support of immigration, including, but not limited to, the Tax Ordinance [New Version] (hereinafter, the "Tax Ordinance").

This article will summarise benefits granted by the Tax Ordinance to individuals immigrating or returning to reside in Israel in accordance with the definitions in the Tax Ordinance in comparison with similar rules and benefits granted in other jurisdictions.

Who is an Israeli resident?

The question of Israeli residence has been the topic of a number of high profile litigation cases recently. As a result of many litigated disputes on the issue of residence, the Tax Authority has indicated that there is an intention to revise the rules and clarify the subject matter. At present, Israeli residence for tax purposes is a rebuttable presumption based

on a day count of an individual's presence in Israel. Generally, a presumption of residence in Israel is established where an individual is present in Israel during at least 183 days annually or for at least 30 days in any given tax year and at least 425 days cumulatively in that same tax year together with the immediately preceding two years (1).
Notwithstanding, residence is based on a "center of life test" which is a subjective test taking into consideration many factors such as one's permanent home, the jurisdiction of residence of immediate family members, one's business activities, financial interests or place of employment as well as volunteering activities in organisations, worship locations and activities at various institutions. Details for determining the subjective elements of residence may include the jurisdiction in which medical care is sought, membership at social events (such as a subscription to shows and/or concerts) as well as membership at various clubs (such as a gym, country club or university alumni).

Immigration definitions

The Ordinance defines the residence categorisations listed below (2):
a. New immigrants are individuals immigrating to Israel and residing in the country for the first time.
b. Returning residents are Israeli citizens who resided in Israel, emigrated and resided abroad and return to reside in Israel after having resided abroad for a period of at least six consecutive years.
c. Long-term returning residents are Israeli citizens who resided in Israel, emigrated and resided abroad and return to reside in Israel after having resided abroad for a period of at least ten consecutive years.

Tax benefits

New immigrants and long-term returning residents

The tax benefits for new immigrants and long-term returning residents include an exemption from tax payments in Israel for a ten-year period on all foreign source income, such as employment income (3), dividends, annuity payments, rental income, or royalty payments. The crucial point is that the source of the income must be abroad. Income derived from sources within Israel is not within the permitted exemptions under the Ordinance (4).
In addition to the tax exemptions, new immigrants or a long-term returning resident may choose one year as an adaptation year, provided that a notice is provided within 90 days of arrival to Israel in accordance with the Ordinance.
In the event that the individual remains an Israeli resident after the one-year adaptation period, the year will be counted within the ten-year exemption period. (5) In the event that the individual does not remain an Israeli resident and terminates Israeli residence

prior to the end of the adaptation year, the one-year period will not be considered a period of residency in Israel.

Returning residents

Returning residents are entitled to a tax exemption for a period of five years on all foreign source income, excluding business income including (a) annuity payments, royalties, rent, interest or dividend payments originating from assets purchased by the returning resident while a resident of another jurisdiction; and (b) interest or dividend income originating from “Specified Securities” abroad. (6) “Specified Securities” are defined as publicly traded securities purchased by the returning resident while residing abroad and managed by a financial institution, as well as publicly traded securities purchased by the returning resident from interest, dividend or capital gains income arising from “Specified Securities.”

Foreign corporations

Controlled Foreign Corporations (hereinafter, "CFC") rules were introduced in 2003 together with a major overhaul of the tax system and the introduction of worldwide taxation. The purpose of the CFC provisions (7) is to prevent the deferment or avoidance of taxes by the use of foreign corporations with regard to passive income.

The Ordinance expands benefits to new immigrants and long-term returning residents by permitting such individuals to maintain their business activities abroad via foreign companies while residing in Israel without subjecting such foreign corporations to Israeli taxes during the ten-year exemption period. Said exemption applies only to foreign source income of the company.

Reporting obligations

In addition to the tax exemptions, the Ordinance expands the benefits also to reporting obligations. (8) New immigrants and long-term returning residents are exempt from reporting obligations on all foreign source income for a period of ten years. Nonetheless, the reporting exemption is controversial and is unsupported by the Tax Authority that is attempting to have this exemption from reporting revised. In addition, as CRS reporting will be provided, information on certain activities abroad may be reported to Israel irrespective of the individuals' reporting exemption.

New immigrants and trusts

The Ordinance grants exemptions similar to those granted to individuals to trusts settled by and for the benefit of individuals entitled to exemptions under the Ordinance (9).

F. No estate and gift tax

There is no estate or gift tax in Israel.

Conclusion

In 2019, Israel's population is over 9,000,000 individuals.

This is a dramatic growth of 1,000 per cent compared with a population of 800,000 in 1948, the year of the establishment of the State.

Most of this increase in population is attributed to immigration from over 70 countries.

Alon Kaplan was admitted to the Israel Bar in 1970 and appointed notary in 1989. He was admitted to the New York Bar in 1990, was licensed in Germany in 1991 and became a member of the Frankfurt Bar Association in 2010. He was an adjunct lecturer at the Law Faculty of Tel Aviv University and lectured in its LLM programme. Kaplan, the founder of STEP Israel in 1998, is currently its president. An academician of the International Academy of Estate and Trust Law and member of the American College of Trust and Estate Counsel, Kaplan also advised the Israeli Tax Authority on trust legislation. He is the author of the book "Trusts & Estate Planning in Israel", Juris Publishing.

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