Israel

International Estate Planning Guide

Individual Tax and Private Client Committee

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Preamble/author's note

It is important to mention a number of general principles that are important to the cross-border practitioner in the area of private client trusts and estates.

1. Israel is party to the Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents (Hague Conference on Private International Law (HCCH) 1961 Apostille Convention). As a result, the foreign notary confirmation of documents together with the apostille authentication is accepted in Israel for all purposes.

2. An Israeli notary is an attorney admitted to the Israel Bar with at least ten years of practice experience and a special qualification as a notary required by the Israel Bar. Nonetheless, an Israeli notary does not practice in the same manner as a notary in other countries, such as civil law European jurisdictions.

I. Wills and disability planning documents

The Succession Law 1965 (the 'Succession Law') governs inheritances in Israel. The law governs estate planning, including forms of wills, the validity of foreign wills and inheritance rights, as well as estate administration, maintenance rights to dependent family members, a decedent's debts executors, private international law issues in this area and various other issues.

A. Will formalities and enforceability of foreign wills

1. WILL FORMALITIES

The fundamental principle under the Succession Law is freedom of testation. As a general rule, an individual is free to bequeath his or her assets as he or she wishes, and there are no forced heirship rules. Under very limited circumstances, immediate family members may be entitled to maintenance payments from the estate if they can prove that they were financially dependent on the testator prior to his or her death.

There are a few forms of valid wills under Israeli law as summarised below.

a. Witnessed will

A witnessed will must be in writing, certified by the testator to be his or her last will and signed by the testator in front of, and together with, two adult competent witnesses who are not beneficiaries under the will.

b. Will before an authority

A will executed before an authority is one signed before a judge, religious tribunal judge, registrar or notary.

The procedure for executing the will before the authority requires the testator to indicate his or her wishes to the authority, orally or in writing. If done orally, the authority records the testator's wishes in writing and certifies the testator's declaration of the document as his or her last will and testament.

The most common will before an authority is a will executed before a notary whereby the notary confirms the testator's signature on a written document.

c. Oral will

An oral will can only be made by an individual who believes that his or her death is imminent. Under such circumstances, the individual may recite his or her testamentary wishes before two witnesses who must put the testator's oral testamentary wishes in writing and file the relevant document with the Registrar of Inheritances. Such an oral will shall be void after 30 days from the circumstances warranting the oral will if the testator is still alive.

In a case that reached the court, a woman died in Argentina and left an oral will. The law in Argentina does not recognise oral wills. In the judgment, the court examined the validity of the will according to Israeli law and applied Argentinian law (see 8991/04).

d. Handwritten will

A handwritten will is valid if the complete document is in the testator's handwriting, and signed and dated by the testator.

2. FOREIGN WILLS

A foreign will is valid under the Succession Law if it is valid as set forth below:

- under the laws of the country where it was executed;
- under the laws of the country of residence or citizenship of the testator at the time of execution of the will or at the time of his or her death; and
- if the will bequeaths real property under the laws of the country where the real property is located.

In the case of *Mastora Kahana v Meir Kahana*,[1] the court found that, while it possessed jurisdiction over the worldwide assets of the estate, the governing law with respect to the assets located in France was French law to be applied by the Israeli probate court.

Even in the case of a will written in Israel, foreign law must be examined according to the place of residence of the testator (see 594/04).

3. MUTUAL WILLS

Section 8 of the Succession Law refers to mutual wills that are defined as wills that are executed by spouses in reliance on each other; for example, a mutual will is one in which the spouses bequeath their entire estate to each other and thereafter to their joint children.

As the spouses sign said wills in reliance on each other, a mutual will may be revised as follows: In the event of a separation or divorce, any revisions/cancellations require notice by one spouse to the other of the revision or cancellation of the mutual will that automatically cancels both wills.

Upon the death of the first spouse, a mutual will may be cancelled or revised by the surviving spouse either upon the renunciation of his or her share of the predeceased spouse's estate, as long as the renunciation is not in favour of the surviving spouse, his or her child, or the predeceased spouse's sibling; or to return the assets inherited or the cash value thereof from the surviving spouse to the estate of the predeceased spouse and thereafter revise the surviving spouse's will.

In a case that reached the family court in Nazareth, a couple signed a mutual will, after which the woman changed her will unilaterally. In this case, the court determined that the new will of the woman, who suffered harsh treatment from her husband, was valid. This is also because the husband's reliance on the mutual will did not stand. The court's ruling was that the submission of a divorce petition, a writ of a claim for the dissolution of a partnership, an exchange of drafts, a meeting at the welfare unit, and the filing of protection and physical separation orders between the parties amounted to a written notice that was brought to the attention of the husband. It should be noted that the court asked to examine whether the same mutual will was signed as part of undue influence on the part of the husband and concluded that this was not the case (see *LB v ES* (52005-08-18)).

Undue influence was discussed in a case of the family court in Tel Aviv. A divorced woman who was the mother of a daughter chose to bequeath her estate to the medical team that treated her in the last years of her life. The deceased's daughter wished to uphold a previous will in which the mother bequeathed her estate to her daughter. The daughter relied on her claims that the will should be cancelled due to defects in it, the deceased's unfitness to make a will, undue influence on the deceased, and that the will was devoid of reasonableness and did not reflect the wishes of the deceased. The court did not find undue influence and clarified that the fear of it is not enough; a solid evidentiary foundation for its existence must be assumed. The court upheld the execution of the last will (see *MN v DD* (21509-05-21)).

4. WILL SUBSTITUTES (REVOCABLE TRUSTS OR ENTITIES)

Trusts are recognised in Israel, whether settled under the Israeli Trust Law 1979 (the 'Trust Law') or under the laws of foreign jurisdictions. A trust duly executed before an Israeli notary under section 17 of the Trust Law, whether revocable or irrevocable or under foreign laws, is a will substitute as the assets transferred to the trust during the settler's lifetime are owned by the trustee and do not form part of the settler's estate upon his or her demise. A detailed discussion on trusts is included in the relevant section below.

II. Powers of attorney, directives and similar disability documents

A. Powers of attorney

Powers of attorney are governed by the Agency Law 1965 and allow an agent to act on behalf of a principal in the same manner as the principal could act. Although not provided for in the Agency Law, in practice, except for the irrevocable power of attorney referred to below and certain irrevocable powers of attorney granted in real estate transactions, powers of attorney are valid for a period of ten years. There are a number of commonly used powers of attorney set forth below.

1. GENERAL POWER OF ATTORNEY

A general power of attorney is signed on a set form that grants the agent the widest possible powers. Careful consideration should be given prior to executing this document, although, in certain cases, it is warranted either by the third party before which the agent is appearing or under the circumstances.

A general power of attorney can be signed before any attorney if said attorney is appointed as an agent under the general power of attorney. Where the attorney is not the appointed agent, the general power of attorney needs to be signed before a notary.

A general power of attorney terminates upon, among other circumstances, as provided by the Agency Law, the incapacity or death of the principal. A durable power of attorney, discussed in greater detail below, allows an agent to act on behalf of the principal in the event of incapacity.

2. SPECIAL POWER OF ATTORNEY

A special power of attorney is not usually executed on a set form but drafted to meet the specific needs necessary to allow the agent to act on behalf of the principal. It is advisable to coordinate with the party requiring the power of attorney to ensure that the draft meets such a third party's requirements.

As with a general power of attorney, if the attorney is the appointed agent, said attorney may confirm the principal's signature. Otherwise, the principal is to sign the special power of attorney before a notary.

Also, similar to the general power of attorney, the special power of attorney will not be valid in the event of the incapacity or death of the principal.

3. NOTARISED POWER OF ATTORNEY

This power of attorney is any power of attorney signed before an Israeli notary as provided herein. For real estate transactions where third parties, such as banks, are involved, the power of attorney must be signed before a notary. The cancellation of a notarised power of attorney, except for an irrevocable power of attorney described below, may be achieved in coordination with the notary who confirmed the signature on the document.

4. IRREVOCABLE POWER OF ATTORNEY

Where the rights of a third party depend on and rely on the power of attorney, it cannot be cancelled, as provided in section 14b of the Agency Law. It is common practice for parties to a real estate transaction to execute irrevocable notarised powers of attorney that will remain valid in the event of the principal's incapacity or death. This is important in order to ensure the parties' rights in the real estate transaction once the agreements are signed and prior to the finalisation of various administrative processes, such as certain registrations at the land registry that could require a number of years to finalise.

B. Durable powers of attorney (DPAs)

DPAs are governed by the Legal Capacity and Guardianship Law 1962 (the 'Guardianship Law'), which was amended in 2017 to allow for DPAs. The Guardianship Law allows a competent adult to appoint an agent based on instructions included in the DPA form and the provisions of the Guardianship Law, but without subjecting the agent to supervision by any governmental agency, unless the principal requests such supervision. The execution, e-filing and enforcement of the DPA requires following strict administrative and technological processes. Depending on the

principal's wishes, the DPA may govern personal matters, such as wellbeing, residence, daily needs, physical, mental or social issues, as well as financial matters and certain health/medical matters. The DPA is initially executed and e-filed in a database managed by the Guardian General's Office, and is valid upon the principal losing legal capacity in accordance with a medical opinion determining said incapacity.

The agent under the DPA is, in most cases, an immediate family member of the principal, that is, a spouse or child. The Guardianship Law provides the criteria for the appointment of an agent, including a competent adult, financially solvent (if appointed for financial matters), not providing medical treatments to the principal or residence for a fee, and other than a family member. In addition, the agent is not to be the attorney confirming the DPA and any agent cannot act for more than three principals, unless they are the agent's family members.

Based on the Guardianship Law, the agent under a DPA may not act on behalf of the principal in the following matters:

- change of religion;
- actions of the principal on behalf of others (eg, guardianship);
- adoption;
- voting;
- healthcare directives under the Deathbed Patient Law 2005; and
- execution of a last will and testament.

In addition, in connection with financial matters, the principal must specifically authorise the agent, in the DPA, to act within the limitations below. If no reference is made in the DPA form, any such actions will require the agent to obtain court approval:

- granting charitable donations, gifts and loans in amounts of up to 100,000 shekels (about US$30,000);
- other legal actions involving amounts between 100,000–500,000 shekels (about US$30,000–US$151,000); and
- actions relating to certain pension funds.

Notwithstanding the actions requiring specific authorisation in the DPA form, the actions listed below require that the agent receive court approval to act irrespective of authorisation in the document:

- real estate transactions;
- renunciation of an inheritance in estate proceedings;
- charitable donations, gifts or loans in amounts exceeding 100,000 shekels (about US$30,000);
- legal actions in an amount exceeding 500,000 shekels (about US$151,000); and
- transactions in provident funds.

A DPA may be terminated upon the death of the principal or the agent, if no successors are appointed, on an event determined by the principal in the DPA to terminate the appointment, on notification by the agent, or if a spouse is the appointed agent and the spouses divorce.

C. Healthcare directives

An agent under a DPA is authorised to make any 'routine' medical decisions if the principal authorises an agent to act for medical matters. These include all medical decisions other than those governed by the Deathbed Patient Law 2005 described below. Also included under the DPA is authority for the agent to act on behalf of the principal in mental health issues.

Living wills and advanced healthcare directives are set forms provided by the Ministry of Health for terminal illnesses under the Deathbed Patient Law and are relevant where a patient has a life expectancy of up to six months as determined by his or her physician. These are signed before medical professionals (not attorneys) and are filed with the Ministry of Health.

III. Estate administration

A. *Overview of administration procedures*

Probate/inheritance proceedings differ where the estate is that of an Israeli resident or a foreign resident. For an Israeli resident, the probate/inheritance process is via the Registrar of

Inheritances and lasts approximately three to four months where the facts are simple and no objections to the procedure are involved.

For foreign residents, Israel does not recognise foreign probate court orders. Upon the death of a non-resident owning assets in Israel, a probate/inheritance proceeding in Israel is required in order to transfer the assets located in Israel to the beneficiaries under a will or to legal heirs. The process commences with the Registrar of Inheritances and is transferred to the Family Court for the issuance of an order.

In all procedures, a governmental agency named the Guardian General reviews and accompanies the procedure, and may intervene if deemed necessary.

B. Administration of the estate

1. PROOF OF INHERITANCE: INTESTATE SUCCESSION

The Succession Law governs intestate succession and provides that a decedent's legal heirs are as follows according to the shares listed below:

1. the decedent's married spouse: all tangible personal property, in addition to half the estate if the decedent is survived by children or their issue or by parents; or two-thirds of the estate if the decedent is survived by siblings or their issue or by grandparents; if, the surviving spouse and the decedent were married for at least three years and shared a common household in real property forming part of the estate, the surviving spouse is entitled to all of the decedent's rights in said real property and two-thirds of the remainder of the estate;
2. the decedent's common law spouse, under certain circumstances, including same-sex spouses;
3. the decedent's issue;
4. the decedent's parents and their issue;
5. the decedent's grandparents and their issue; and
6. in the absence of any family members surviving the decedent, the State of Israel.

2. PROOF OF INHERITANCE: TESTATE SUCCESSION

As mentioned above, Israel does not recognise foreign probate/inheritance court orders and an order from the Israeli inheritance registrar or family court is required in order to transfer assets located in Israel irrespective of any proceedings abroad.

Section 137 of the Succession Law provides, as a general rule, that the law governing the distribution of a foreign resident's assets in Israel is the law of the decedent's country of residence. This rule has also been supported by decisions of the Supreme Court.

The probate procedure requires filing the original will and foreign documentation duly authenticated by apostille, including, with limitation, the death certificate and identification documents of the testator and the heirs. Where the original will admitted to probate in Israel has been filed for probate or is held by a notary in a foreign country, there is a special procedure to request the court in Israel to provide a probate order based on a duly authenticated copy of the will. In addition, certain documents may need to be duly translated into Hebrew for the court to review.

As the governing law for the distribution of the estate assets in Israel is the law of the jurisdiction of residence of the testator at the time of his death, a legal opinion is required for the Israeli procedure to ensure the distribution of the assets in Israel is in accordance with the laws of the country of residence of the testator.

3. EXECUTORS

Israel does not legally require the appointment of executors and such an appointment, if necessary, is achieved via a procedure that is separate from the probate procedure.

In an application for the appointment of an executor, evidence must be provided of the necessity for the appointment and the executor must be a resident of Israel.

Upon the appointment, an executor is subject to the supervision of the Guardian General requiring reporting on the assets held by the estate and income derived therefrom, and must

receive court approval for various actions taken, such as the sale of real estate or distribution of assets to the heirs.

4. MARITAL PROPERTY REGIME

As a general rule, the issue of marriage in Israel is not simple. As there is no separation of 'church and state', there are a number of issues, including marriages, which are governed solely by religious laws and the relevant religious tribunals in the country depending on the individuals' religious affiliation.

The Spouses Property Law 1973 provides that the financial arrangement of a valid marriage after 1974 is, as a general rule, that assets accumulated during the marriage are community property and subject to the balancing of resources upon divorce.

Exceptions to the general rule are any gifts or inheritances to one spouse during the marriage or assets owned by one spouse prior to the marriage.

Court precedents vary significantly in this area and include some extreme decisions, mainly surrounding the questions of whether assets that by law should be kept separate assets per the exceptions mentioned above, have been commingled and/or intended to be considered marital assets.

IV. Trusts, foundations and other planning structures

A. Common techniques

The Trust Law defines a trust as an arrangement where a trustee has the power to hold or have control over property for the benefit of beneficiaries or for a specified purpose. While various legal relationships may also be defined as trusts, such as statutory fiduciaries, guardians, liquidators and executors, the private trust is not a separate legal entity and assets are held by the trustee or an underlying company.

The creation of a private trust may be by contract, Hekdesh deed or a last will and testament.

A trust created by contract requires the settler and trustee to execute a written agreement reflecting the terms of the trust. The validity of said agreement will lapse upon the settler's death.

A trust created by Hekdesh deed requires the execution of the deed by the settler before an Israeli notary. Only the Hekdesh deed will act as a will substitute under the condition that the assets are transferred from the settler to the trustee during the settler's lifetime resulting in the assets not forming part of the settler's estate at death.

A testamentary trust is included in a last will and testament, which is executed in accordance with the requirements of the Succession Law as listed above.

B. Irrevocable inter vivos trust: Hekdesh

As mentioned above, the Hekdesh deed requires a specific manner of execution in order to be a will substitution and no rule against perpetuities is valid in Israel.

The trustee of a trust settled under a Hekdesh deed may be an individual or a corporate entity and the beneficiaries may be named beneficiaries, a class of beneficiaries or a specified purpose.

While the Trust Law makes no reference to protectors, such a reference is included in the Income Tax Ordinance [New Version] (the 'Tax Ordinance'),[2] defining a protector as the individual who has the authority to appoint or remove a trustee, instruct the trustee or provide approval to actions by the trustee, as provided in the Hekdesh deed.

C. Trusts and real estate

Trusts holding real property in Israel are complex and unclear.

As a general rule, real estate transactions are taxed under the Real Estate Taxation Law (Gain and Purchase) 1963 and trusts are taxed under the Income Tax Ordinance. In practice, this results in the taxation of real estate transactions held by trusts under the Real Estate Taxation Law as if there is no trust. While, at the time of writing, the two laws 'clash' relating to trusts holding real property, a Supreme Court Decision is very much awaited in this area.[3] This area will be updated once the court ruling is published.

D. Treatment of foreign trusts/foundations

Foreign trusts and foundations are recognised in Israel. The Income Tax Ordinance, First Schedule, lists the legal entities recognised by the Tax Ordinance as follows: a Liechtenstein foundation, Liechtenstein establishment and Liechtenstein Registered Trust, as well as foundations under the laws of the Bahamas, Panama and the Netherlands Antilles. Notwithstanding the listed structures and jurisdictions, trusts/foundations formed under the laws of foreign jurisdictions will be recognised in Israel.

E. Public trusts/endowments

The Trust Law governs trusts for a public purpose that are for charitable public purposes in the areas of science, education, health, religion, sports and security. The beneficiary of a public trust would usually be a purpose from the above list rather than individuals or institutions.

In addition to the public trust, non-profit organisations include non-profit companies incorporated pursuant to the Companies Law 1999 or associations incorporated under the Law of Associations 1980.

F. Lifetime gifts

Gifts are recognised in Israel by the Gift Law 1968, and permit assets of all types to be gifted by a donor to a donee evidenced by a written document.

V. Taxation

The following tax rules refer to trusts and foundations regardless of the jurisdictions of their settlement.

The Income Tax Ordinance defines five trust categories:

- Israeli residents trust;
- foreign resident trust;
- Israeli resident beneficiary trust;
- foreign beneficiary trust; and
- testamentary trust.

A. Israeli residents trust

The Israeli residents trust is: (1) a trust settled by a resident of Israel for the benefit of Israeli resident beneficiaries; or (2) a trust where all settlers are deceased and there is an Israeli resident beneficiary. This trust is subject to reporting obligations and tax payments on its worldwide income at the rates applicable to individuals for the various types of income of the trust. This trust is also the default category for trusts that do not fit within the definition of other trust types.

B. Foreign resident trust

The foreign resident trust is settled by a non-resident for the benefit of non-resident beneficiaries or registered Israeli charities. The trust must not have had any Israeli resident beneficiaries at any time since its settlement. This trust is subject to reporting and tax obligations in Israel only to the extent that it holds Israeli assets or receives Israeli source income. The trust may be managed by an Israeli resident trustee with no effect on the taxation thereof.

C. Israeli resident beneficiary trust

The Israeli resident beneficiary trust is a trust: (1) established by a non-resident of Israel; and (2) at least one of the beneficiaries of the trust is a resident of Israel.

Two additional criteria must be met for the trust to be classified as an Israeli resident beneficiary trust. First, the settler and the beneficiaries must belong to the immediate family circle (ie, the settler is a spouse, parent, grandparent, child or grandchild of the beneficiary ('family trust')). A broader family relationship (ie, siblings, nieces, nephews, aunts and uncles) will only permit classification as an Israeli resident beneficiary trust upon the submission of evidence to the tax assessment officer of the tax authority that such a trust was settled in good faith and that the beneficiary did not provide consideration for such settlement in his or her favour. Second, the settler is alive.

If any one of these additional criteria is not met, and the trust is not a family trust, it is to be classified and taxed as an Israeli resident trust.

The Israeli resident beneficiary trust/family trust is subject to tax as follows:

- distributions to Israeli resident beneficiaries will be taxed at the rate of 30 per cent of the distribution amount unless the trustee provides evidence of the income and capital portions of the distribution. Where the distribution is comprised solely of capital and not of income, it is not taxable; and
- the trustee may opt, under certain circumstances, to subject the trust income allocated to an Israeli resident beneficiary to tax at the rate of 25 per cent in the tax year in which the income accrued. Upon annual tax payments on income by the trust, distributions to the beneficiary are not subject to additional taxes. This route, once chosen by the trustee, is irreversible.

D. Foreign beneficiary trust

A foreign beneficiary trust is a trust established by an Israeli resident for the benefit of a foreign resident beneficiary. The trust is entitled to the tax exemptions listed below but is subject to reporting obligations upon its settlement as well as annually, as confirmation of the beneficiaries' residence abroad.

Such a trust must meet all of the following conditions:

- it does not fall within the definition of an Israeli residents trust;
- it is irrevocable;
- all of the beneficiaries are identified and are foreign residents; and
- at least one settler is an Israeli resident.

A foreign beneficiary trust is regarded as a foreign resident individual and is taxed in the same manner in which an individual foreign resident is taxed in Israel. If the assets and the income derived therefrom are derived from sources outside of Israel, there is no taxation in Israel. If the assets or the income derived therefrom are derived from sources within Israel, they are subject to Israeli taxation. Taxes may be applicable upon the settlement of the trust. The appointment of an Israeli trustee has no relevance for taxation purposes.

E. Testamentary trust

This trust is settled by a last will and testament of an Israeli resident. It is treated for tax purposes as an Israeli resident trust if it has at least one Israeli resident beneficiary or as a foreign beneficiary trust if there are no Israeli resident beneficiaries, as the case may be.

VI. Residence

The Tax Ordinance defines an Israeli resident as 'an individual whose centre of life is in Israel'. If an individual is present in Israel for a period of 183 days or more in one tax year or 30 days or more in one tax year and 425 days in total in that year and in the immediately preceding two tax years the individual is presumed to be an Israeli resident. However, the day count is a rebuttable presumption by either an individual or the tax authority based on the individual's centre of life.

In order to establish an individual's centre of life, the individual's family, economic and social ties require review and evaluation. Among other factors, these ties may be evidenced by the following:

- the location of the individual's permanent home;
- the location of the individual's place of residence and the place of residence of his or her family members;
- the location of the individual's business activities, place of employment or business dealings;
- the location of the individual's economic interests, including, without limitation, location of assets and/or investments; and
- the location of the individual's activity in organisations, associations and institutions.

In addition, the courts, in several rulings, established the 'subjective test', that is, where the individual views his or her centre of life.

This is an area that is expected to be revised in the near future with hard lines determining residence instead of the rebuttable presumptions relevant today that have created many arguments between taxpayers and the tax authority, and resulted in a few significant court decisions.

A public committee in the field of international taxation was appointed by the Israel Tax Commissioner in 2021. The purpose of the committee was to provide recommendations in an attempt to simplify and grant certainty and efficacy to the Israeli tax system in the context of international taxation. The committee's report was submitted to the Tax Commissioner in November 2021 (the 'Committee's Report') and covered various areas including residence:

The Committee's Report relating to Israeli residence of individuals for tax purposes includes the recommendations set forth below. These are each, as a standalone, conclusive evidence of Israeli residence.

- An individual is present in Israel at least 183 days per tax year during two consecutive tax years. Residence will commence in the first year in which the individual was present at least 183 days.
- An individual is present in Israel at least 100 days in any tax year and a total of at least 450 days cumulatively together with the immediately preceding two tax years. This presumption will not result in the individual being an Israeli resident if the individual was present in a treaty country at least 183 days in each of the relevant tax years reviewed subject to providing a residence certificate for tax purposes in the treaty country for the relevant tax years.
- An individual is present in Israel at least 100 days in any tax year and the individual's spouse or cohabiting partner is an Israeli resident.

In addition, the Committee's Recommendations include the presumptions listed below, which will be irrebuttable/conclusive evidence of the individual's residence abroad.

1. An individual present in Israel less than 30 days in every tax year during the last four consecutive tax years will be considered a foreign resident from the first tax year.
2. An individual present in Israel less than 30 days in every tax year during the last three consecutive tax years will be considered a foreign resident from the second tax year.

   These irrebuttable presumptions (1 and 2) will apply if the individual is not present in Israel at least 15 days in the first month of the first tax year or the last month in the final tax year.

3. An individual and his/her spouse that are present in Israel less than 60 days in each tax year during a period of four consecutive tax years will be considered foreign residents from the first tax year.
4. An individual and his/her spouse that are present in Israel less than 60 days in each tax year during a period of three consecutive tax years will be considered foreign residents from the second tax year.

   These irrebuttable presumptions (3 and 4) will apply if the individual and his/her spouse are not present in Israel at least 30 days in the first two months of the first tax year or the last two months in the final tax year.

5. An individual and his/her spouse that are present in Israel less than 100 days in each tax year during a period of four consecutive tax years will be considered foreign residents from the first tax year provided that the individual and his/her spouse were present in a treaty country in each tax year at least 183 days and provided a residence certificate for tax purposes in the treaty country for the relevant tax years.
6. An individual and his/her spouse that are present in Israel less than 100 days in each tax year during a period of three consecutive tax years will be considered foreign residents from the second tax year provided that the individual and his/her spouse were present in a treaty country in each tax year at least 183 days and provided a residence certificate for tax purposes in the treaty country for the relevant tax years.

   These irrebuttable presumptions (5 and 6) will apply if the individual and his/her spouse are not present in Israel at least 50 days during the first 100 days of the first tax year or the last 100 days of the final tax year.

VII. Gift, estate and inheritance taxes

As a general rule, no estate or gift taxes are imposed under Israeli laws. An exception to this rule is where an Israeli resident gifts any assets in kind to a foreign resident.

In addition, as no estate taxes are imposed, for estate administration purposes, no step-up in basis is granted to date of death, which may create some complexities for cross-border estates.

Notes

[1] CA 598/85.
[2] S 75c.
[3] *Samuel Gelis and others v Capital Gains on Land Director*, Tel Aviv 1; 49026-07-17.