

**Wine and cheese or tea and biscuits - can your adviser help you lead  
the life you wish?**

**Israel - Lyat Eyal, Adv.**

**Israeli Residence<sup>1</sup>**

The Income Tax Ordinance [New Version] (hereinafter: the "Ordinance") defines an Israeli resident as an individual whose center 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 center of life.

In order to establish an individual's center 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:

1. The location of the individual's permanent home.
2. The location of the individual's place of residence and the place of residence of his family members.
3. The location of the individual's business activities, place of employment or business dealings.
4. The location of the individual's economic interests, including, without limitation, location of assets and/or investments.

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<sup>1</sup> 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 and covered various areas including residence, exit taxes, new immigrant tax benefits, CFC rules, relief from double taxes on foreign source income, foreign residents and their tax obligations in Israel and other areas relevant to international taxation. As present, the committee's report has not passed the relevant legislative process.

5. The location of the individual's activity in organizations, associations and institutions.

In addition, the courts, in several rulings, established the "subjective test", i.e., where the individual views his center 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 high-profile court decisions.

#### **New Immigrants and Returning Israeli Residents**

Since 2008, the Ordinance provides for tax benefits to new immigrants and returning Israeli residents. The Ordinance defines three classes of immigrants: New immigrants, i.e., those who become residents of Israel for the first time; Returning residents, i.e., those who resided abroad for a period of at least six consecutive years and return to reside in Israel; Long-term returning residents, i.e., those who resided abroad for a period of at least ten consecutive years and return to reside in Israel.

#### **Benefits to New Immigrants and Returning Israeli Residents**

The Ordinance provides an exemption from tax and reporting obligations<sup>2</sup> to new immigrants and long-term returning residents on all forms of income whether active or passive, earned income and capital gains, or derived from sources outside Israel for a period of ten years. The exemption applies even if the assets are purchased after the individuals change their residence to Israel during this period.

Returning residents are entitled to tax benefits relating to assets purchased during their residence abroad after they were no longer considered residents of Israel for tax

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<sup>2</sup> The committee on international taxation described in footnote 1 recommended the abolishment of the reporting exemption.

purposes. These include passive income derived from said assets (exempt from taxes in Israel for a five-year period), and capital gains derived from the sale of said assets (exempt from taxes in Israel for a period of ten years as long as there is no right via the asset, directly or indirectly, to assets located in Israel).

A new immigrant or a long-term returning resident may be entitled to a one-year accommodation period in which they will not be considered residents of Israel for the purpose of its tax laws. This enables individuals to get settled and decide whether they wish to change their jurisdiction of residence to Israel. In order to enforce this benefit, certain procedures and formalities must be followed with various offices of the Israeli Government, including the Ministry of Absorption. In the event that the individual has applied for the accommodation year and remains an Israeli resident thereafter, the one-year period will be part of their ten-year exemption period. In the event that the individual returns to his or her original home country, during or upon the termination of the accommodation period, they will not be considered an Israeli resident during the period of residing in Israel.

Under Israeli law, a corporation is an Israeli resident for tax purposes if it is incorporated in Israel or if the management and control of the corporation incorporated abroad is conducted from Israel. Where a new immigrant or long term returning resident owning and managing a foreign corporation moves to reside in Israel, such residence in Israel by the owner does not subject the foreign corporation to Israeli taxes solely due to the residence of the owner for a period of 10 years.



**Lyat Eyal** was admitted to the New York State Bar in 1998 and to the Israel Bar in 2005. Lyat's private client practice focuses on cross-border estate planning, trusts, pre-immigration planning and estate administration. Lyat is a member of STEP, the New York State Bar Association International and Trusts and Estates Sections, an Academician at the International Academy of Estate and Trust Law (TIAETL) and a Fellow of the American College of Trust and Estate

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