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The Broide & Co. Newsletter

Quote of the Day

"A man can succeed at almost anything for which he has unlimited enthusiasm"

Charles M. Schwab

In This Edition

Management And Control Revisited - Is The Company Subject To Tax In Israel?

Israel taxes are levied on Israel-resident companies, including foreign companies deemed resident in Israel. This includes a foreign company or similar legal entity where the management <u>and</u> control are exercised in Israel.
In a case in the Tel-Aviv Regional Court, the Judge provided some illuminating clarifications which merit close attention:

- Where the business policy and strategic decisions of the company are determined effectively and the material decisions relating to the day-to-day management are also made here, then the management **<u>and</u>** control will be considered exercised in Israel.
- The existence of a permanent and continuous management infrastructure outside of Israel, both as relating to day-to-day management, and also determining policy, may lead to the conclusion that management is exercised outside Israel, even where some of the directors are resident in Israel.
- It may be that where an Israeli-resident director travels overseas for meetings of the board of directors- meetings of substance and held regularly and close to the foreign-management infrastructure - and the meetings are not merely a "cover" for management activity exercised in Israel, then this too may be deemed management exercised outside of Israel.

These are complex, but very significant, principles, and relevant to structuring and tax planning.

Tax Problems With Selling Goodwill

A ruling in the Tel-Aviv Regional Court, relating to the sale of personal goodwill, merits close tax planning attention.

- An actual asset must pass hands (e.g. list of clients).
- Non-competition clause should be stipulated.
- In certain businesses/professions, the source of the goodwill is the businessman or professional himself/herself and is essentially inseparable..., thus rendering the goodwill not transferable.
- In order for goodwill to be considered "sold", there must be evidence that the economic risks and potential relating to the goodwill have been transferred.
- Professional guidance should be sought in these matters.

TRUST TAX TIDBITS

1. A beneficiary will include one where the trust documents make entitlement conditional on residence in Israel (Section 75a(1)).
2. Where beneficiary "entitlement" is conditional on death of Settlor/Grantor or other beneficiary, then such a person is not considered a beneficiary under the Trust tax law under the "event" , viz. death.
3. Where a beneficiary resident in Israel died or ceased to be a resident in Israel before 2003, then such a trust will not be considered an Israel resident trust.
4. Death of a new or returning resident during the 10 year tax holiday does not end the "tax holiday" for a trust settled/granted by such person.
5. A trust tax debt may be collected from any beneficiary up to the amount of distributions received.
6. The 3% Tax Surcharge applies to trust taxes.
7. Where the tax reporting (thus taxability) of the trust is done by the Settlor/Grantor or a beneficiary then foreign taxes paid by the trustees may be set off against the taxes due.

Change In The Rate Of VAT

The rate of VAT is to be increased to 18% (previously 17%), effective as of January 1st, 2025. Do note the following:

1. On the sale of goods/products, the date of transfer (viz. handing over) is the determining date.
2. Property deals – determining date is the date of transfer of rights.
3. Rentals – on receipt of income.
4. Services on cash basis – determining date is date of receipt of the money.
5. Services not on cash basis – date service is provided.

Ensure to plan accordingly.

How Good Is Your Bank

There is no doubt that banking is an important facet of any business. But just how seriously do you treat your relationship with your bankers? Do you check and compare rates and charges? Do you insist on good service and relations? Does your bank(s) enable you to operate properly? These are very relevant questions, and we can but emphasize that continuous review of bank matters is an integral part of managing your financial affairs. It may be a good idea to set up a meeting with your bankers without delay.

New Income Tax Voluntary Disclosure Procedure Planned

The head of the ITA recently indicated that a new Voluntary Disclosure Procedure (for income not reported previously in Israel) will probably be announced in October-November this year. Whilst no guidelines have yet been publicized, in the past such procedures provided immunity from criminal proceedings.

In the past, the tax amnesty did not apply:

- Where the ITA or other government agency had specific information or had initiated investigation procedures.
- When income was from illegal activities.

These are preliminary comments as no directives have yet been published. Do note: preparatory work for the application is lengthy and should therefore be dealt with sooner than later.

PLANNING FOR THE END OF THE 10 YEAR TAX HOLIDAY

New or returning residents who started the 10-year tax exemption period in 2014 or 2015 should already be doing some serious tax planning for the post tax holiday period. Similarly, the 2013 and 2014 may already be required to submit tax reports.

IMPROVING OUR SERVICES

We express our gratitude to clients for consistently referring new clients to us. However, in order to continue to improve our services to you, we need your input. Any ideas/suggestions will be appreciated. And, we'd like to hear what services from your accountant are important to you.

We take this opportunity to wish all clients and associates Chag Sameach!

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