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A New Residency Declaration Form

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Recently, the Israel Tax Authority (“ITA”) published a new Residency Declaration Form for individuals claiming to be foreign tax residents, even though they fulfill the rebuttable countable presumptions according to which they are presumed to be Israeli tax residents.

Taxation of Israeli Individual Tax Residents

- The Income Tax Ordinance (“ITO”) determines that an individual is considered an Israeli resident for tax purposes if his or her center of life is in Israel. In such a case, the individual is taxed on a worldwide basis. The “Center of Life Test” is a “facts & circumstances” test, which examines the individual’s family, economic and social ties (“Center of Life”).
- The ITO also provides two rebuttable presumptions, counting the number of days the individual has spent in Israel (day - including part of a day) (“Presumptions”). According to these Presumptions, an individual who stays in Israel for more than 183 days during a tax year or more than 425 days over the course of three consecutive tax years (and at least 30 days in the third tax year) is presumed to be an Israeli tax resident in the current tax year. However, the Presumptions can be contradicted both by the individual and the ITA.

Individuals Who Meet the Presumptions - Reporting Obligations

- Up until 2016, there were cases of individuals who fulfilled the Presumptions, yet claimed that they are foreign tax residents due to the fact that their “Center of Life” is not in Israel, therefore taking the position that they are not liable to tax and reporting in Israel.
- In 2016, the ITO was amended, according to which if an individual is presumed to be an Israeli tax resident according to the Presumptions, yet claims to be a foreign resident - the individual is obligated to report to the ITA in order to substantiate why he or she is not to be considered an Israeli tax resident. This amendment applies to tax years from 2016 and onwards.
- Until recently, it was unclear what the required manner of reporting was for individuals claiming to be foreign tax residents, other than the general requirement to provide a detailed report which includes documents supporting the individual’s claim, as stated in the ITO. Therefore, a few weeks ago the ITA published a new detailed form that specifies the required information to be reported through the use of this form.

The Residency Declaration Form

- The new residency declaration form is intended for individuals claiming to be foreign tax residents, even though they are presumed to be Israeli tax residents according to the Presumptions. The form should be signed by the individual and attached to the annual tax return.
- The form should specify the number of days the individual spent in Israel during the last three tax years and declare the individual's permanent country of residence (a foreign residency permit for the current tax year should be attached). It is evident from the form that when determining one's tax residency in Israel, the ITA takes into greater account the individual's tax status in the relevant foreign country (this appears also in recent court rulings).
- In addition, a list of questions is provided, which is intended to assist in determining the individual's Center of Life, and pertain, inter alia, to one's permanent place of residence; the presence of close family - particularly minors; regular or permanent place of employment; citizenship and residency; place of submitting tax returns and paying taxes; country in which medical insurance is paid; membership in organizations and institutions; place of owned assets, such as deposits, pensions, bank accounts; holdings in entities, etc. For each question, it should be specified whether it is relevant to Israel or the country of residence, or any other foreign country for that purpose.
- This form has important implications on determining an individual's tax residency under Israeli tax law and it is recommended to collect all relevant information and documents, which support the individual's claim, in real time.

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