November 2017

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Transfer of Funds Overseas Without Being Subject to Withholding Tax in Israel

In general, under Israeli tax law, payments are subject to withholding tax unless the recipient holds an Exemption Certificate from Withholding Tax issued by the Israeli Tax Authority (**"ITA"**). In this regard, when a payment is made to a foreign resident who does not file tax returns in Israel and therefore does not hold an Exemption Certificate from the ITA, in order to be exempt from the withholding tax, a specific Exemption Certificate should first be obtained from the ITA. The procedure of obtaining such a certificate might be long and burdensome, making it difficult for Israeli residents to invest abroad.

In order to ease the process of investing abroad, the ITA recently launched a new special procedure allowing Israeli residents to transfer funds from Israel to foreign residents who do not have a permanent establishment in Israel, without such funds being subject to withholding tax in Israel, based only on a self-declaration and without the need to obtain the ITA's prior approval. If the required conditions are met, the bank from which the funds are transferred may rely solely on the declaration of the Israeli taxpayer, which is provided in a specific form and can also be filed to the bank online.

The process of transferring funds using a declaration alone is only available for the following types of payments: (a) investment in shares of a corporation, (b) investment in real estate abroad, (c) investment in other assets abroad (tangible assets only), (d) granting of loans to a foreign resident, and (e) granting of shareholder loans to a corporation. The above may apply only to the extent that the recipient of the funds is a resident of a country with which Israel has a double tax treaty (**"Treaty Country"**) and that the transfer of funds was made to a bank account in a Treaty Country.

The ITA is entitled to request to receive the declaration and review its contents in order to determine whether the transfer of funds abroad is indeed exempt from withholding tax. In addition, according to the guidelines of the ITA, the payor is required to save all relevant documentation until the later of (a) a period of seven years from the end of the tax year in which the transfer was performed; or (b) a period of six years from the year in which the transferor filed a tax return for the year in which the payment was made.

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* This brief memorandum provides general information and does not constitute or substitute any legal advice. As these issues are complex and of a circumstantial nature, which involve different tax and legal aspects, each case should be examined according to its individual circumstances.