



# Tax

## South Africans Moving to the Promised Land and Enjoying a Basket of Tax Benefits



Against the backdrop of the emigration reform that recently came into effect in South Africa, in addition to the political complexity and personal uncertainty, it would appear that now, more than ever before, Israel constitutes an appealing location for the Jews of South Africa. Pursuant to the law in Israel, any Jew who wishes to move and live in Israel (to make “Aliyah”) has the right to do so.

In practice, the process for making Aliyah can be done through two different tracks:

- First - An individual who wishes to come and live in Israel can contact the Jewish Agency (which has branches in Johannesburg and in Cape Town), before arriving in Israel. The Jewish Agency will collect from the individual the required information, examine her/his eligibility to make Aliyah, and, at the end of the process, make a recommendation to the Israeli Consulate. This process is likely to go on for several months; however, should it be found that the individual is eligible to make Aliyah, then an Israeli ID card will already be waiting for the individual when s/he arrives at the airport in Israel.
- Second - An alternative is for the individual to enter Israel with the status of a “tourist” and commence the Aliyah process from within the State of Israel. This requires arranging a face-to-face meeting at one of the branches of the Ministry of the Interior, which are located all around Israel. This process might take several weeks or even months, and once initiated, it is generally required that the applicant remains in Israel until the process is complete (departure and return to Israel may be allowed in coordination with the Ministry of the Interior).

Under both tracks, there are some documents and forms that must be provided in order for the process to commence (part of them should be presented in the original copy and apostilled) such as a proof of Judaism (e.g. a letter from a rabbi, a Ketubah marriage certificate, etc.), birth certification, a letter of good standing, etc.

The status of a new immigrant (an "Oleh") entitles the individual to receive an Israeli citizenship. By virtue of this citizenship, it is also possible to apply for an Israeli passport, which will be valid for one year (and is expected to be extended for periods depending on the number of days the individual spent in Israel after making Aliyah).

Upon becoming an "Oleh" **the individual will be entitled to receive a basket of benefits**, the purpose of which is to help her/him with the initial acclimatization in Israel. This includes receiving financial assistance, directly, in the form of grants, and indirectly, in the form of various discounts and concessions, such as discounts on municipal taxes and custom related benefits regarding items that arrive in Israel following the Aliyah, usually through containers from the country of origin (e.g., imported electrical appliances, furniture and automobiles).

Tax Benefits: An individual who receives the status of an Oleh will not necessarily be deemed to be an Israeli resident for tax purposes. According to Israeli law, the residency status of individuals for tax purposes should be determined according to the "Center of Life Test", according to which the state of residence is the one with which the individual has the most nexus. When the place of the permanent house of the individual, the residence of the family, her/his employment, the economic interests, where s/he is socially active, and more must be examined. In addition, there are two rebuttable presumptions that examine the actual number of days spent in Israel: (i) if during the tax year the individual was in Israel for 183 days or more; and (ii) if the total period of her/his stay in Israel during the tax year and the two years preceding it was 425 days or more, then s/he will be eligible to significant tax benefits. In the occurrence of these presumptions, the individual is presumed to be an Israeli tax resident. It should be noted that an individual who does not fall under these presumptions, but her/his "Center of Life" is in Israel, will be deemed an Israeli tax resident.

If the center of the individual's life is indeed transferred to Israel and s/he becomes an Israeli tax resident for the first time, **then s/he will be eligible for significant tax benefits** during the first ten years from the date on which the individual became a new Israeli resident for tax purposes (hereinafter: the "**Benefit Period**"), which include the following:

- An exemption from tax on income that was produced or accumulated outside of Israel during the Benefit Period, such as capital gains from the disposal of foreign assets (e.g., shares, property and real estate overseas) dividends, interests and so forth.
- An exemption from reporting in respect of foreign assets and income during the Benefit Period, including an exemption from submitting a declaration of capital on foreign capital and assets to the Israel Tax Authority (this specific benefit might be abolished by virtue of a new reform that is planned in Israeli tax legislation).
- Some of the anti-avoidance measures relating to foreign entities are not applicable in the case of a new Israeli tax resident during the Benefit Period. Israeli tax law provides that foreign entities "managed and controlled" from Israel are considered Israeli tax residents, even if incorporated abroad. However, the legislation reserves this rule and provides that, during the Benefit Period, such entities will not be regarded as Israeli tax residents merely because they are managed and controlled by a new Israeli tax resident. Nevertheless, under certain specific circumstances, the activities in Israel of a new Israeli resident during the Benefit Period may cause a foreign entity to be deemed having a permanent establishment in Israel, and as a result a portion of its profits attributed to the permanent establishment should be subject to Israeli taxes.

- In addition, there are tax reliefs related to the provisions of controlled foreign company ("CFC") and professional foreign company ("PFC") with respect to foreign entities held by a new Israeli tax resident.
- Trusts and foundations are also due to benefit from an exemption from tax and reporting with respect to foreign assets and income, when the settlor is a new Israeli tax resident and all the beneficiaries are new Israeli tax residents or foreign tax residents.
- The possibility of a period of adjustment, lasting one year from the date of the individual's arrival in Israel, during which time s/he will be able to choose not to be deemed an Israeli tax resident. Only if, at the end of the adjustment year, the individual decides to remain in Israel, then s/he will benefit from all of the tax benefits that have been set forth above for the remaining nine years. Should s/he decide to leave Israel within the period of the adjustment year, then s/he will be perceived as never being an Israeli resident.

It should be mentioned that the Israel Tax Authority is currently attempting to enact a major international tax reform, which may have a substantial influence on new immigrants. Within this reform, it is suggested to determine conclusive numerical presumptions according to which an individual is an Israeli or foreign tax resident. It is also suggested to abolish the exemption from reporting with respect to foreign assets and income (however, the exemption from tax on foreign income is not expected to change under this reform).

Prior to making Aliyah, tax implications should be considered concerning both South Africa and Israel. It is recommended to plan ahead the change of residency including taking into consideration the provisions of the tax treaty between South Africa and Israel, which may have tax consequences.

**Please feel free to contact us with any questions that you have on this matter.**



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