

It should be noted that the above refers only to the ITO provisions and not to possible additional benefits under bilateral income tax treaties.

(April 2009)

A hidden advantage - the representative taxpayer in a "Family Company"

According to section 64a to the Israeli income tax Ordinance, a family company is a company that its shareholders are all family members, who, according to the section, are seen as one person. From the tax standpoint, the income of the company is seen as if it was all produced by the "representative taxpayer", unlike in a partnership, where the incomes are attributed to all the members, according to their proportional hold in the partnership. Let's take for example two brothers. One is an Israeli resident and the other is a foreign resident. The two brothers incorporate an Israeli company that applies to be considered as a family company. The foreign resident brother has most of the rights for profits in the company, so he is considered as the "representative taxpayer". Let's also assume that the company has a capital gain from selling Israeli securities traded in the Israeli stock exchange. In light of the fact that the company's profits are attributed to the "representative taxpayer", who in this case is a foreign resident, and since he is entitled to an exemption from paying tax on capital gain in Israel, when selling securities, **it could be claimed, that all the capital gain would be exempt from tax in Israel.** A similar outcome would be when the company receives capital gain from realizing its investments in Israeli companies.

This kind of investment structure can have even wider effect. For example, **when a family company, that its "representative taxpayer" is a foreign resident, invests overseas. It could be claimed that the company would not be liable for tax in Israel, the same claim can be ascribed in different cases to veteran resident or a new immigrant that act as the "representative taxpayer".**

(March 2010)

Revoking Exemptions to Non-Israeli Residents On Capital Gains and Interest Arising from Securities

On June 15, 2011 the Israeli government published amendments to 3 regulations, thus revoking certain tax exemptions available to foreign residents.

Accordingly, the exemptions given to foreign residents on interest and capital gains derived indirectly from State loans traded in the Israeli stock exchange (bearing a maturity date not