

security, will not be exempt from capital gain tax at the time of sale, even if he would have been exempt from it had he sold that security by December 31, 2008.

The commentaries to the law, which express the intent of the legislator in the said amendment, state that the purpose of the section is to encourage foreign residents to invest in Israel. It further states that to encourage foreign residents to invest in Israel, the provision of the law that limited investors only to treaty country residents was cancelled and the provision of the law that required the purchaser to immediately report on the purchase - was cancelled. It is clear to us that the intent of the legislator behind the said amendment was to encourage foreign residents to invest in Israeli companies, beyond the benefit given within the temporary order, and the commentaries also stated that: "Giving such an exemption in Israel will allow companies in Israel to compete with companies abroad over the investment of foreign residents". However, the law itself and the commentaries do not answer the question of whether the exemption also applies to a foreign resident who purchased the securities before 2009. **In our opinion, it is obvious that the purpose of the amendment was to continue the existing exemption while giving additional relieves to foreign residents for new purchased of securities, and therefore it is to be interpreted so that an exemption will also be given to those who purchased the securities in the period of the temporary order and according to the conditions prescribed therein, even if the securities were sold after it.**

(April 2016)

Taxation of foreign corporations for Internet activity

In April 2016, the Israel Tax Authority ("ITA") published a circular (No. 4/2016) dealing with the taxation of foreign corporations due to activity conducted on the Internet and targeting Israeli customers. Without going into excessive detail, we should point out that **this is a significant change in all matters relating to source rules of income** and interpretation of the existence of a permanent establishment according to the tax treaties which Israel has signed. Recently we became aware of various publications relating to the intent of the ITA, quite justifiably, to tax foreign corporations (such as Google and Facebook) providing services to Israeli residents. However, the ITA's intent focused primarily on VAT liability concerning those transactions. As a background, we should point out that the VAT law in Israel imposes VAT on a foreign resident providing services to an Israeli customer' regardless the transaction situs. However, due to the unenforceability of imposing VAT on Internet based transactions, it has become necessary to form rules on the subject, including registration of such foreign residents as service providers in Israel, and accordingly, on March 13, 2016, a memorandum for