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TAX RELATIONS BETWEEN SWITZERLAND AND ISRAEL

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CASE 1 – TRANSFER OF RESIDENCE TO ISRAEL

Tax planning opportunities and issues to consider in Israel

- Administrative / procedural considerations
- 10-year tax holidays (and expected changes)
  - But note Israeli-sourced income is excluded
- The treatment of trusts and foundations
- The day after the first 10- years: inheritance tax?
- Applicability of double tax treaty
- Do the math!

CASE 1 – TRANSFER OF RESIDENCE TO ISRAEL

Tax planning opportunities and issues to consider in Switzerland

- No exit tax
- Pension payments to a foreign resident beneficiary
  - Subject to a withholding (rate depends on registered seat of pension fund institution)
  - Based on Swiss-Israel DTT: in principle, exclusive taxing rights for the State of residence (art. 18) ⇨ Exceptions for pensions related to public functions (art. 19, para. 2)
  - Art. 5 of the protocol states however that "*... as long as income derived by a resident of Israel from sources within Switzerland is, under the law in force in Israel, subject to tax in Israel* ***only by reference to the amount which is received in Israel****, and not by reference to the full amount thereof, or such income is exempted from tax in Israel, the exemption from, or reduction in rate of Swiss tax provided for (with or without conditions) by any article of the Convention shall apply* ***only to the portion of that income which is received in Israel <u>or</u> otherwise subject to tax in Israel***" ⇨ In a decision of 25 January 2017 (2C_606/2016), the Swiss Supreme Court confirmed that the treaty will not apply unless the Swiss source income is effectively subject to tax in Switzerland
  - Careful planning required on the Swiss side

CASE 2 – CHANGING RESIDENCY: LEAVING ISRAEL

Opportunities in Switzerland	Considerations in Israel
• Relaxed immigration requirements for EU nationals • Lump sum tax regime • Pre-immigration restructuring of private or business assets	• First 10 years expire now • «Linear» exit tax • Different regimes in difference authorities • Income generated in Israel remains taxable • Trusts and foundations may remain taxable, unless all beneficiaries are non-residents («FRT» / «FRBT») • Real estate is ruled under Israeli law • No automatic “step up” upon inheritance

CASE 3 – PHILATHROPY IN ISRAEL:

TRANSFER OF FUNDS TO AN ISRAELI CHARITY

Tax issues to consider in Switzerland

- Gift/inheritance and individual income tax exposure
  - In principle no exemption from gift/inheritance taxes available for transfer to non-Swiss resident charities (see however art. 28, para. 2 LDE) ⇨ potential high gift/inheritance tax exposure (rate up to 50% in Vaud and 54% in Geneva)
  - Deduction of the gift for individual tax purposes (up to 20% of net income) possible only for transfers in favor of a Swiss resident legal persons that are exempt from direct taxes by reason of public service or welfare
  - Use of a Swiss foundation possible but subject to strict conditions
    - Financial resources shall be solely and irrevocably dedicated to the pursue of the statutory purpose, statutory activities shall be effectively carried out, etc.
    - Public welfare activities may for example be carried out in the humanitarian, health, scientific, educational, human rights and ecological areas
    - Circle of potential beneficiaries shall be open ⇨ exemption denied by the Swiss Supreme Court in a decision of 21 March 2017 (2C_835/2016) due to the fact that the circle of potential beneficiaries was de facto restricted to members of the same religious community.
    - Based on the published practice of the federal and cantonal tax authorities, statutory activities do not need to be carried out in Switzerland ⇨ control by Swiss authorities…

CASE 3 – PHILATHROPY IN ISRAEL:
TRANSFER OF FUNDS TO AN ISRAELI CHARITY

Tax issues to consider in Switzerland (cont.)

- Income and withholding tax consequences
  - Case of transfers made by a controlled company

Tax issues to consider in Israel

- Magnitude and methods
- More sophisticated vehicles
- Tax deductibility is applicable only in case of listed «public institutions»
- Max. annual deductible amount NIS 9.184,000. (updated annually)
- In trust / foundations, charities may be considered as «non-residents» for classification purposes, and therefore it may be advisable to split philanthropy from other considerations to enjoy tax advantages.

CASE 4 – BUSINESS INVESTMENTS IN ISRAEL

Tax issues to consider in Switzerland

- Direct vs. Indirect investment

Tax issues to consider in Israel

- Management and control in Israel
- Capital gains tax exemptions on foreign investments in Israel
- Preferred / designated areas / sectors and eligible enterprises

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THANKS!

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