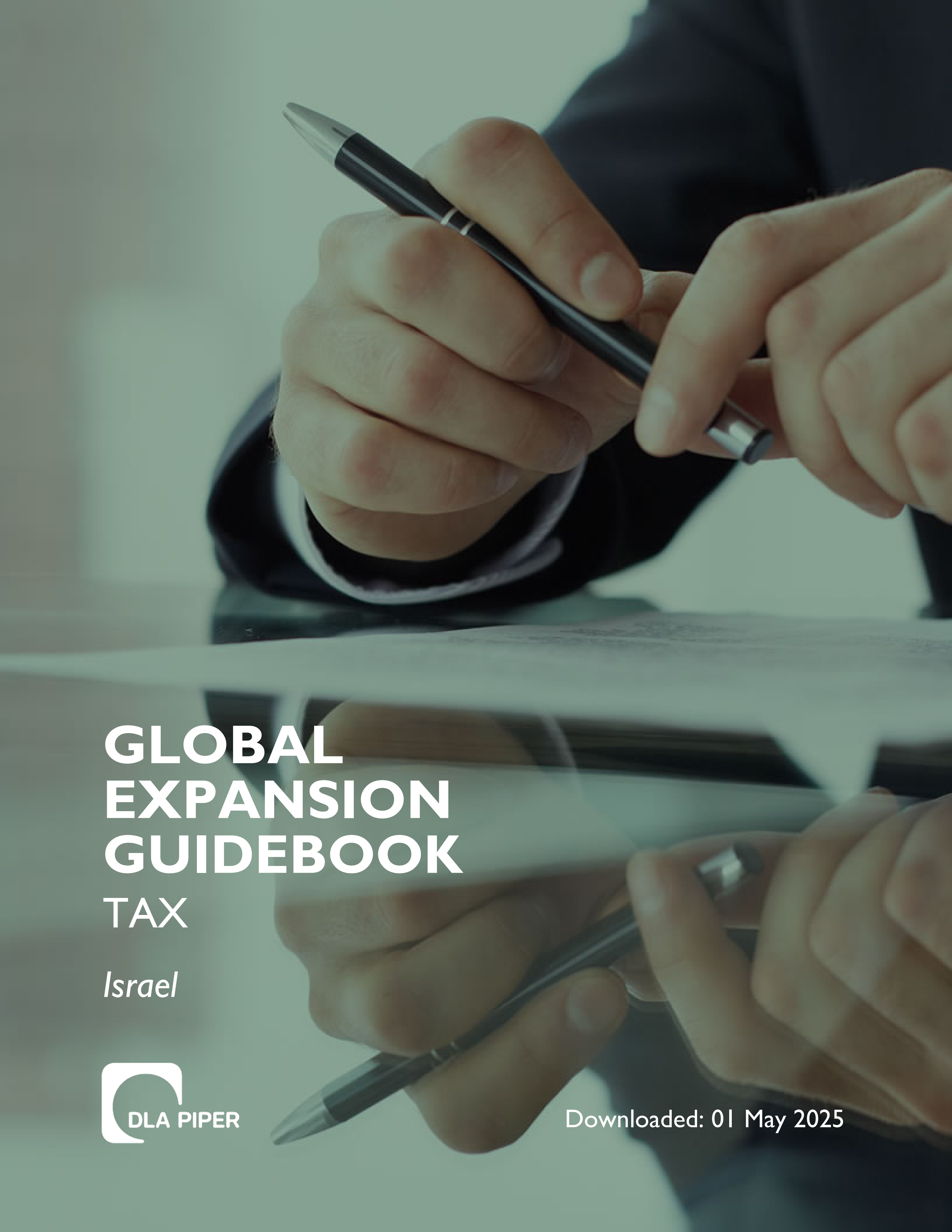

GLOBAL EXPANSION GUIDEBOOK

TAX

Israel

DLA PIPER

INTRODUCTION

Welcome to the 2024 edition of DLA Piper's *Global Expansion Guidebook – Tax.*

GLOBAL EXPANSION GUIDEBOOK SERIES

Many companies today aim to scale their businesses globally and into multiple countries simultaneously. In order to help clients meet this challenge, we have created a handy set of global guides that cover the basics companies need to know.

The *Global Expansion Guidebook* series reviews business-relevant corporate, employment, intellectual property and technology, global equity and tax laws in key jurisdictions around the world.

TAX

Multinational companies continue to expand globally at an ever faster pace. Successful expansion depends, in part, on strategic and effective tax planning and compliance. This guide, brought to you by DLA Piper's Tax group summarizes the key features of tax laws in 41 popular jurisdictions.

This guide addresses common tax questions, by jurisdiction, including:

- Taxation of resident companies and non-resident companies
- Availability of tax holidays, rulings, and favorable tax regimes
- Ability to use losses to offset income
- Anti-deferral (ie CFC) rules
- Withholding taxes
- Employment tax issues

With more than 300 tax lawyers and economists in offices throughout the Americas, Europe and Asia Pacific, DLA Piper's global tax advisory services help multinational companies address the complex challenges of international commerce and business operations as well as manage and resolve tax audits. Our global tax group also assists clients in structuring a wide range of transactions, from private equity deals to corporate acquisitions and disposals. We provide these tax services across our global platform, while at the same time offering clients the benefits of the attorney-client and work-product privileges.

The information in this guide is an accessible, high-level summary of the tax laws in each jurisdiction. This is not a substitute for legal or tax advice. If you have specific questions or require detailed advice, we encourage you to contact one of the attorneys listed in the contributors section of this guide.

We hope that you find this guide valuable and we welcome your feedback.

ISRAEL

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RESIDENCE AND BASIS FOR TAXATION

A corporation is considered an Israeli resident for tax purposes if it is incorporated in Israel, or if its business is managed and controlled in Israel.

Domestic

An Israeli resident corporation is subject to Israeli tax on its worldwide income, including capital gains. A foreign tax credit may be granted for tax paid in other jurisdictions.

Foreign

A non-resident corporation is subject to tax in Israel on its Israeli-source income, including capital gains from dispositions of Israeli assets. Israeli-source income also includes income attributed to business activity carried out in Israel. If a non-resident corporation is entitled to the benefits of a treaty for the avoidance of double taxation, the threshold regarding the level of business activity in Israel is raised and requires the existence of a permanent establishment in Israel.

TAXABLE INCOME

Domestic

The taxable income of an Israeli resident corporation is the income from the sources stipulated under law, including capital gains, as reduced by applicable:

- Deductions
- Offsets and credits and
- Exemptions.

Foreign

The taxable income of a non-resident corporation that has business activity in Israel (or a permanent establishment in Israel in the case of a corporation entitled to treaty benefits) is generally similar to that of an Israeli resident corporation.

TAX RATES

Both ordinary income and real capital gains of a corporation are subject to a flat tax rate of 23 percent.

These rates might be significantly reduced if the corporation is entitled to one of the incentive regimes discussed under Tax incentives.

TAX COMPLIANCE

The tax year begins on January 1 and ends on December 31 of each calendar year. In special circumstances and subject to a pre-approval, a substituted period of 12 consecutive months may be adopted as the tax year.

Corporations' annual tax returns are due by the end of the 5th month after the end of the fiscal year. An extension to file is routinely obtained.

ALTERNATIVE MINIMUM TAX

Not applicable for this jurisdiction.

TAX HOLIDAYS, RULINGS AND INCENTIVES

Tax holidays

Not applicable for this jurisdiction.

Tax rulings

No broad-based rulings are available. Under certain circumstances, taxpayers can request a private letter ruling that would apply only to a specific issue. Ruling summaries are published on a no-names basis.

Tax incentives

Subject to certain conditions, Israeli corporations may qualify for and benefit from certain tax incentives regimes, some of which are discussed under Participation exemption.

Under the Law for Encouragement of Capital Investments provisions, a corporation that qualifies as a Preferred Enterprise would be entitled to a reduced tax rate on its Preferred Income of 16 percent, or 7.5 percent if the enterprise is located in a peripheral zone. Dividend distributed to Israeli resident shareholders from Preferred

Income is subject to tax at a rate of 20 percent. In the case of non-resident shareholders, subject to the receipt in advance of a valid certificate from the ITA allowing for a reduced tax rate, the 20 percent may be further reduced according to the applicable treaty.

A Special Preferred Enterprise is generally a Preferred Enterprise that:

- Has been pre-approved by the Israel Tax Authority and
- Has Preferred Income of at least NIS1 billion and revenues, on a consolidated basis, of at least NIS10 billion.

A Special Preferred Enterprise may be entitled, during a benefits period of 10 years, to a further reduced tax rate of 8 percent, or 5 percent if located in a peripheral zone.

New legislation, which became effective January 1, 2017, provides a new incentive regime for a Preferred Technological Enterprise. An enterprise that meets the requirements would be entitled to a reduced corporate tax on income related to its intellectual property of 12 percent, or 7.5 percent if located in a preferential zone. Dividend distributed to Israeli resident shareholders from the preferred income would be subject to 20 percent tax and, in the case of non-resident shareholders, subject to the receipt in advance of a valid certificate from the ITA allowing for a reduced tax rate, or 4 percent if distributed to a foreign corporation that holds solely or together with other foreign corporations at least 90 percent of the shares of the Israeli corporation. The Israeli tax on dividends may be further reduced according to an applicable treaty.

The new legislation also provides that a Special Technological Preferred Enterprise is a Technological Preferred Enterprise that is part of an affiliated group with revenues, on a consolidated basis, of at least NIS10 billion and that such corporation would be entitled to a reduced tax rate on the IP-related income of 6 percent.

CONSOLIDATION

Filing consolidated tax returns is generally not permitted with a narrow exception in the case of "industrial companies."

PARTICIPATION EXEMPTION

Israeli corporations, which are entitled to the participation exemption regime, are entitled to a tax exemption on:

- Dividends received from a "qualified foreign subsidiary," if distributed during a period of not less than 12 consecutive months, during which the Israeli corporation was a significant shareholder of the subsidiary
- Capital gains derived from the sale of shares of such subsidiary
- Financial income derived from investment on Tel Aviv Stock Exchange (TASE) and
- Interest and linkage difference derived from a financial institution.

Dividends paid from a holding company to non-residents will be entitled to a reduced withholding tax rate of 5 percent. In practice, this regime is rarely in use.

CAPITAL GAIN

Capital gains derived by corporations are generally taxed at the same rate as ordinary income. The inflationary component of the capital gain accrued from 1994 and onwards is exempt from tax. With few exceptions, capital gains are not eligible for the reduced tax rates under the tax incentive regimes mentioned above.

Israeli resident corporations are subject to tax on capital gains regardless of the asset location. Non-resident corporations are subject to tax in Israel on capital gains from disposition of:

- Assets located in Israel
- Assets located outside of Israel if the assets are essentially a direct or indirect right to assets or inventory located in Israel, real estate in Israel or an Israeli real estate company (with respect to the part attributable to Israeli assets)
- Shares in an Israeli company or
- Shares of a foreign company that is essentially a holder of Israeli assets (with respect to the part attributable to Israeli assets).

Capital gains of a foreign resident from the disposition of securities purchased on the TASE, except for interests in REITs (including a company that ceased from being a REIT) and short-term governmental bonds, are exempt from tax.

Capital gains of a foreign resident from the disposition of private company shares, which were bought during or after 2009, are generally exempt from tax, unless the Israeli company value is mainly derived, directly or indirectly, from Israeli real estate, the right to use Israeli real estate or the right to exploit natural resources in Israel. Notwithstanding the above, foreign resident corporations will not be entitled to the foregoing exemption if more than 25% of its "means of control" are held, directly and indirectly, by Israeli residents, or Israeli residents are entitled to 25% or more of the revenues or profits of the corporation directly or indirectly.

These exemptions will not apply if the capital gains are attributed to a permanent establishment in Israel. Capital gains may also be exempt under an applicable tax treaty.

Foreign residents will usually be required to demonstrate that they are exempt from tax on their capital gains in order to avoid withholding at source at the time of sale, by presenting a valid withholding exemption certificate issued by the Israeli Tax Authority prior to the applicable payment.

DISTRIBUTIONS

Dividends paid by an Israeli corporation to another Israeli corporation are not subject to tax if paid out of income that was subject to corporate tax at the regular rate.

Dividends paid by an Israeli corporation to an individual or to a foreign corporation are subject to tax at the rate of 25 percent, or 30 percent if the shareholder is (or was during the 12 months prior to the distribution) a "significant shareholder." A shareholder is generally considered a significant shareholder if they hold 10 percent or more of the economic or voting rights in the company. These rates may be reduced under an applicable treaty.

LOSS UTILIZATION

There are different utilization rules for current and carried-forward net operating losses and capital losses. Both capital losses and net operating losses which were not utilized in the current tax year may be carried forward indefinitely. Carry back of losses is not available.

TAX-FREE REORGANIZATIONS

Tax-free mergers and spinoffs are achievable provided that certain conditions are satisfied. Some of the tax-free reorganizations are subject to a pre-ruling from the Israel Tax Authority.

ANTI-DEFERRAL RULES

Controlled Foreign Company

Under the Israeli controlled foreign company (CFC) rules, the undistributed passive income of certain Non-resident corporations which was taxed at a rate less than 15 percent, will be subject to Israeli tax as if such passive income were distributed.

Professional Foreign Company

Israel applies the anti-deferral regime of "professional foreign company" and to certain local, closely held "service companies."

Few Persons Company

Israel also applies anti-deferral rules with respect to a "Few Persons Company," which generally refers to a company that is controlled by a maximum of five people. Under certain conditions, the following may apply:

- The taxable income which a Few Persons Company derives, may be attributed directly to the Significant Shareholder, rather than to the company (increasing the applicable tax rate from 23% to the applicable personal marginal income tax rate up to 50%), if it was generated through the activities of its Significant Shareholder as an officer or employee or otherwise through the provision of management services to a third party.
- In addition, the undistributed profits (up to 50% in a certain tax year) of a Few Persons Company may be deemed as a dividend distribution if:

- Such profits were not distributed within 5 years subsequent to end of the year it was incurred;
- The company has accumulated profits in the amount greater of NIS 5 million;
- The company can distribute the at least part of the undistributed profits without harming its business activity;
- The result of the non-distribution is tax avoidance or tax reduction;
- The deemed distribution will not reduce its accumulated profits from NIS 3 million.

FOREIGN TAX CREDITS

Israel grants a tax credit for taxes paid to a foreign jurisdiction on foreign source income. The credit is subject to certain restrictions including the application of the "baskets method."

SPECIAL RULES APPLICABLE TO REAL PROPERTY

Disposition of real estate assets (or shares in real estate companies) is subject to land betterment tax, which is similar to capital gain tax.

Purchase of real estate assets (or shares in real estate companies) is generally subject to a purchase tax at a rate of 6 percent. A purchase of a residential apartment is subject to a purchase tax in a progressive rate of up to 10 percent.

TRANSFER PRICING

Israel applies arm's-length principles to transactions between related entities. The Israeli rules correspond to the OECD guidelines.

WITHHOLDING TAX

Dividends, royalties, interest, rents etc.

Israel imposes extensive tax withholding requirements according to which almost any payment is subject to tax withholding unless a valid certificate is obtained from the tax authorities. For example, dividends are subject to tax withholding at the rate of 25 percent to 30 percent and interest paid to a foreign corporation is subject to tax withholding at the corporate tax rate (currently 23 percent).These rates may be reduced under an applicable treaty.

Service fees

Withholding tax may apply to certain payments for services rendered by a non-resident, particularly where the services are rendered in Israel.

CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX

There is no Israeli capital duty or stamp duty.

VAT at a flat rate of 17 percent is imposed on most goods sold and services rendered. Export of goods and intangible assets are generally subject to 0-rate VAT. Provision of services to non-residents may also enjoy the 0-rate VAT under certain conditions.

Purchase tax is imposed on the purchase of real property or interest in real estate company, as described under Special rules applicable to real property.

EMPLOYMENT TAXES

Employers must withhold income tax from employees' salary, according to their individual tax rate, up to 50 percent (including Excess Tax of a 3 percent on high-income earnings).

Employers must also withhold national insurance and health care tax at the aggregate rate of up to 19.6 percent. The burden of such taxes is divided between the employer and the employee and is subject to a cap.

OTHER TAX CONSIDERATIONS

Compensation Fund (Due To War Damages)

To a certain extent, direct damage caused to assets or indirect damage, *eg*, loss of profit due to war operations may be compensated out of a designated governmental compensation fund, provided certain conditions are met. The Israeli Tax Authority is the governmental body which handles applications for compensations due to war damages.

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