

ISRAEL
Immigration
only

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Questionnaire for National Reporters

Private Client and Immigration Working Session

**Movement of High Net Worth Individuals
Localisation et Délocalisation des Clients Privés Fortunés**

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Background

As certain governments around the world struggle with fiscal deficits, their attention has turned to international tax evasion (illegal) and the perceived shortcomings of the international tax system from the point of view of tax avoidance (legal). In other regions we have seen unsettled economies combined with civil unrest. Families are seeking safer, more stable jurisdictions not just for themselves but for future generations as they look for long term security and are increasingly looking overseas for a solution.

How do our immigration, legal and tax systems cope with the realities and complexities of 21st century aging family life and the demand for economic security/stability? What are the particular challenges for practitioners in assisting these families? How does increasing governmental exchange of information and compliance requirements affect strategies for investment, tax planning and personal security. How does the global citizen manage a world of overlapping, often conflicting regulation?

1. PRELIMINARY MATTERS

We would ask that you return completed the Questionnaire and your answers to the case studies below by **Friday, 28 February 2014** (earlier if possible please).

Prior to dealing with the legal problems thrown up by the case studies, could you please deal with the following questions with reference, where relevant, to any recent case law or general practice. If you need to clarify the answer to a question, please do so. If a question is not an issue in your country, please provide an explanation as to why it is not.

If you are a delegate responding as part of the Immigration Commission, please respond **only** to sections 1.1 and 2.1.

1.1 Immigration and Nationality [for Immigration Commission only]

- 1.1.1 Briefly outline any immigration, residency or citizenship programmes your jurisdiction has to attract high net-worth individuals (HNWIs).

Israel does not have such programs for individuals that can lead to citizenship.

However, an individual investing in a local company, may also serve in a high position within this company. In such a case the investor might qualify for the Expert visa category, assuming that he can provide proof of unique expertise for his position, and a lack of local adequate assignees (this immigration status is not based on the investment). Applying for the expert visa will also grant substantial tax benefits. This type of visa is limited for 63 months, which can be extended in extraordinary circumstances. Permanent residence will not be granted.

Should the assignee be Jewish or have certain Jewish relations, in addition to the above, he would also be eligible for permanent residency and in most cases even citizenship, in accordance with the Israeli Law of Return. This also would apply to a spouse of an Israeli national.

On a separate note, Researches are also welcome under the expert visa category (limited for a period of 5 years).

- 1.1.2 Are there any proposed changes to the programmes outlined in 1.1.1?

Yes, there are discussions for issuing temporary visas based on investments but not for permanent residency.

- 1.1.3 Is there a dichotomy between your Government's wish to attract HNWIs as against public perception of immigration? Israel was founded as a homeland for the Jewish people. As such the general legislation provides only Jews with the right to immigrate and settle permanently.

On the other hand, Israel, being an active player in the global economy, as well as a member of the OECD and other international organizations worldwide, strives to encourage HNWIs and foreign investments; this is done mainly by way of tax benefits, and other financial incentives.

1.2 Cross-border succession

- 1.2.1 Is testamentary freedom a right recognised by national law or public policy?

(A) Yes (B) No

1.2.2 Can those entitled to the reserved portion (heirship entitlement), during the life of the donor, waive their rights to a reserved share?

(A) Yes (B) No (C) Not relevant to your country

If so, please briefly set out the options.

1.2.3 Can an individual resident in your country elect the law applicable to his/her succession? If relevant/applicable, please consider your answer in the context of Brussels IV (Regulation (EU) 650/2012) and/or the 1989 Hague Convention on the Law Applicable to the Estates of Deceased Persons.

(A) Yes (B) No

If yes, is this election limited to the law of the deceased's:

(A) Nationality (B) Habitual Residence (C) Other

1.3 Personal taxation and compliance

1.3.1 Please provide a brief summary on the current rules as to liability to tax (e.g. residence, nationality, domicile (if applicable)).

1.3.2 Have there been any changes introduced in the last 24 months to the definition of who is a "taxpayer" e.g. "resident", "habitually resident" or "domiciled" in your country?

(A) Yes (B) No

If yes, please briefly summarise the changes.

1.3.3 Has your country introduced in the last 24 months (or proposed the introduction of) any new taxes or reporting requirements for residents?

(A) Yes (B) No

If yes, please briefly set out the key provisions.

1.3.4 Has your country introduced in the last 24 months (or proposed the introduction of) any new taxes or reporting requirements for non-residents with assets located in your country?

(A) Yes (B) No

If yes, please briefly set out the key provisions.

1.3.5 Has your country undertaken (or proposed the introduction of) any legislative steps in the last 24 months to promote transparency in tax

reporting obligations and to combat international tax evasion in the context of private wealth?

(A) Yes (B) No

If yes, please briefly set out the key measures.

1.3.6 Has your country introduced in the last 24 months (or proposed the introduction of) any new taxes or reporting requirements for holding structures with assets or “beneficiaries” located in your country?

(A) Yes (B) No

If yes, please briefly set out the key measures.

1.4 **Mental capacity of adults**

1.4.1 What system is in place in your country to deal with an individual who has lost capacity?

1.4.2 Does your country provide for Powers of Representation/Lasting Powers of Attorney/Mandats de protection future in relation to an incapacitated adult’s personal welfare and/or property and affairs?

(A) Personal welfare only (B) Property and affairs only (C) Both personal welfare and property and affairs

1.4.3 Will your country recognise and enforce a form of Power of Representation or Attorney intended to have effect after the onset of mental incapacity valid in the state in which it is prepared?

1.4.4 Are there proposals for legislative change in the field of mental capacity?

(A) Yes (B) No

If yes, what are the proposals?

1.4.5 Is your country a party to the Hague Convention XXXV for the International Protection of Adults of 13 January 2000?

(A) Yes (B) No

1.4.6 Is your country a party to the United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol 2006?

(A) Yes (B) No

QUESTIONS FOR CASE STUDIES

2. CASE STUDY A: ROBERTA AND PAUL

Roberta and Paul married in the Netherlands in 2008. Roberta is Brazilian and Paul is Dutch. Roberta, an IT specialist, was offered a job with Pear Inc in Silicon Valley and she and Paul moved to California (USA) in 2011. The family grows with twin boys and life is good.

Roberta's mother, Gloria, who is in her 70s, wants to live with Roberta (her only child) and Paul so that she can spend more time with her grandchildren. Interested in moving to your country, Roberta and Paul come to see you for advice.

2.1 Immigration law [for Immigration Commission only]

2.1.1 Roberta and Paul are exceptionally wealthy. What immigration categories (e.g. investor type programmes) might apply to HNWI's such as Roberta and Paul to:

- (a) move firstly to the US (please omit this if you do not advise on US immigration law);
- (b) and then secondly to your country? There are no investors programs in Israel. Roberta may obtain working visa as an expert that can be extended up to 63 months (additional extension might be approved on specific circumstances). Paul can obtain a dependent visa based on Roberta's status, by which working will not be allowed, or in case Paul is qualified to be classified as an expert, he can apply for an expert visa as well.

In case one of them is Jewish or has Jewish relations they can apply for permanent residence and even for citizenship.

If your advice would change if Paul was not a Dutch national, please explain. No

What immigration options does Gloria have to move to your country on a long term basis? Gloria does not have the option to remain in Israel permanently. She will only be allowed to travel to Israel for short visits of no longer than 3 months each (as a tourist). There is an option to submit extraordinary application for Gloria to be recognized as a dependent in special circumstances. Only in case she is Jewish or has Jewish relations she can apply for permanent residence and even for citizenship.

2.1.2 What, if any, are the residency requirements for a long term move to your country for Roberta, Paul and Gloria? Please see above – based on Judaism.

2.1.3 Are there are any long term requirements that the family should be aware of in order to maintain their immigration status in your country?
Not relevant

2.1.4 Will any of the members of the family be able to acquire citizenship of your country? only if one of them is Jewish or has Jewish relations.

Now settled into the hustle and bustle of life in your capital city, Roberta and Paul (who are very happy together and, incidentally, exceptionally wealthy), having purchased rental properties in Brazil and invested wisely in stocks and bonds, they are looking to buy a US\$ 20 million Penthouse Duplex in the hipster district of your capital city. They believe it is time to consider tax and estate planning opportunities and come to see you.

During the meeting you are also told that:

- Roberta is likely to inherit family assets - principally artwork - from Gloria. The family want to ensure that upon Gloria's death, the family assets will not be considered a "matrimonial asset" and that the assets, to the extent possible, can pass to the grandchildren (**the Inheritance**).
- Paul's father has been diagnosed with a degenerative medical condition, which may lead to a loss of mental capacity. Paul has been told that the condition is likely to be hereditary.

2.2 Real estate planning

What structuring and/or tax planning opportunities should Paul and Roberta consider with respect to the purchase of the Penthouse Duplex (i.e. to mitigate taxation in your country)?

2.3 Succession law and mental capacity

2.3.1 What would you advise with respect to the Inheritance?

2.3.2 What steps can Paul take to ensure that Roberta has full authority to take decisions on his behalf and deal with their assets in the event that Paul loses his mental capacity?

2.3.3 More generally, with a shared wish to keep matters "simple", what estate and succession planning opportunities should Roberta and Paul consider?

3. QUESTIONS FOR CASE STUDY B

3.1 Case Study B: Bruce and Megan

Bruce, who has been given your contact details from an AIJA member, comes to see you for advice. Bruce gives you his background:

- 30 years old;
- Australian resident, national (and, if relevant to your country) “domiciled in a state of Australia”;
- Single;
- Commodities trader;
- Family wealth from mining opals;
- Bruce has an Aus\$15 M portfolio in Switzerland;
- Bruce also has shares in family mining company in Australia.

Bruce is looking to move to your country for 3-5 years.

3.2 **Pre-arrival planning**

3.2.1 What pre-arrival tax planning opportunities would you advise?

3.2.2 What are Bruce’s tax, residence or other reporting obligations upon becoming resident in your country?

When you next meet Bruce 3 years later, life is looking good. He has met fellow Australian Kylie and they are expecting their first child (Jason). Bruce is looking to start his own commodities business and wants to know whether he can invest part of his foreign income or gains in the target company.

Bruce also tells you that his grandfather died in 2011 and that he (together with his 3 cousins) is a beneficiary of a trust structure with a bank account in a sun kissed jurisdiction. The bank account has not been reported in his tax return and he now wonders whether it should have been.

3.3 Lifetime matters

3.3.1 With respect to the commodities business, how would you advise Bruce in relation to:

- (a) the most tax efficient way to make the inward investment?
- (b) any planning and structuring opportunities (including the use of double tax treaties) that Bruce should consider in order to minimise any tax leakage?
- (c) eventually exiting the business. In particular, are there any structuring or other opportunities that Bruce should consider either at the inception of the business or in the run-up to an exit?

3.3.2 As to the unreported bank account:

- (a) what would you advise Bruce?
- (b) what are the Trustee's reporting obligations in your country?

Tragically, some years later still resident - and wealthy - in your country, Bruce dies without making a Will.

3.4 Succession law

3.4.1 Do Kylie and Jason have a financial claim against Bruce's estate?

3.4.2 What inheritance or estate tax (if any) is to be paid and by whom? What steps could Bruce and Kylie have taken in order to mitigate/reduce this tax charge?

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