

# ISRAEL PROPOSES MODIFICATIONS TO TAX REPORTING OBLIGATIONS OF *OLIM*<sup>1</sup>

## Author

Boaz Feinberg

## Tags

Aliyah  
Exchange of Information  
F.A.T.F.  
Global Forum  
Israel  
*Olim*  
Reporting Exemption  
Transparency

Boaz Feinberg is a partner at the Arnon, Tadmor-Levy Law Firm in Tel Aviv, where he serves as co-head of tax. His practice focuses on H.N.W. individuals and trusts they settle and on cross border M&A.

## INTRODUCTION

The Israeli Finance Ministry recently published a proposal to modify existing tax reporting provisions contained in the Israeli Income Tax Ordinance [New Version], 5721-1961 (the “I.T.O.”). The proposed amendment will affect Israeli entities, certain trusts, and Israeli “Residents for the First Time” and “Senior Returning Residents.” Senior Returning Residents are those individuals who immigrated back to Israel after being considered foreign residents for Israeli tax purposes for at least 10 consecutive years prior to the date of return to Israel. In this article, Israeli Residents for the First Time and Senior Returning Residents are referred to as “*Olim*.”<sup>2</sup>

## O.E.C.D. GLOBAL FORUM

The proposed law was published following recommendations of the O.E.C.D. Global Forum on Transparency and Exchange of Information for Tax Purposes. As April 1, 2024, adoption of the proposed amendment is imminent. It is currently being reviewed by the Financial Committee of the Knesset, and is expected to become law shortly.

The proposed amendment is part of a wider effort by the State of Israel to comply with the international requirements on information exchange set forth by the Global Forum. The mission statement of the Global Forum is to promote the adoption of tax transparency on a global basis and to monitor the rules and practices of countries. In principal, the goal is to prevent tax evasion, money laundering, and terrorist financing. With 171 members, the Global Forum is the leading international body working on the implementation of global transparency and exchange of information standards around the world. It issues peer review reports on transparency and exchanges of information on request.

In performing a peer review of Israel, the Global Forum identified deficiencies in Israel’s current information reporting standards. If not corrected, Israel would risk being included in the O.E.C.D. blacklist of noncompliant countries. Blacklisted countries are exposed to significant sanctions by European Union countries. Examples are excessively high withholding tax rates on transfers of dividends and investments from E.U. countries to Israel.

<sup>1</sup> Royi Heilig, an associate at Arnon, Tadmor-Levy, and Ximena Silberman, an L.L.M. candidate at Tel Aviv University, contributed to this article.

<sup>2</sup> Individuals who move to Israel permanently are said to “go up to Israel.” The word “*Olim*” is the Hebrew word for those individuals.

## THE FINANCIAL ACTION TASK FORCE

In 2016, the Global Forum adopted recommendations 24-25 of the Financial Action Task Force (the “.F.A.T.F.”). The F.A.T.F. is the global money laundering and terrorist financing watchdog. It sets international standards that aim to prevent these illegal activities and the harm they cause to society. The issues that the F.A.T.F. works on include the following:

- Methods and trends
- Recommendations
- Mutual evaluations
- High-risk and other monitored jurisdictions

The F.A.T.F. works on the following areas in carrying out its mission:

- Asset recovery
- Beneficial ownership
- Corruption
- Digitalization
- Environmental crime
- Financial inclusion and N.P.O. issues
- Proliferation financing
- Terrorist financing
- Virtual assets

## INFORMATION ON U.B.O.’S OF CORPORATIONS

The proposed amendment does not alter tax liabilities in Israel or eliminate preferred tax treatment of *Olim*. Rather, it revises certain reporting obligations in order to increase transparency.

According to the explanatory note to the proposed amendment, the Global Forum identified two main transparency deficiencies under existing Israeli law:

- The lack of accessibility of state authorities to information about ultimate beneficial owners (“U.B.O.’s”) in entities, legal arrangements, and certain trusts operating in Israel.
- The lack of reporting obligations imposed on *Olim*.

The recommendations of the F.A.T.F. concern the necessity of identifying the U.B.O. or U.B.O.’s in entities and other legal arrangements. The Global Forum asserted that similar provisions to identify U.B.O.’s governing money laundering and terrorist

financing are also required to ensure that entities and legal arrangements are not being used to evade income taxes and to enable the tax authorities to receive full information regarding taxpayers.

According to the current legislation, Israel does not require corporations to include information regarding U.B.O.'s in corporate income tax returns. Currently, any corporation that has generated taxable income is liable to submit an annual report to the Israel Tax Authority ("I.T.A."). Under the proposed amendment, the tax return required inclusion of a list of its U.B.O.'s, their identifying details, and their countries of residence for tax purposes.

## U.B.O. OR CONTROLLING PERSON DEFINED

The new reporting provisions would apply beginning with tax returns filed for the tax year 2024. For this purpose, a U.B.O., referred to as a controlling person in the I.T.O., would be one of following individuals:

- An individual who has the ability to direct the corporation's activities alone or together with others, either directly or indirectly, including the ability arising from such corporation's articles of association, or from any other source, excluding the ability arising from the role of an officer.
- Without detracting from the provisions of the first paragraph, an individual who owns 25% or more of any type of the corporation's means of control, and no other individual holds a larger portion of control, either alone or in concert with others.
- Without detracting from the above two paragraphs, if a corporation has no one individual that falls under the descriptions above, the controlling person would be the chairman of the board, any officer or the C.E.O. If none of the above exists in the corporation, the backstop provision looks to the officer who has effective control over the corporation.

The proposed amendment requires that each U.B.O. or controlling person must provide the corporation with relevant information about his or her identity in order to promote compliance in the tax return.

## REPORTING OF U.B.O.'S IN CERTAIN TRUSTS

According to the current I.T.O. provisions, an Israeli resident trustee of a foreign resident trust, or a foreign beneficiary trust is not required to submit annual tax returns to the I.T.A., provided such trusts do not generate Israeli-source income. According to the Global Forum review, these circumstances may create a transfer of cash or other assets by Israeli trustees without submitting information to any tax authority regarding the U.B.O.'s. According to the proposed amendment, Israeli resident trustees who are not required to submit annual tax returns to the I.T.A. will be required to submit a list of controlling persons within 120 days from the date of enactment of the legislation.



## PROPOSED AMENDMENT REGARDING *OLIM*

Through 2002, taxes in Israel were imposed under a territorial regime, looking only on income generated in the State of Israel. Beginning in 2003, taxes in Israel have been imposed on a global basis, looking to worldwide income in addition to income generated in Israel.

In order to encourage immigration by both new arrivals and returning individuals, Israel granted certain tax benefits to individuals in both categories of *Olim*. Initially, they benefitted from an exemption on passive income and capital gains generated from sources outside Israel. In 2008, *Olim* were granted a tax exemption regarding all income generated from sources outside Israel for a period of 10 years from the start of Israeli tax residence. Moreover, *Olim* were not required to file tax returns or to provide information regarding foreign source income and assets during the 10-year period of exemption.

The Global Forum determined that the reporting exemption during the 10-year period of exemption creates transparency deficiencies. To remedy the deficiency, the proposed amendment eliminates the reporting exemption. *Olim* who arrive in Israel on or after June 1, 2025, must report worldwide income and assets during the 10-year period of their tax exemption. The explanatory note to the proposed amendment highlights that these changes are ultimately beneficial for law-abiding *Olim*. The basic rationale for this position is that, if the proposed amendment is not adopted, Israel would be blacklisted by the O.E.C.D. Were that to occur, access to foreign investments by *Olim* would be impaired.

It is relevant to emphasize that at this point in time, the 10-year tax exemption remains in full force. The proposed amendment affects only the reporting exemption. According to the explanatory note to the proposed amendment, it is expected the I.T.A. would allow *Olim* to comply with the new reporting obligations by presenting income tax returns from the jurisdiction in which the income originates and in the original language in which the foreign tax return was prepared.

## CONCLUSION

The extent to which the current reporting exemption is a driving factor to immigrate to Israel is an open question. It is likely that some *Olim* immigrate to Israel principally to benefit from the reporting exemption. The effect of the proposed elimination of the reporting exemption on the future level of immigration is yet to be seen. In the short run, immigration may spike through the end of May 2025. Thereafter, only time will tell.