

# TAXATION OF AN OFFSHORE LIFE ASSURANCE POLICY FOR YOUR NON-ISRAELI RESIDENT CLIENTS MOVING OR RETURNING TO ISRAEL



## RESIDENT ISRAELIS

Under the Israeli Tax Ordinance 1961 ('the Ordinance'), an individual is considered an Israeli resident if the 'centre of the individual's life' is located in Israel. The 'centre of life' test takes into consideration the financial, economic and social ties of the individual including the:

- › location of the individual's permanent home
- › place of residence of the individual and their family

The Ordinance includes the following presumptions of residency based on the number of days a person stays in Israel:

- › location of the individual's regular activities, jobs, assets and investments, clubs, unions and institutions of which the individual is a member.
- › 183 days or more during the tax year; or
- › 30 days or more during the tax year and an aggregate of 425 days or more during the tax year and the two previous tax years.

## NEW AND RETURNING NON-RESIDENT ISRAELIS

A full exemption from tax and reporting on all non-Israeli sourced assets and income is granted to new and veteran returning residents to Israel, for a period of 10 years (defined as Israeli residents who left Israel and returned after being non resident for 10 consecutive years, or more).

Once the period of 10 years has elapsed, any tax payable would be based on general tax law which is summarised overleaf.

## TAXATION OF UTMOST INTERNATIONAL (UI) LIFE ASSURANCE POLICIES ON RETURN TO ISRAEL

Life Insurance Portfolio policies, and UI policies which have a death benefit of either 101% or 105% of the surrender value, are likely to be considered life assurance policies in Israel. They will be collectively referred to as 'UI policy' in this document.

However, it is possible that the Israeli Tax Authority (ITA) could deem these policies to be financial products which could be less favourable for the client and may result in an annual tax and reporting obligations on the realised income generated. The tax summary below shows the rules applying to life assurance policies in Israel so will apply to the UI policy on the assumption they are considered life assurance for Israeli tax purposes.

It is worth noting that the main tax advantage of an UI policy is tax deferred until benefits are taken from the policy.

## TAXATION OF AN UTMOST INTERNATIONAL POLICY FOR NEW AND RETURNING ISRAELI RESIDENTS

TAX CATEGORY/EVENT	TAX APPLICATION
<b>Tax relief on premiums</b>	Premiums invested into life assurance policies do not qualify for tax relief.
<b>In specie transfers into the policy</b>	Premiums paid by way of an in specie transfer of assets into the policy may be subject to capital gains tax. Any Capital Gains taxes will be calculated based on the original purchase price and the value at the date of the transfer of the assets to the policy.
<b>Withholding tax</b>	<p>The general rule under the Ordinance is that where premiums are paid by an Israeli resident to a foreign insurer, the insurer would be deemed 'to have derived profits in Israel from that insurance business' and would be liable to tax at the rate of 10% of the applicable corporate rate, which is currently 23% (tax year 2020/2021).</p> <p>The policyholder must withhold the tax.</p> <p>As a result, upon payment of a premium, the policyholder would withhold 2.3% of the premium. However, where an Israeli bank is instructed to transfer the premium to the foreign insurer, the Israeli bank is likely to withhold 23% of the premium unless the payer satisfies the bank that no such withholding is due. Where the amount is above USD250,000 an exemption must be obtained from the ITA. The Israeli resident will need to file an application with the ITA to reimburse the withholding tax withheld by the bank.</p>
<b>Tax on full and part surrender</b>	In addition to the general rate of 25%, an additional 3% where annual income is more than Israeli New Shequels (ILS) 651,000, (for tax year 2020/2021). Part surrenders and full surrenders will be taxed at the general rate of 25%. However, the risk element may be exempt from tax. For a policy with a death benefit of 101%, the risk element is 1% of the surrender value. The tax on part surrenders will be on a pro-rata basis on the respective savings element of the part surrender.
<b>Tax on death of a policyholder where there are remaining lives assured</b>	The policy continues to exist and as there is no inheritance tax in Israel such an event should not be taxable.
<b>Tax on death of a policyholder where there are no remaining lives assured</b>	Any funds which are received on the death of a person, under an insurance contract do not form part of the estate of the deceased unless the policy specifically names the estate of the deceased as the beneficiary of the policy.
<b>Tax on death of the last life assured</b>	<p>In addition to the general rate of 25%, an additional 3% where annual income is more than ILS 651,000, (for tax year 2020/2021) The savings element of the death benefit proceeds will generally be taxed at 25%. The savings element is 100% of the surrender value.</p> <p>The risk element of the death benefit proceeds will be tax exempt, provided the beneficiaries are relatives of the life assured, the premium was not deducted as an expense by the policyholder, and it is not an employment-linked fund. For a policy with a death benefit of 101%, the risk element is 1% of the surrender value.</p>
<b>Inheritance tax, forced heirship and gift tax</b>	There is no inheritance tax, forced heirship or gift tax in Israel. However, there have been discussions about introducing inheritance tax to Israeli tax laws in the future.
<b>Other advantages of life assurance contracts in Israel</b>	Policyholders can nominate beneficiaries on the policy which may be different to the beneficiaries of their estate which provides asset protection benefits.
<b>Offshore trusts</b>	<p>Isle of Man trusts and foundations are recognised in Israel.</p> <p>A trust does not provide any tax benefits, however it does change the ownership rights of the asset and provides another means of asset protection.</p> <p>Under the Ordinance, the classification of the trust for tax purposes is based on the residency of the settlor and the beneficiaries of the trust. A trust with offshore trustees but Israeli settlors and beneficiaries would be an Israeli resident trust for tax purposes.</p> <p>An Israeli resident trust is fully taxable on worldwide current income, whether distributed or not, at the highest marginal rate applicable to the taxation of individuals and subject to special rates as specified in the Ordinance.</p> <p>The taxation and the reporting duty generally falls on the trustees. However, settlors and beneficiaries also have reporting duties in Israel.</p>
<b>Tax reporting</b>	<p>Policyholders must report the policy as a foreign asset in their tax return if the value of the policy exceeds ILS 1,883,000, even though the income may not be taxable. They would also be obliged to report the policy in a wealth declaration which is submitted upon the request of the Israeli Tax Authority every few years.</p> <p>Any income received at surrender by an Israeli policyholder would have to be reported.</p> <p>Beneficiaries must file a tax return when they receive income.</p>
<b>Premiums</b>	A premium payment can be paid from a bank account in Israel. However, the Israeli bank is likely to withhold 25% tax - see withholding tax section above. Credit cards can be used to pay premiums. Israeli law permits a premium to be paid in any currency and proceeds from the policy to be paid in any currency.

TAX CATEGORY/EVENT	TAX APPLICATION
Exchange controls	There are no foreign currency exchange controls in Israel.
General anti avoidance rules	<p>Israel has anti-tax avoidance rules set out in Section 86 of the Ordinance.</p> <p>This section provides that the ITA may disregard a transaction which reduces, or is liable to reduce, the amount of tax payable by any person if, in the opinion of the ITA, the transaction is artificial or fictitious or that one of the principal objectives of the transactions is an improper reduction of tax, even if the transaction is lawful.</p> <p>Generally, the Israeli court has interpreted this to mean transactions where the sole or principal purpose was to avoid or reduce tax.</p> <p>If a beneficiary or policyholder has the ability to influence and/or control the insurance, or if they are entitled to ask for and receive assets (other than redeeming the policy), it may provide a reason for the ITA to challenge the policy under the general anti-avoidance rules in the Ordinance.</p>

The value of investments may fall as well as rise in value and investors may not get back what they paid in.

This document is based on Utmost International's interpretation of law and tax practice as at January 2020. We believe this interpretation to be correct, but cannot guarantee it. Tax relief and tax treatment of investment funds may change in the future. Full details of the products available from Utmost International are available on our website. Please note that the tax percentages are correct as at January 2020.

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