Guide to the Israeli Taxation of Trusts

Prepared for clients and prospective clients of Anglo Capital Limited.

Distributed in Association with STEP Jerusalem Branch

Guide to the Israeli Taxation of Offshore Trusts

A summary of Israeli tax information

This is a compilation of unofficial & non-binding translations of various documents originally published in Hebrew and is based on our understanding of Israeli law, legislative proposals and current practice as at July 2008.

This guide is intended to provide a general guide to the subject matter and should not be regarded as a basis for ascertaining the liability to tax or legal opinion in specific circumstances. In such instances, separate advice should be taken.

This document can also be found on the Anglo Capital Limited website at: www.anglocapital.com

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Michael Hunter & Partners: Company Profile
“New Israeli Reporting for Trusts” by Leon Harris, Int. Tax Partner, Ernst & Young, Israel
Stonehage: Corporate Advertisement
Anglo Capital Limited: Corporate Advertisement
**INTRODUCTION**

Anyone with a connection to a trust, and to Israel, has faced many years of uncertainty as regards tax ramifications of such a trust. This guide is intended to be a resource for settlors, beneficiaries, trustees and other professionals who require an English medium source of information on this topic. It is a compendium of unofficial translations of different announcements, laws, notices & forms issued in Hebrew by the Israeli Tax Authorities, Israeli Finance Ministry & Israeli Government.

No documentation has been issued in English by the Israeli Tax Authorities, and this Guide is intended to bridge the gap. It must be noted that the translations are unofficial, and cannot be relied upon as an accurate interpretation of the Hebrew original. Specific opinion needs to be obtained as relates specific cases.

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CHAPTER FOUR "B": TRUSTEESHIPS

Definitions

75C. In this Chapter –
"means of control", "substantive shareholder", "relative" and "consideration" – as defined in section 88;
"trustee income" – income produced or accrued from trusteeship assets;
"vesting" – transferring an asset to a trustee under a trusteeship, not for consideration;
"trust asset holding company" – a body of person that directly or indirectly holds trusteeship assets for the trustee;
"distribution" – transfer of an asset or of income by the trustee to the beneficiary or to his credit, while the trusteeship is in existence or because of its liquidation;
"creator" of a trusteeship – within its meaning in section 75D;
"trusteeship protector" – the person who – under the trusteeship documents – has the power to appoint and to dismiss the trustee, to give the trustee orders, or whose approvals are needed for the trustee's acts;
"trustee" – a person in whom assets or income from assets were vested, or who holds assets in trusteeship; wherever in this Chapter the word "trustee" appears, that means a trustee in this position in the trusteeship at hand; for this purpose vesting in a trust asset holding company shall be treated like vesting in the trustee, and a body corporate specified in Schedule One "A" shall be deemed a trustee; the Minister of Finance may add, by Order, bodies corporate to Schedule One "A";
"trusteeship" – an arrangement, under which the trustee holds the trusteeship assets for the benefit of the beneficiary in Israel or abroad, whether defined as a trusteeship under statutes applicable to it, or defined in some other manner;
"irrevocable trusteeship" – a trusteeship that is not a revocable trusteeship, on condition that a lawfully certified affidavit by the creator of the trusteeship and by the trustee was delivered to the Assessing Officer on a form and at the time prescribed by the Director, stating that it is an irrevocable trusteeship;
"revocable trusteeship" – a trusteeship for which at least one of the following holds true:
1) it is possible to cancel it or to transfer or return the asset or the income to the creator, his spouse, his estate or to a held body of persons, all either directly or indirectly;
2) the creator or his spouse are one or more of the beneficiaries, or the creator or his spouse can become a beneficiary;
3) one or more of the beneficiaries is a child of the creator, who in the tax year has not reached age eighteen, or there is a possibility to transfer an asset or income directly or indirectly to his aforesaid child, on condition that the creator or his spouse is still alive;
4) one or more of the beneficiaries are bodies of persons, which are not public institutions as defined in section 9(2), in which 10% or more of any means of control are held by the creator, by his spouse or by his child who has not yet reached age eighteen if the creator or his spouse is still alive, all either directly or indirectly (in this definition: held body of persons);
5) the trustee or the protector of the trusteeship is the creator or a held body of persons;
6) the trustee or the protector of the trusteeship is a relative of the creator, unless it was proven to the Director's satisfaction that there was a special justification for the relative's appointment as trustee, and that the appointment does not demonstrate any ability to direct the trustee's
activity or to issue instructions on the matter of the trusteeship; for purposes of this definition: "relative" – as defined in paragraphs (1) to (3) of the definition of "relative" in section 88;

(7) the creator or his relative are able to direct the trustee's activity or to give him instructions on the way the trusteeship and its assets are managed, its beneficiaries are changed, or trust assets and trust income are distributed to beneficiaries, or his approval is required for acts of the trustee, or he is able to order the trusteeship to be cancelled or the trustee to be replaced, otherwise than for statutory grounds, all whether directly or indirectly;

(8) the identity of one or more of the beneficiaries is not known, or the identity of a direct or indirect holder of shares in a beneficiary that is a body of persons is not known, unless it is proven to the Assessing Officer's satisfaction that that beneficiary cannot be the creator, his spouse, the creator's child who has not reached age eighteen, or a held body of persons,

(9) the beneficiaries of a trusteeship have been replaced or new ones were added, without instructions to that effect having being included in the trusteeship documents;

(10) no certified affidavit was delivered on the form and at the time prescribed by the Director, as said in the definition of "irrevocable trusteeship";

"trusteeship created by foreign residents" – a trusteeship said in section 75I;
"trusteeship under a will" – a trusteeship said in section 75L;
"foreign resident beneficiary trusteeship" – a trusteeship said in section 75J;
"trusteeship of Israel residents" – a trusteeship said in section 75G;
"beneficiary" in a trusteeship – within its meaning in section 75E;
"asset" – any property, real or movable, and also any prospective or vested right or benefit, all whether in Israel or abroad;
"trustee assets" – assets vested in the trustee or acquired or received by him, also if held for him by a trust asset holding company, even if registered in its name;
"foreign resident", in respect of a creator – including a creator who was a foreign resident at the time of his death;
"Israel resident" – including an Israel citizen who is resident in an area, as defined in section 3A, and in respect of a creator – including a creator who was an aforesaid Israel resident or Israel citizen at the time of his death.
Creator of a trusteeship
75D. (a) A person who directly or indirectly vested an asset in a trustee is the creator of a trusteeship, and the following shall also be deemed creators:

(1) a person who directly or indirectly was a substantive shareholder in a body of persons, when the body of persons vested the asset in the trustee;
(2) a person who directly or indirectly held one or more categories whatsoever of means of control in a body of persons, when the body of persons vested the asset in the trustee, and he or his relative are beneficiaries of that trusteeship;
(3) if a trustee vested an asset or income in another trustee after the last of the creators died or after the beneficiaries of the trusteeship were changed, all without a provision to that end having been included in the trusteeship documents, then the beneficiary shall also be deemed a creator of the trusteeship under which the other trustee operates or in a trusteeship in which the beneficiaries were changed, as aforesaid, as the case may be, unless it was proven to the Assessing Officer's satisfaction that the beneficiary had no influence on the said vesting or on the change of beneficiaries;
(4) if the beneficiary was able to control or influence – directly or indirectly – the manner in which the trusteeship is managed, the trust assets, the designation of beneficiaries otherwise than by virtue of designation by the creator, the appointment or replacement of trustees, or the distribution of trust assets or trust income to beneficiaries, then the beneficiary shall also be deemed a creator;
(5) if, in a trusteeship created by foreign residents, an asset vested in the trustee was transferred from an Israel resident – he and his Israel resident relative being beneficiaries of the trusteeship – then the said Israel resident shall be deemed a creator of that trusteeship.

(b) If a trustee vested an asset or income in another trustee, then the creator who vested the asset or income in the trustee shall be deemed the person who vested it in the other trustee, and the trustee shall not be deemed a creator.

Beneficiary of a trusteeship
75E. A person entitled to benefit directly or indirectly from the trust assets or trust income is a beneficiary of the trusteeship, including the following:

(1) a person who will be entitled to be an aforesaid beneficiary when a condition is fulfilled or when a date prescribed in the trusteeship documents has been reached; however, if a person's rights are conditional on the demise of the creator or of another, then he shall not be deemed a beneficiary as long as the creator or the other beneficiary still are alive;
(2) a still unborn beneficiary;
(3) an indirect beneficiary through a chain of trusteeships;
(4) a person who directly or indirectly holds one or more of any category of means of control in the beneficiary, which is a body of persons other than a public institution defined in section 9(2).
Tax liability of trust income

75F. (a) Trust income shall be charged tax in the year in which it was produced or accrued.

(b) Trust income shall be treated as the creator's income or the beneficiary's income, as the case may be, as specified in sections 75G, 75I, 75J or 75L.

(c) The trustee shall be the person assessed and charged tax in respect of trust income and of acts with trust assets.

(d) The tax rate at which trust income shall be charged is the maximum tax rate prescribed in section 121.

(e) Notwithstanding the provisions of subsection (d), if a special tax rate is prescribed for a certain category of an individual's income, then trust income of the same category shall be charged at the tax rate so prescribed.

(f) A tax exemption for income limited by a ceiling shall not apply to trust income, and the provisions of section 11 and the provisions of Chapter Three in Part Three also shall not apply to it.

(g) Trust income or chargeable trust income shall be determined under the provisions of this Ordinance, also if the trustee is a foreign resident and also if the trusteeship is under foreign Law or if the provisions of foreign Law apply to it.

(h) Losses suffered by a trust (in this Chapter: trust losses) cannot be set off against the income of the creator or the beneficiary, and the tax that applies to trust income cannot be set off against the tax that applies to income of the creator or of the beneficiary, except when this Chapter explicitly makes a different provision.

(i) Losses by the creator or by the beneficiary cannot be set off against the trust income, and the tax that applies to the creator's and the beneficiary's income cannot be set off against the tax that applies to the trust income, except when this Chapter explicitly makes a different provision.

(j) In respect of the calculation of capital gain on the trustee's sale of an asset that was vested in the trustee exempt of tax or not liable to tax, which was vested in him for no consideration, and in respect of the calculation of depreciation on a said asset, the original cost of the asset, the balance of its original cost and the day of the asset's acquisition shall be determined as they would have been for the creator, and the amount of depreciation shall be the amount the creator was entitled to deduct in respect of that asset.

(k) The place of residence of an unborn beneficiary shall be determined according to the place of residence of his parents.

Charging the trustee's income in the hands of the creator or the beneficiary

75F1. (a) Notwithstanding the provisions of section 75F(c), the following are assessable and chargeable to tax in respect of the trustee's income and in respect of acts with trust assets:

1. in a trusteeship of Israel residents —the creator who was an Israel resident in the tax year, and if more than one creator was an Israel resident in the tax year, then only one of them (hereafter: representative creator);

2. in a trusteeship under a will that under section 75L is deemed an Israel resident —a beneficiary who is an Israel resident in the tax year, and if more than one beneficiary was an Israel resident in the tax year, then only one of them (hereafter: representative beneficiary);

on condition that that all the conditions specified in subsection (b), as the case may be, were complied with in the said trusteeships and the provisions in subsection (c) shall apply.
(b) (1) there is no Israel resident trustee in the trusteeship;
(2) the trustee in the trusteeship gave notice that he elected the application of the provisions of this section and declared that he undertaking to communicate to the representative creator or to the representative beneficiary, as the case may be, all the information he needs in order to have full information about the trustee's income or the trust assets;
(3) in respect of a trusteeship of Israel residents – all the creators, including the representative creator, gave notice of their choice of the representative trustee as assessable and chargeable and of the applicability of the provisions of this section;
(4) in respect of a trusteeship under a will that under section 75L is deemed an Israel resident – all the beneficiaries, including the representative beneficiary gave notice of their choice of the representative beneficiary as assessable and chargeable and that the applicability of the provisions of this section;
(5) notices said in paragraphs (2), (3) or (4) shall be submitted to the Assessing Officer on forms prescribed by the Director, together with the return under section 131(a)(5b)(4) for the first tax year in which the trustee and all the creators or the trustee and all the beneficiaries opted for the applicability of the provisions of this section.

(c) (1) The choice of the trustee and creator or of the trustee and beneficiary, as the case may be, shall also apply in the tax years after the first tax year as said in subsection (b)(5), and they shall not have the right to retract their decision if the representative creator or the representative beneficiary, as the case may be, is still alive and still is an Israel resident or as long as there is no Israel resident trustee of the trusteeship.
(2) The provisions of section 75F, other than subsection (c) thereof, shall apply to the representative creator or the representative beneficiary, as the case may be, all in the manner and in the amount that the trustee would have been assessed or charged, if not for the choice of the provisions of this section.
(3) The provisions of any statute on the tax payment, reporting, collection and penalties shall apply to the representative creator or the representative beneficiary, as the case may be, in respect of the trustee's income and in respect of the trust assets.
(4) A final tax debt of the representative creator or the representative beneficiary, as the case may be, may be collected from the trustee, and a final tax debt of the representative creator also from all the creators, also if he ceased being an Israel resident; for this purpose, "final tax debt" – as defined in section 75O(f).
(5) The provisions of section 75O(d) shall apply, except that "if the trustee" shall be replaced by "if the representative creator or the representative beneficiary, as the case may be".

(d) Wherever this section speaks of a representative creator or a representative beneficiary, that is in the relevant trusteeship.
Trusteeship of Israel residents

75G. (a) (1) A trusteeship of Israel residents is a trusteeship in which – at the time of its creation – at least one creator and at least one beneficiary were Israel residents, and at least one creator and at least one beneficiary thereof were Israel residents in the tax year.

(2) A trusteeship that is not a trusteeship created by foreign residents and not a foreign resident beneficiary trusteeship shall also be deemed a trusteeship of Israel residents.

(3) Notwithstanding the provisions of paragraphs (1) and (2), a trusteeship under a will shall not be deemed a trusteeship of Israel residents.

(4) A trusteeship shall be deemed a trusteeship of Israel residents, whether it is a revocable or an irrevocable trusteeship.

(b) In a trusteeship of Israel residents the trust income shall be treated like the creator's income and the trust assets shall be created like the creator's assets.

(c) A trusteeship of Israel residents shall be deemed an Israel resident, also when the creator ceased being an Israel resident, and the trust income shall be treated like the income of an individual Israel resident and the trust assets like the assets of an individual Israel resident.

(d) In a trusteeship of Israel residents vesting in the trustee by an individual, carried out not for consideration, shall not be deemed a sale for the purpose of the provisions of Part Five.

(e) If a trusteeship became a trusteeship of Israel residents after one creator thereof became an Israel resident for the first time or became a returning resident, as said in section 14(a) or (c), then the provisions under sections 14(a) to (c), 16 or 97(b) or (b3), as the case may be, shall also apply to the trust income, in addition to the provisions of section 75F.

(f) Distribution of an asset of a trusteeship of Israel residents shall be charged tax or shall be exempt of tax for the purposes of Part Five, as it would have been if the asset had been transferred directly from the creator to the beneficiary; for this purpose the creator shall be deemed an Israel resident, even if at the time of the distribution he is a foreign resident; if a trusteeship had several creators, and if the transfer from at least one of them to the beneficiary would have been liable to tax, had it been carried out directly, then the distribution shall be liable to tax.

(g) The provisions of section 75F(a) to (i) and (k) and of subsections (b), (c) and (e) shall not apply to trust income in a trusteeship of Israel residents that is an irrevocable trusteeship distributed to an Israel resident beneficiary, and it shall be deemed the beneficiary's income on condition that all of the following hold true:

(1) the distribution took place before six months had elapsed after the end of the tax year in which the income was produced or accrued or up to the date for submission of the return for the said tax year, whichever was earlier;

(2) the income was included in the return submitted by the trustee under section 131 as distributed income, and it was not taken into account in the calculation of the trustee's income or chargeable income;

(3) the income was included in the return submitted by the beneficiary under section 131 for that tax year;

(4) the trustee and the beneficiary attached to their returns under paragraphs (2) and (3), as the case may be, a notice of the distribution and of their choice that the distributed trust income be deemed the beneficiary's income;

(5) if income was produced by or accrued from different sources of income, then it shall be deemed to have been distributed proportionally from each said source of income, unless the writ of
trusteeship prescribed that the distributed income was earmarked for the beneficiary who received it.

(h) The provisions of section 75F and of subsections (b) to (h) shall not apply to a trusteeship of Israel residents that is a revocable trusteeship, in which there is only one creator who is an Israel resident, if the creator and the trustee gave notice of their choice that the creator be assessable and chargeable to tax for the trust income; for this purpose a creator and his spouse shall be deemed a single creator, provided the spouse is an Israel resident; a said application shall be submitted to the Assessing Officer together with the return under section 131 for the tax year in which the trusteeship was created; when such an application has been submitted, the following provisions shall apply:

1. the creator shall be the assessee and the person liable to tax in respect of the trust income, and he must submit a return thereon under section 131 as long as the creator still is alive;
2. the creator's final tax debt in respect of the trust income may also be collected from the trust assets and from trust income;
3. the creator's and trustee's choice shall also apply in coming tax years, and they cannot withdraw their choice as long as the creator is alive and an Israel resident.

The provisions of this subsection shall apply as long as the creator is an Israel resident.

(i) The provisions of section 100A shall not apply to a trusteeship of Israel residents on the day on which the creator ceases to be an Israel resident, as long as the trusteeship is an aforesaid trusteeship.
Trusteeship that ceased being a trusteeship of Israel residents
75H. (a) A trusteeship shall cease being a trusteeship of Israel residents from the date on which one of the conditions prescribed in section 75G(a) ceased to apply (in this section: the final day).
(b) If a trusteeship ceased being a trusteeship of Israel residents and became a foreign resident beneficiary trusteeship, then for the purposes of the provisions of Part Five the trust assets shall be deemed to have been sold to a foreign resident on the final day.
(c) If a trusteeship ceased being a trusteeship of Israel residents and became a trusteeship created by foreign residents, then the provisions of section 100A shall apply on the final day, mutatis mutandis.

Trusteeship created by foreign residents
75I. (a) A trusteeship created by foreign residents is a trusteeship, all creators of which were foreign residents when it was created and in the tax year, or all its creators and all its beneficiaries are foreign residents in the tax year.
(a1) A trusteeship shall be deemed a trusteeship created by foreign residents, irrespective of whether it is a revocable trusteeship or an irrevocable trusteeship.
(b) The provisions of section 75G – except for its subsections (a), (c) and (h) – shall apply to a trusteeship created by foreign residents, mutatis mutandis.
(c) A trusteeship created by foreign residents shall be deemed a foreign resident, and the trust assets shall be deemed assets held by a foreign resident and the trust income the income of a foreign resident individual; if the creators are residents of several foreign countries, then the trust assets shall be deemed to be held in proportional parts by individual residents of their creators’ countries of residence, and the trust income shall be deemed to have been produced or accrued for individual residents of those countries, in proportion to the value of the assets vested in the trustee by each creator, as it was on the day of vesting.

Foreign resident beneficiary trusteeship
75J. (a) A foreign resident beneficiary trusteeship is a trusteeship in respect of which all the following held true in the tax year, on condition that the provisions of section 75G(a)(1) do not hold true for it and that it is not a trusteeship under a will:
(1) it is an irrevocable trusteeship; for purposes of this section a trusteeship shall not be deemed a revocable trusteeship only because of the provisions of section 75D(a)(3) or (4);
(2) all its beneficiaries are individual foreign residents, whose identity is known; for this purpose an unborn beneficiary shall be deemed a beneficiary whose identity is known;
(3) at least one of its creators is an Israel resident;
(4) if, at the time it was created, the conditions said in paragraphs (1) to (3) held true for it, then the following also held true –
(a) the trusteeship documents explicitly provide that no Israel resident beneficiary can be added;
(b) in a notice that the creator submitted under section 75P1 it was declared that in it there is no Israel resident beneficiary and no Israel resident beneficiary whose entitlement under the trusteeship is conditional on his ceasing to be an Israel resident, and that no beneficiary as aforesaid can be added to it.
(b) In a foreign resident beneficiary trusteeship the trust assets shall be deemed the beneficiary's assets and the trust income the beneficiary's income.

(c) A foreign resident beneficiary trusteeship shall be deemed a foreign resident, and the trust assets shall be deemed assets held by an individual foreign resident, and the trust income shall be deemed the income of an individual foreign resident; if the beneficiaries are residents of several foreign countries, then the trust assets shall be deemed to be held in proportional parts by individual residents of the beneficiaries' countries of residence, and the trust income shall be deemed to have been produced or accrued for individual residents of those countries, in proportion to their shares of the trust income and the trust assets.

(d) In respect of the provisions of the Ordinance, vesting a trustee in a foreign resident beneficiary trusteeship shall be charged tax, as it would have been if the asset had been transferred directly by the creator to the foreign resident beneficiary.

(e) A distribution to the beneficiary of a foreign resident beneficiary trusteeship shall not be deemed a sale for purposes of the provisions of Part Five.

(f) Every year the trustee shall attach to the return he submits under section 131, on a form prescribed by the Director, a notice about every distribution made in the course of the tax year, including the names of the beneficiaries and the amounts distributed to them, as well as a declaration said in subsection (a)(4)b), but if the trustee does not have to submit a return under section 131 for that tax year, then he shall submit the said declaration to the Assessing Officer until April 30 of the year after the tax year.
Partnership that ceased to be a foreign resident beneficiary trusteeship

75K. (a) If one of the beneficiaries of a trusteeship became an Israel resident for the first time or became a returning Israel resident, as said in section 14(a) or (c), then the trusteeship shall cease being be a foreign resident beneficiary trusteeship; beginning with that day, the provisions of section 75G shall apply to the trusteeship, as well as provisions under sections 14(a) to (c), 16 or 97(b) or (b3), as the case may be, as they would have applied, if the income were produced directly by the beneficiary who became an Israel resident.

(b) If the trustee did not submit the notification and declaration said in section 75J(f) for a certain tax year, then it will be deemed that there was an Israel resident beneficiary in the trusteeship in that tax year and the provisions of section 75G shall apply.

(c) If the Assessing Officer concluded that – in spite of the creator's and the trustee's declarations – the conditions said in section 75J(a)(4)(b) were not complied with, or that the trusteeship is a revocable trusteeship, then the trusteeship shall be deemed not to have been a foreign resident beneficiary trusteeship from the beginning and the Assessing Officer shall assess the trust income accordingly; for the purposes of this section, a trusteeship shall not be deemed a revocable trusteeship only because of the provisions of section 75D(a)(3) or (4); if, when the said assessment is being made, the trustee has final assessments for preceding years, then the Assessing Officer may – notwithstanding the provision of any statute – assess the trust income in those years within two years after the end of the tax year in which he concluded as aforesaid.

Trusteeship under a will

75L. (a) A trusteeship under a will is a trusteeship for which all the following hold true:

1. the trusteeship was created under a will;
2. all creators of the trusteeship are testators who were Israel residents at the time of their demise.

(b) In a trusteeship under a will the trust income shall be deemed the beneficiary's income and the trust assets shall be deemed the beneficiary's assets.

(c) (1) If there is at least one Israel resident beneficiary in the trusteeship under a will, then the trusteeship shall be deemed an Israel resident, and the trust income shall be treated like an Israel resident's income and the trust assets shall be treated like assets held by an Israel resident.

2. If there is no Israel resident beneficiary in the trusteeship under a will, then the provisions of subsections (c) and (e) of section 75J shall apply to the trusteeship.

(d) Vesting in the trustee in a trusteeship under a will and distribution to a beneficiary in a said trusteeship shall not be deemed sales for the purposes of Part Five.

(e) The provisions of section 75F and of this section, other than subsections (d) and (g), shall not apply to a trusteeship under a will with only one beneficiary who is an Israel resident, if the beneficiary and the trustee requested that the beneficiary be assessable and chargeable to tax; for this purpose, a beneficiary and his spouse shall be deemed one beneficiary, provided the spouse is an Israel resident; a said request shall be submitted to the Assessing Officer as said in section 75G(h), and the provisions prescribed in paragraphs (1) to (3) of the said section shall apply, mutatis mutandis.

(f) The provisions of section 75G(g) shall also apply, mutatis mutandis, to trusteeships under a will.
If under the trusteeship under a will at least one beneficiary becomes an Israel resident for the first time or a returning resident, as said in section 14(a) or (c), and if in that tax year there was no other Israel resident beneficiary in the trusteeship, then – in addition to the provisions of section 75F – the provisions of sections 14(a) to (c), 16 or 97(b) or (b3), as the case may be, shall also apply to the trust income.

If the beneficiary of a trusteeship under a will ceased to be an Israel resident, then on that date the provisions of section 100A shall apply, mutatis mutandis.

Vesting by a body of persons
75M. If a body of person vested an asset in a trustee, then the following provisions shall apply:

1. The vesting shall be deemed a sale for purposes of the provisions of the Ordinance;
2. The vested asset shall be treated like a dividend distributed to the individual shareholders, who directly or indirectly hold rights in that body of persons.

Distribution to the beneficiaries after the end of the trusteeship
75N. (a) If a trusteeship of Israel residents or a trusteeship created by foreign residents came to an end and if, after its assets were distributed, losses remained that had not been set off and which – had they been profits – would have been liable to tax in Israel, then the losses shall be deemed losses of the creator; if the trusteeship had several creators, then a proportional part of the losses shall be deemed the loss of each of the creators, according to the value of assets vested in the trustee, as it was at the time of the vesting.

(b) If a foreign resident beneficiary trusteeship or a trusteeship under a will came to an end, and if, after its assets were distributed, losses remained that had not been set off and which – had they been profits – would have been liable to tax in Israel, then the losses shall be deemed losses of the beneficiary; if the trusteeship had several beneficiaries, then a proportional part of the losses shall be deemed the loss of each of the beneficiaries, according to his proportional part in the distribution of the assets and the income, as it was during the four year period that ended at the end of the year in which the trusteeship ended.

(c) At the end of the trusteeship the trust losses shall be classified according to sources of income, as they were classified by the trustee, and the losses of the trustee transferred from previous tax years shall be deemed transferred losses of the creator or of the beneficiary, as the case may be.

(d) In respect of the calculation of the capital gains by a beneficiary to whom an asset was distributed and in respect of the asset's depreciation, its original price, the balance of its original price, and the day of its acquisition shall be as they would have been for the trustee, and the amount of depreciation shall be the amount which the trustee was entitled to deduct in respect of that asset.

Provisions on tax payments, collection, returns and penalties
75O. (a) The provisions of any statute on the payment of tax, on returns, collection and penalties shall apply to the trustee in respect of the trust income and the trust assets, except where an explicitly different provision is made in this Chapter.

(b) In a trusteeship of Israel residents a final tax debt of the trustee may be collected from each of the creators, even if he ceased being an Israel resident.

(c) The provisions of subsection (b) shall also apply, if the Assessing Officer found in respect of a certain foreign resident beneficiary trusteeship that –
notwithstanding the creator's and the trustee's declarations – the conditions prescribed in section 75J(a)(4)(b) were not complied with.

(d) If the trustee has a final tax debt, then it can also be collected from every beneficiary, to whose credit distribution was made after the beginning of the tax year, in respect of which the debt exists, whether the trusteeship has ended or not; however, no more shall be collected from any beneficiary than the final tax debt or than the amount or the value of the assets he received in the distribution, whichever is less.

(e) The trustee of a trusteeship created by foreign residents, the trustee of a foreign resident beneficiary trusteeship, and also a trustee of a trusteeship created under a will in which there is no Israel resident beneficiary does not have to submit a return under section 131 about the trust income created or accrued abroad, also if the trustee is an Israel resident and if he submitted a return under section 131 about income produced or accrued in Israel.

(f) In this section, "final tax debt" – as defined in section 119A(d), and also fines imposed under this Ordinance or under the Taxes (Arrears Fine) Law 5741-1980.

General provisions
75P. (a) If a trusteeship had more than one trustee, then the trustees are jointly and severally liable for the tax applicable to the trust income.

(b) A trust asset holding company shall not be obligated to submit a return under section 131 or to pay tax in respect of trust income or in respect of trust assets that it holds for a trustee.

(c) The fact that a trustee is an Israel resident does not create a tax liability or an obligation to submit a return in respect of trust income, in addition to the obligations specified in this Chapter, such as would not exist if all the trustees were foreign residents.

Creator's obligation to give notice
75P1.(a) If, in a tax year, an Israel resident creator created a trusteeship or vested an asset or income from an asset in a trustee, then he must submit a notice to the Director within 90 days after creation of the trusteeship or after the vesting, as the case may be.

(b) The notice said in subsection (a) shall be submitted on the form prescribed by the Director, and the following shall be specified in it:

(1) the particulars of each of the creators and of each of the beneficiaries, the particulars of the trustee and of the trusteeship protector, if there is one, and the residential status of each of these;

(2) the particulars of the assets vested in the trustee or of which the income was vested in the trustee, including the original cost, the balance of the original cost and the day of acquisition, all as defined in section 88, the value of the acquisition and the date of acquisition within their meaning in Chapter Three of the Real Estate Taxation Law, and the balance of the acquisition value, as defined in section 47 of the said Law, as the case may be, as well as particulars of the income from the said assets that was vested in trustee;

(3) the date on which the said assets or income, as the case may be, were vested.

(c) Without derogating from the provisions of subsection (a), a creator of a trusteeship created by foreign residents that became a trusteeship of Israel residents or a foreign beneficiary trusteeship because the creator became an Israel resident must submit a notice to the Director by April 30 of the tax year after the tax year in which the creator became an Israel resident, but if the creator is under obligation to submit a return under section 131 – at the time for submitting the return; a said notice shall be submitted on a form prescribed by the Director and the
particulars said in subsection (b) shall be specified in it, but in respect of
the particulars of the assets and income, as said in subsection (b)(2), the
creator shall specify the particulars of the assets and income that he
vested in the trustee during the five years before the tax year in which the
creator became an Israel resident.

Obligation of trustee to submit notice
75P2.(a) The trustee of a trusteeship shall submit a notice to the Director, on a
form prescribed by the Director, on the following matters:
(1) the creation of a trusteeship under a will – within ninety days after
provisions of the will on setting up the trusteeship were carried out;
(2) a change of the category of a trusteeship – until April 30 of the tax
year after the tax year in which the category of the trusteeship was
changed, but if the trustee is under obligation to submit a return
under section 131(a)(5b) in respect of that trusteeship – at the time
for submitting the return;
(3) the conclusion of a trusteeship of Israel residents, the conclusion of
a trusteeship under a will that is deemed an Israel resident
trusteeship under section 75L(c)(1) or the conclusion of a
trusteeship that at its conclusion held assets in Israel – until April 30
of the tax year after the tax year in which the trusteeship was
concluded; however, if the trustee or the creator is under obligation
to submit a return under section 131(a)(5b) in respect of that
trusteeship – at the time for submitting the return; a said notice shall
include the particulars of the assets that were distributed to
beneficiaries because of the conclusion of the trusteeship, and in
respect of a trusteeship that held assets in Israel at the time of its
conclusion – particulars of the assets in Israel that were distributed
to beneficiaries because of the conclusion of the trusteeship.

(b) The provisions of subsection (a) shall apply to a creator who elected to
be assessable and chargeable, to a representative creator and to a
representative beneficiary, as the case may be, according to provisions
under sections 75F1, 75G(h) or 75L(e), mutatis mutandis.

Obligation of beneficiary to submit notice
75P3. (a) If an Israel resident beneficiary received an asset that is not money from
a trustee in a distribution, even if the distribution is not liable to tax in
Israel, then he must submit a notice to the Director until April 30 of the tax
year after the tax year in which the said distribution took place, but if the
beneficiary is under obligation to submit a return under section 131 – on
the date for submission of the return.

(b) A notice said in subsection (a) shall be submitted on a form prescribed by
the Director, and on it the beneficiary shall specify the particulars of the
asset he received in the distribution and the date of the distribution.

Restrictions on applicability
75Q. The provisions of this Chapter shall not apply to each of the following:
(1) a trust fund, as defined in section 88, and also a joint investment trust
fund abroad;
(2) a benefit fund;
(3) a trusteeship created to secure a certain obligation;
(4) an estate manager, a Court-appointed custodian, a trustee in bankruptcy,
an appointee under section 350 of the Companies Law, a company
liquidator, a receiver;
(5) a religious endowment that is a public institution, as defined in section
9(2);
(6) a trustee as defined in section 102.
The Minister's authority

75R. The Minister of Finance may, with approval by the Knesset Finance Committee, prescribe as follows:

(1) provisions on granting credit to a trustee, creator or beneficiary in respect of taxes which the trustee, creator or beneficiary in that trusteeship paid to a foreign state on income that was charged tax both in Israel and abroad;

(2) provisions on how to calculate the trustee's chargeable income or the capital gain upon the sale of trust assets, including the matter of setting the original cost and the day of acquisition;

specified in subsection (a), of an assessee who has a permanent enterprise abroad as said in subsection (b), of a company or a partnership which chose to keep books as said in subsection (c), the Minister of Finance may, with approval by the Knesset Finance Committee, prescribe rules for the determination and calculation of its chargeable income and, in particular, of expenses, income and depreciation, and rules on tax liability and tax payments and on linkage differentials and interest thereon, all taking into account that books are kept in a foreign currency as aforesaid; rules under this subsection shall apply notwithstanding anything provided in any statute.

Who must make a return

131. (a) The following shall submit a return:

(1) an individual Israel resident who reached age 18 by the beginning of the tax year; a registered spouse may refrain from including the income of his spouse, if the spouse submitted a separate return of his income or if the registered spouse attached to his return a declaration signed by his spouse that he will report his income separately;

(2) a spouse who is not a registered spouse who declared as said in paragraph (1) that he will make a separate return of his income;

(3) an individual Israel resident who had not yet reached age 18 at the beginning of the tax year, if in that year he had chargeable income in an amount not less than NS 59,570 in tax year 2007, or some other amount set by the Minister of Finance for this purpose;

(4) an individual foreign resident who had chargeable income in the tax year;

(5) a body of persons which had income in the tax year;

(5a) a person who during the tax year sold a real estate right or performed an association act, as defined in the Land Appreciation Tax Law, which is not exempt of tax under that Law, and who did not pay appreciation tax at the highest rate applicable under the Real Estate Taxation Law on the real appreciation that arose out of the sale or act, as the case may be;

(5b) in respect of trusteeships, each of the following:

(1) a trustee in a trusteeship of Israel residents or a trustee in a trusteeship under a will that under section 75L(c)(1) is deemed an Israel resident, provided the creator did not elect to be assessable and chargeable under the provisions of sections 75G(h) or 75L(e) and that no representative creator or representative beneficiary was chosen under the provisions of section 75F1, as the case may be;

(2) a trustee who had income or assets in Israel, whether or not he is an Israel resident;

(3) a creator or a beneficiary, as the case may be, who elected to be assessable and chargeable under the provisions of section 75G(g) or (h), or under section 75L(e) or (f);
(4) a representative creator or a representative beneficiary, as the case may be, who elected to be assessable and chargeable under the provisions of section 75F1; every term in this paragraph shall have the meaning it has in section 75C or in section 75F1, as the case may be;

(5c) a controlling member, as defined in section 75B, of a foreign occupational company, as defined in section 5, or in a controlled foreign company, as defined in section 75B;

(5d) a person who performed an act, which under subsection (g) is designated as tax planning that requires reporting;

(6) every person of whom the Assessing Officer so demanded, even if he does not have to submit a return under paragraphs (1) to (5).

(a1) If a return was submitted that includes the income of both spouses, then each of the spouses shall sign it to attest the correctness of what is declared about his part.

(b) The return shall specify the income which the person who submits it had in the year to which it relates, as well as all the particulars required for purposes of this Ordinance in respect of that income, and to it shall be attached –

(1) a balance sheet and profit and loss account – if the return is based on a complete set of double-entry accounts;

(2) particulars of the calculation on which the declared income is based – if it is based on a set of accounts other than said in paragraph (1);

(3) a detailed estimate of turnover, expenses and percentage of profit, or documents or other data on which the declared income is based – if the return is not based on account books.

(b1) The return shall specify every act, which under subsection (g) is said to constitute tax planning that must be reported;

(b2) (1) If an individual is under obligation to submit a return under subsection (a)(1) to (4), (5a), (5c), (5d) and (6), and if he has income under section 2(1), (2) or (8), then he shall submit the return according to the provisions of this section in an online manner, as the Director shall provide, together with a declaration on a form prescribed by the Director, according to which the particulars he gave in the return are correct and complete, as well as a printout of the said return, signed by him (hereafter: online independent return).

(2) If an individual said in subparagraph (1) did not submit an online independent return, then for the purposes of the provisions of this Ordinance he shall be deemed a person who did not submit a return.

(3) The provisions of this Ordinance about a return under section 131 shall apply to the online independent return, unless there is an explicit different provision.

(c) A return under subsection (a)(5), other than the return of a partnership, shall be certified by an auditor, within the meaning of the term in the Auditors Law 5715-1955, and adjusted by him for purposes of the tax; however, for a body of persons which is a cooperative society affiliated to an audit union the return may be certified and adjusted for tax purposes by an audit union official duly registered with the Registrar of Cooperative Societies.

(c1) (1) The trustee, creator, representative creator, beneficiary or representative beneficiary, as the case may be, shall specify all the following in a report as said in subsection (a)(5b)(1), (3) or (4):

(a) the particulars of all creators and all beneficiaries, particulars of the trustee and of the protector of the trusteeship, if there is one, and the residential status of each of these;
(b) particulars of the assets vested in the trustee or from which income was vested in the trustee, and also particulars of the income from these assets that was vested in the trustee as aforesaid, and the date when the asset or the income was vested as aforesaid;

(c) particulars of the assets that were distributed and particulars of the income that was distributed, and also the date of the distribution.

(2) The trustee shall specify all the following in a report said in subsection (a)(5b)(2):

(a) the particulars of all creators and all beneficiaries, particulars of the trustee and of the protector of the trusteeship, if there is one, and the residential status of each of these;

(b) particulars of the assets in Israel that were vested in the trustee or from which income was vested in the trustee, and also particulars of the income that was vested in the trustee from aforesaid assets, and when the asset or the income was vested as aforesaid;

(c) particulars of the assets in Israel that were distributed and particulars of income from assets in Israel that was distributed, and also the date of the distribution.

(3) In this subsection, "particulars of the assets" – including the original cost, the balance of the original cost and the day of the acquisition, as defined in section 88, the value of the acquisition and the day of acquisition within their meaning in Chapter Three of the Real Estate Taxation Law, and the balance of the acquisition value, as defined in section 47 of the said Law, as the case may be.

(c2) To a return under subsection (a)(5c) by the controlling member of a foreign occupational company shall be attached an audited financial report of the foreign occupational company in accordance with bookkeeping principles accepted in Israel, and – if it is a company that reports to or is assessed in a reciprocating state, within its meaning in section 196 – the report drawn up for tax purposes in accordance with the tax laws of that state.

(d) The Minister of Finance may, with approval by the Knesset Finance Committee, prescribe rules that obligate a partnership to file a return certified by an auditor and adjusted by him for tax purposes.

(e) The Minister of Finance may prescribe, by Order, the form of the certification and of the adjustment said in subsection (c).

(f) If a person did not attach the documents specified in subsection (b) to the return, or if the return submitted by him was not certified and adjusted as provided in subsection (c), then – for the purposes of sections 145(b) and 158A(c) – he shall be treated as if he had not submitted a return, unless he submits the said documents on another date permitted him by the Assessing Officer.

(g) The Minister of Finance may, with approval by the Knesset Finance Committee, designate acts that constitute tax planning that must be reported, how they are to be reported and to what extent; in this subsection, "act" – includes a transaction and a sale, including those to which the provisions of the Real Estate Taxation Law apply.
Notes to English Translation of Israeli Tax Ordinance after Amendment 165

Amendment No. 165 to the Income Tax Ordinance introduces important provisions on the taxability of trusteeships in Israel. It was passed by the Knesset on May 27, 2008, and appears in the issue of Sefer Ha-chukkim that is dated June 11, 2008.

This Amendment amends the following sections of the Ordinance: 75D(a), 75G(e), (f) and (h), 75l(b), 75J(a)(4)(b), 75K(a), 75L(e) and (g),

It also inserts the completely new section 75F1, subsection 75G(g)(5), subsection 75l(a1), sections 75P1, 75P2 and 75P3, replaces subsections 131(a)(5b) and 131(c1), and inserts the new paragraph 134A(5).

The changes wrought by this amendment go into effect retroactively from January 1, 2006, except for the provisions of its section 7(1), which provides for the amendment of section 75L(g). The provisions of the amendment also apply to trusteeships established before the amendment went into effect.

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TAXATION OF TRUSTS

Summary of Report issued by the Israel Tax Authority

January 2006

(As a result of Amendment 147 to the Income Tax Ordinance)

Chapter 1

General

On July 25, 2005 the Knesset passed the Law for the Amendment of the Income Tax Ordinance (No. 147), 5765 – 2005 (hereinafter: “the Amendment”). As part of the Amendment sections 175(g) to 175(r) were added – Chapter four 2 in part D of the Income Tax Ordinance (New Version) 5721 – 1961 (hereinafter: “the Ordinance”) which deals with taxation of Trusts.

Amendment 132 of the Income Tax Ordinance introduced the method of personal taxation. As a result, income which was outside the tax base became taxable income in Israel. This mainly relates to everything connected with passive income originating from outside Israel, such as: interest, royalties, dividends, rent, etc. The Rabinowitz Committee Report on Tax Reform recommended that the subject of taxation of Trusts be regulated through legislation; otherwise, there is a loophole which could apparently enable tax evasion on a personal taxation basis method through the use of Trusts. Consequentially, a committee was set up headed by Frieda Israeli, CPA, which submitted its recommendations in 2003.

This subject was again examined in the framework of the Kaputa-Matza Committee Report, which recommended regulating the taxation of Trusts through legislation. Based on the Report, the amendment was legislated in the framework of which, Chapter four 2 (sections 75c to 75 r of the Ordinance) were added to part D of the Ordinance, which regulates the subject of taxation of Trusts. The Chapter on Trusts will come into force when Amendment 147 comes into force, i.e. on January 1, 2006 (hereinafter: “The Starting Date”). With respect of certain provisions, a different date was determined, as will be clarified below.

The aim of this circular is to provide details of the legislation on the taxation of Trusts as set forth in the Amendment and to clarify different aspects of taxation connected with Trusts, starting from the stage of the establishment of the trusts and up until the termination thereof, including rules of reporting, collection, etc. It should be clarified that the new legislation is intended to present a complete and exhaustive arrangement on the matter of Trusts, save for the subject of Trusts under the Land Taxation Law, which remain intact and unchanged following the legislative amendment.

It is hereby clarified, that the Chapter on Trusts and the directives included in it, do not preclude nor prejudice any claim regarding taxation of tax events and income connected with Trusts which occurred or were produced up to the start of the Amendment, i.e., up to December 31, 2005.
Chapter 2
DEFINITIONS & TERMS CONNECTED WITH TRUST TAXATION.

Section 75c provides a number of definitions and terms used in connection with the Chapter on the Taxation of Trusts, as follows:

Trust
A Trust is a legal institution recognized in the legal world, in Israel and in many countries. There are differences between types and characteristics of Trusts under various legal systems, but what is common to all of them is that this is a system of legal relationships created during the life of a person or as a result of his death, creating a linkage between the Trustee and an asset for the benefit of a beneficiary or another object (a Trust is defined in this spirit in Section 1 of the Trust Law).

In the framework of the Amendment the term “Trust” was defined as “an arrangement where under a Trustee holds the Trustee’s assets in favour of a Beneficiary, which was established either in Israel or outside Israel, whether such is defined under the general law applying to it as a Trust or otherwise”.

Revocable Trust
A “Revocable Trust” is a Trust in which at least one of the following exists:
(1) The possibility exists of transferring it or of transferring or returning an asset or income to the Settlor (Creator), to his/her spouse, to his/her estate or to a holding association of persons, all being so done either directly or indirectly;
(2) One or more of the Beneficiaries is the Settlor or his/her spouse, or that the Settlor or his/her spouse can become a Beneficiary;
(3) One or more of the Beneficiaries is the child of the Settlor who is younger than 18 years old in the relevant tax year, or where the possibility exists of transferring the asset or the income to such children, directly or indirectly, provided that the Settlor or his/her spouse is still alive; in those cases where it is proved that the Trustee’s assets were owned by the Settlor only, and that Settlor died but his/her spouse is still alive, the Trust will consequentially not be considered as being irrevocable;
(4) One or more of the Beneficiaries is an association of persons, which is not “a public institution” as defined in Section 9 (2) of the Ordinance, in which 10% or more of any type of means of control are held by the Settlor, by his/her spouse or by his child, who is younger than 18 years old (in this definition: “a held association of persons”), if the Settlor or his/her spouse are still alive, either directly or indirectly;
(5) The Trustee or the Trust protector is the Settlor or a held association of persons;
(6) The Trustee or the Trust protector is related to the Settlor, unless it is proven, to the satisfaction of the Director, that there was special justification to appoint a relative as Trustee and that this appointment does not testify to the ability to direct the actions of the Trustee or to
give him instructions regarding the Trust; Regarding this definition, "Relative" – as defined in Sections (1) to (3) of the definition of a relative in Section 88 of the Ordinance;

(7) The Settlor or his/her relative have the ability to direct the activities of the Trustee, or give him instructions regarding the method of managing the Trust, its assets, changes in its Beneficiaries, or the distribution of the Trust's assets and the Trust's income to the Beneficiaries, or that his approval is required for the Trustee’s actions, or that he has the ability to order the cancellation of the Trust or the replacement of the Trustee not due to grounds based on law, all either directly or indirectly;

(8) The identity of one or more of the Beneficiaries is not known, or the identity of a shareholder, directly or indirectly, in a Beneficiary which is an association of persons, is unknown, unless it is proven, to the satisfaction of the Assessing Officer, that the Beneficiary cannot be the Settlor, his/her spouse or the child of the Settlor who is younger than 18 years old, or a held association of persons;

(9) The Beneficiaries in the Trust were replaced or new ones added, without there being a directive regarding this in the Trust documents;

(10) No legally certified affidavit was issued in the form and at the time stipulated by the Director.

The decision as to whether a Trust is “revocable” or “irrevocable”, is a decision which involves legal and factual considerations. The revocability of a Trust is examined annually, and therefore a change in the factual or legal situation is likely to result in a classification change for such a Trust. Thus for example: the death of the Settlor is likely, in certain circumstances, to result in the Trust, previously considered as revocable, as being considered, from the tax year following the year in which the change occurred, as an Irrevocable Trust.

The ability of the Beneficiary to influence or control matters connected with the Trust or the Trustee’s activities are likely to cause his classification as a Settlor, as detailed in the definition of “a Settlor” below, and consequentially, is likely to result in the Trust being classified as a Revocable Trust.

The following are examples of cases where the Beneficiary will be considered as the Settlor and consequentially the Trust will be considered as a Revocable Trust.

a. The Beneficiary is a “significant shareholder”, directly or indirectly, in an association of persons at the time in which that member gave the Trustee an asset, is considered as a Settlor. As the Beneficiary is also a Settlor the Trust will be classified as revocable.

b. A shareholder, directly or indirectly, in an association of persons on the date in which the member gave the Trustee an asset and the Beneficiary of the Trust is related to the shareholder (such as: A child), the shareholder will be considered as the Settlor. As the Beneficiary is related to the Settlor, the Trust will be classified as revocable.

c. A situation in which the Beneficiaries in the Trust were changed without there being a provision for such in the Trust documents, the original
Beneficiary is likely to be considered as the Settlor. As the Beneficiary is also a Settlor the Trust will be classified as revocable.

d. In a situation where it becomes clear that the Beneficiary influences, in practice, (or has the ability to influence), directly or indirectly, material matters connected with the Trust (such as: the method of managing the Trust, replacing the Trustee) the Beneficiary will be considered as the Settlor. As the Beneficiary is also a Settlor the Trust will be classified as revocable.

e. In a situation where, after the death of the last of the Settlors, the Trustee vested an asset or a right to income to another Trustee, the Beneficiary in the new Trust is likely to be considered the Settlor. As the Beneficiary is also a Settlor the Trust will be classified as revocable.

Irrevocable Trust

An “Irrevocable Trust” has been defined in a residual way. Every Trust which is not a revocable Trust will be considered as irrevocable, provided that the assessing officer was given a duly certified affidavit of the Trust’s Settlor and the Trustee of the Trust regarding the fact that is an irrevocable Trust as detailed in Chapter 10 of this circular below.

Trustee

A person who is vested with all the assets or revenues from assets, or who holds the assets in trust. In this regard it should be emphasized that the assets of the Trustee in such a capacity are separated from his private assets and from the assets he holds in other Trusts.

For this purpose the definition of “Trustee” will be seen as a corporation detailed in the First Schedule ‘A’ of the Ordinance as Trustee [Trust, Foundations Reg. Establishment]. The Minister of Finance is empowered to add additional corporations to the list in the First Schedule ‘A’ of the Ordinance.

Trust Protector

Anyone who, according to the documents in the Trust, has the authority to appoint or to dismiss the Trustee, to issue instructions to the Trustee, or whose approval is required for the Trustee’s actions.

Trust Settlor, Grantor

A person who vested an asset with the Trustee, directly or indirectly. (for example: through a chain of Trusts); the Amendment stipulates that a Settlor will also be considered as the Settlor of a Trust created also after his death, for the purposes of classifying the Trust according to the residency of the Settlor immediately prior to his death.

Section 75D (a) stipulates that the following will also be considered as Settlors:

a. Anyone who was a significant shareholder, directly or indirectly, in an association of persons, at the date on which the association of persons vested an asset with the Trustee.

b. Anyone who holds one or more of any type of means of control, directly or indirectly, in an association of persons on the date in
which the body of persons vested an asset with the Trustee, and he or his relative are Beneficiaries in that Trust.

c. Should a Trustee vest an asset or income in another Trustee after the last Settlor has died, or the Beneficiaries in the original Trust were changed without any provision having been provided for such in the Trust’s documents, the Beneficiary will also be considered as being the Settlor of the Trust, under which the other Trustee operates or in the original Trust, accordingly, unless the Beneficiary proves, to the satisfaction of the Assessing Officer, that he did not have any influence on such vesting or on the change in the Beneficiaries. It should be clarified that the Settlor of the original Trust will continue to be considered as also being the Settlor of the new Trust, even if he has died, and this for the purpose of classifying the Trust in accordance with his residency.

d. A Beneficiary will also be considered as a Settlor of a Trust if he has the ability to control or to influence, directly or indirectly, the method of managing the Trust, the Trustee’s assets, the determination of the Beneficiaries which is not as a result of the Settlor’s decision, on the appointment of Trustees or of their replacement, or on the distribution of the Trust’s assets or the Trust’s income to the Beneficiaries.

e. Should a Trustee in a foreign resident Settlor Trust be vested with an asset which was transferred from an Israeli resident who is an Israeli resident or whose relative is an Israeli resident, and who benefit from that Trust, the said Israeli resident will be considered as the Settlor of that Trust. It is hereby clarified that this is an anti planning instruction which is intended to prevent a situation whereby an Israeli resident can avoid being classified as a Trust that he setup in Trust and this through carrying out a simple action of transferring an asset to a foreign resident and establishing a Trust through him. It is to be emphasised that this provision shall only apply under those circumstances whereby the transferor is an Israeli resident and he, or his relative, are beneficiaries in the trust. It should be emphasized that the Law has used the term “an asset whose source ...” and therefore the application of this instruction is very wide and will also relate to vesting an alternative asset to the original transferred asset, and also in that situation where the asset is transferred through a number of entities, even if they are not related to the first transferor who is an Israeli resident.

Section 75D (b) stipulates, that when a Trustee vests an asset or income in another Trustee, (i.e: to another Trust, new or existing) the Settlor of the original Trust will be considered as one who vested them in the new Trustee. In such a situation the Trustee will not be seen as the Settlor due to the said transfer and therefore the classification of the Trust will not be altered as a result only of that action. It is hereby clarified that this section does not derogate from the provisions of sub section (c) above.
**Beneficiary**

Anyone entitled, according to the Trust's documents, to benefit from the Trustee's assets or from the Trustee's income, directly or indirectly, including unidentified Beneficiaries but are included in the group defined as a Beneficiary in the Trust's documents;

Section 75E stipulates that the following will also be considered Beneficiaries:

a. Anyone who, according to the Trust documents, was entitled to be a Beneficiary upon fulfilment of a condition or on a due date which has come about; However, someone whose rights are contingent on the death of the Settlor or another Beneficiary will not be considered as a Beneficiary, as long as the Settlor or other Beneficiary are still alive.

b. A Beneficiary who has not yet been born. The residency of such a Beneficiary will be determined according to the residency of his parents, and according to the following rules: If there is a foetus entitled to be a Beneficiary in a Trust, the place residence of the foetus’ mother will be considered as its residency; if there is as yet no foetus, its residency will be determined in accordance with the residency of his definite parents, by virtue of status, the foetus will be entitled to be considered as a Beneficiary.

c. The Beneficiary benefits indirectly through a chain of Trusts.

d. Anyone who holds one or more of any type of means of control, directly or indirectly, in the Beneficiary which is an association of persons but is not a public institution.

It should be emphasized that contrary to the situation regarding a Settlor, on examining the type of Trust, a beneficiary who has died should not be taken into account.

**Vesting**

Vesting is the transfer of an asset to a Trustee in trust, without consideration. The tax aspects following the vesting an asset will be detailed in this circular. On vesting a real estate asset and rights in a land corporation the provisions of the Land Taxation Law will apply and the provisions of Chapter B of the Ordinance will apply to the vesting of inventories.

Where a foreign resident established a Trust in favor of an Israeli resident Beneficiary, or in favor of a relative of an Israeli resident, and the consideration (any benefit) given by that Israeli resident in connection with that Trust can be identified, directly or indirectly, that Israeli resident will be seen as the Settlor of that Trust. Thus for example: A foreign resident who established a Trust in favor of the children of his brother, an Israeli resident, and where it has transpired that whereabouts and in connection therewith, the Israeli resident brother waived his share in the estate of their father in favor of the foreign resident brother.

**Consideration**

"Consideration” is as set forth in Section 88 of the Ordinance, i.e., according to market value.

Should an asset be transferred at a price that is lower than market value, for the purpose of this Chapter, it will be seen as if a proportional share of the asset was transferred for full consideration and the balance of the asset was
transferred without any consideration. The proportional share transferred for consideration will be determined according to the ratio between the actual consideration and the market value of the asset on the transfer date. Regarding the provisions of Part E of the Ordinance, the part of the asset transferred for full consideration should be seen as an asset sold by the Settlor and capital gains or capital loss should be calculated for it. The part not paid for will be considered as an asset vested in the Trustee as detailed in the Chapter on Trust Taxation. It is hereby clarified, regarding the provisions of the Trust Chapter, that the asset will be considered in its entirety as part of the “Trustee’s assets”, because the definition also includes assets held in Trust, whether or not vested in the Trustee.

**Distribution**

“Distribution” is defined as the transfer of an asset or income by a Trustee to a Beneficiary, or to his favour, during the existence of the Trust or due to its termination; the Trustee must distribute the assets, rights and funds to the Beneficiary, fully or partly, all in accordance with the Trust documents.

**Asset**

An “asset” is defined in the Trusts chapter in a wider sense than the definition in Section 88 of the Ordinance and includes any asset whether land or moveable, and every right, in Israel or abroad. Therefore the term “asset” also includes rights in land and a right in a land corporation, inventory and cash.

**Trustee’s Income**

Trustee’s income, is the income produced or accrued from the Trustee’s assets. It is hereby clarified that the Chapter on Trusts does not apply to betterments within the meaning of the Land Taxation Law, and applies only to current income from land which is not taxed under that Law.

**The Trustee’s Assets**

These Trustee’s assets are the “assets” which were vested in the Trustee or purchased by the Trustee, or received by him, including assets held for the Trustee through an “underlying company” (a company holding the Trust assets) even if registered in its name.
An Underlying Company (A Company for the Holding of Trust assets)

Sometimes the Trustee wishes to formally separate the “Trustee’s assets” from his personal assets or from the Trust assets in various trusts or between various assets in the same Trust. An accepted way for maintaining such a separation is through the use of an underlying company which is intended for this purpose. This relates to a company in which the Trustee’s assets are registered in that company’s name and it holds the said assets for the Trustee. Regarding the Chapter on Trust Taxation the assets of an Underlying Company held for the Trustee will be viewed as the Trustee’s assets.

Israeli Resident

In Section 75c an Israeli resident is defined in the widest possible manner and also includes, in addition to the definition of “Israeli resident” in Section 1 of the Ordinance, an “Israeli citizen” who is a resident of the Area as defined in Section 3a of the Ordinance. In addition Section 75c in connection with a Trust Settlor, defines a Settlor who on the date of his death was an Israeli resident or “Israeli citizen” - as an Israeli resident.

Foreign Resident

In accordance with Section 1 of the Ordinance, a foreign resident is anyone who is not an Israeli resident. Nevertheless, regarding a “Trust Settlor” in the Trust Taxation Chapter, Section 75c stipulates that a Trust Settlor who, at the date of his death, was a foreign resident, will be considered a foreign resident.

Chapter 3

PRINCIPLES FOR TAXING THE TRUSTEE’S INCOME

[Section 75f and additional provisions]

In all types of Trustees defined in the framework of the Amendment the Trustee’s income will be taxed in the name of the Trustee and he will be the assessee and the party charged for that income and for the transactions of the Trustee’s assets and all subject to the following provisions:

1. The Trustee will open a file in his name with the assessing office in which his personal file is managed, for every Trust in which he serves as Trustee, the framework of the reporting on income connected with that Trust and an assessment will be made.

All taxation aspects connected with a certain Trust will be handled separately from the Trustee’s personal file and the other Trust files in the name of that Trustee. A Trustee who is a foreign resident will open a file at the ________ assessing office.

2. Determining the Trustee’s income and taxable income will be done according to the provisions of the Ordinance, even if the Trustee is a foreign resident and the Trust created under foreign law or a foreign law applies to any one of them.

3. The Trustee’s income will be taxable during the year in which it was produced or accrued.

4. The Trustee’s income will be seen as income of the Settlor or the Beneficiary, accordingly. It is hereby clarified that the intention is that
the Trustee’s income and taxable income is taxed according to the residency of the Settlor or the Beneficiary, whichever relevant, as the type of Trust is a function first and foremost of the residency of the Settlor, the Beneficiary or both. This ruling does not ascribe the Trustee’s income to the Settlor or the Beneficiary (apart from cases which are specifically stated in the Ordinance and which will be expanded on in this circular).

5. The residency of the Trustee and the fact that the Trust was created under the laws of a foreign country will not affect the method of taxing the Trustee’s income. This is the same situation when a Trustee or the Trust operate or are subject to the provisions of a foreign law applying to the Trustee, the Trust or their income. Thus for instance, the Trustee’s income in an Israeli Resident Trust, established under English Law, will be taxed according to the residency of the Settlor and the Beneficiary, accordingly.

6. The Trustee’s income will be taxed at the maximum tax rate set forth in Section 21 of the Ordinance. Income for which a special tax rate has been determined will be taxed at that special rate.

7. The Trustee’s income will not benefit from the exemption given to income with a ceiling limit such as: the Transitional Provisions (Exemption from Tax for Leasing an Apartment for Residential Purposes) the exemption pursuant to Section 9 (5) of the Ordinance, Section 9 (28) of the Ordinance, Section 25d and 25e of the Ordinance, etc, and the provisions of Section 11 (Tax Benefits for Certain Settlements) will not apply and personal creditors mentioned in the third chapter, Part C or the Ordinance (resident, provident fund, credit for a donation, etc).

8. The Trustee’s losses and the tax applying to the Trustee’s income cannot be setoff and/or credited against income of the Settlor or the Beneficiary. The Settlor or the Beneficiaries losses and the tax applying to the income, cannot be setoff and/or credited against the Trustee’s income, unless stated specifically otherwise.

9. Regarding the calculation of depreciation and capital gains on an asset whose vesting to the Trustee was tax exempt or not taxable, the Trust will take the place of the Settlor according to the principle of tax continuity.

10. The provisions of Section 120 of the Ordinance (Assessment of Income of a Deceased) will not apply on the Trustee’s income after death of the Settlor or the death of the Trustee.

11. Should there be more than one Trustee for the Trust the Trustees will be liable to tax applying to the income of the Trustee jointly and severally (Section 75P (a)).

In those cases where the vesting of an asset to a Trustee or the distribution of an asset to a Beneficiary are not considered as a tax event. The principle of tax continuity will apply at the time of selling the asset by the Trustee or by the Beneficiary, accordingly. Regarding this matter the following directives have been issued:

a. Regarding the calculation of depreciation and capital gains due to an asset where the vesting of such in a Trustee was tax exempt or not taxed, the original price of the asset, the balance of the
original price and the acquisition date of the assets will be determined as existed for the Settlor, and the amount of depreciation will be the amount that the Settlor will be entitled to deduct for that asset.

b. Regarding the calculation of capital gains and depreciation on an asset distributed to a Beneficiary, the original price of the asset, the balance of the original price and the date of its acquisition by the Beneficiary will be seen as existed when held by the Trustee.

The Use of an “Underlying Company”

From the fundamental aspect as can be seen from the definition of “Trustee” in the Ordinance, the Trustee’s assets in that function are separated from his private assets and from the assets that he holds for other Trusts. Often the Trustee is required to formally separate the “Trustee assets” and his personal assets, and to separate between the Trustee assets in various Trusts, or between various assets in that Trust. The accepted way of maintaining this separation is through the use of an underlying company which is earmarked for this purpose. This relates to a company in which the Trustee’s assets are registered in that company’s name and it holds the said assets for the Trustee.

According to the definition of “Trustee” the vesting to an underlying company will be viewed as the vesting to the Trustee. Vesting an asset by a Trustee to such a company will not be considered as a sale for the purpose Part E of the Ordinance. The fact that such a Company also holds other assets will not itself negate the company’s status as an underlying company. It should be clarified that, for the purpose of the provisions of the Trusts Chapter, the company is considered as transparent regarding everything connected with its operations as an underlying company and its assets will be seen as the Trustees assets and its income as the Trustees income and everything regarding the Trustees assets, registered in its name. The debts and obligations of the Trustee under this Chapter do not apply to an underlying company but will apply to the Trustee.

It is also clarified that the actual fact that an Israeli Resident Trustee is responsible for or manages assets registered in the name of an underlying company which was incorporated outside Israel, will not in itself lead to the conclusion that the control of the business of that company and its management are operated from Israel, which would classify it as an Israeli resident.

Pursuant to Section 75 P(b), an underlying company will not be obligated to submit a report under Section 131 of the Ordinance or to pay a tax on the Trustee’s income or due to the Trustee’s assets held by it for the Trustee.
Chapter 4  
VARIOUS TYPES OF TRUSTS

In the framework of the Amendment four types of Trusts were defined as follows:

- **An Israeli Resident Trust** [Section 75g]
- **A Foreign Resident Settlor Trust** [Section 75i]
- **A Foreign Resident Beneficiary Trust** [Section 75j]
- **A Trust pursuant to a will** [Section 75l]

The types of Trusts are detailed below as follows:

**An Israeli Resident Trust** [Section 75g]
An Israeli Resident Trust is a Trust, revocable or irrevocable, in which one of the following alternatives exists:

**Alternative A**: A Trust which, on the settling date has at least one Settlor and at least one Beneficiary, who were Israeli residents and therefore during the whole tax year there was at least one Settlor or one Beneficiary who is an Israeli resident;

In this regard it should be clarified that if the Settlor of the Trust dies - his residency will be determined according to his residency on the date of his death, thus the definition of “Israeli resident” (regarding the Settlor) in Clause 75c. Therefore, where an Israeli Resident Trust is created according to alternative A and the Settlor dies while being an Israeli resident the Trust will remain an “Israeli Resident Trust” even if all the Beneficiaries have become foreign residents.

**Alternative B**: A Trust which is not a Foreign Resident Settlor Trust and is not a Foreign Resident Beneficiary Trust (the default alternative).

Alternative B can be created as a result of a number of situations, including:

a. If the Beneficiary in the Foreign Resident Beneficiary Trust becomes an Israeli resident.

b. If the Settlor in a “Foreign Resident Settlor Trust” becomes an Israeli resident.

c. Where a Foreign Resident Beneficiary Trust is created by an Israeli resident and in the tax year is revocable.

A condition for a trust being “an Israeli Resident Trust”, is that the Trust is not “a will based Trust”.

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Foreign Resident Settlor Trust [Section 75 i(a)]

A “Foreign Resident Settlor Trust” is a Trust, whether revocable or not, in which one of the following alternatives exists:

Alternative A: On the settling date and throughout the whole tax year, all its Settlors are foreign residents.

According to the definition of “foreign resident” (in the matter of the Settlor) in Section 75c, a Settlor who on the date of his death is a foreign resident, will be considered a foreign resident. Therefore, where a foreign resident (individual) created a Trust and died while being a foreign resident or where a Trust was created pursuant to a will and the sole Settlor (the testator) was immediately prior to his death a foreign resident – the Trust will be considered as a Foreign Resident Settlor Trust.

Alternative B: Throughout the entire tax year all the Settlors and all the Beneficiaries are foreign residents.

Foreign Resident Beneficiary Trust [Section 75 Ja]

“A Foreign Resident Beneficiary Trust” is a Trust, in which throughout the entire tax year all the following conditions prevailed, provided that it is not an Israeli Resident Trust according to Alternative A above (Section 75G (a) (1)), and is not “a Trust pursuant to a will”:

a. The Trust is irrevocable.
   In this regard only, a Trust will not be considered revocable only due to the decision that the Beneficiary will be seen as the Settlor should the circumstances set forth in Section 75D (a)(3) or (4) exist.

b. All the Beneficiaries in the Trust are foreign resident individuals whose identity is known.
   For this purpose a Beneficiary who has not yet been born will not be a beneficiary whose identity is unknown; (the residency of a Beneficiary not yet born will be determined according to the provisions of the definition “Beneficiary” in Chapter 2 of the circular).

c. At least one Settlor is an Israeli resident.

d. A foreign resident Beneficiary from a Trust that was originally established as a Trust (i.e. the conditions mentioned above existed at the time of the creation) and the following also existed:

   (1) The Trust documents specifically stipulate that its not possible to add an Israeli resident Beneficiary – this condition will apply only regarding a Trust created on the commencement date of the Amendment and thereafter (January 1, 2006). (See Section 80 (D) (4) to the Amending Law);

   (2) In the annual report for the year in which the Trust was created, the Settlor will submit a declaration that it does not have any Israeli resident Beneficiary or an Israeli resident Beneficiary whose entitlement to the Trust is conditional on him no longer being an Israeli resident and no such Beneficiary
may be added to it. This condition will apply only regarding Trusts created on the date of the start of the Amendment and thereafter (January 1, 2006);

Section 75K(c) stipulates a unique prescription (statute of limitations) provision. The section stipulates that if it becomes clear that, despite the declarations of the Trustee and the Settlor, the conditions existing in order to classify the Trust as a Trust with a foreign resident Beneficiary did not exist, the Trust will be viewed as if it was never a Trust with a foreign resident Beneficiary and the assessing officer will assess the income of the Trust accordingly. The assessing officer may do so within two years from the end of the tax year in which the above become clear to him, even if the Trustee had final assessments for previous years.

**Trusts pursuant to a will** [Section 75L (a)]
A “Trust pursuant to a will” is a Trust in which the following two exist:
- A. The Trust was created pursuant to a will;
- B. All the Trust Settlors are the heirs existing on the date of the death of the Israeli resident.

Regarding the first condition, it is hereby clarified that Section 75L does not apply to a Trust established during the life of the Settlor and he issued instructions regarding it for after his death, and for cases in which a person in his will issues an instruction according to which the assets from his estate must be transferred to a Trust which existed prior to the Settlor’s death, apart from a Trust also established under the will.
Chapter 5

TAXATION OF THE VARIOUS TRUSTS

The taxation of Trusts Chapter deals with tax events starting from the time of the creation of the Trust and for the duration of its life. Inter alia, the provisions relate to vesting assets with a Trustee, the charging of tax during the current assets and the life of the Trust (including the sale of the Trust’s assets), the distribution of the assets to the Beneficiaries and the consequences of termination of the Trust.

The following are details of the method of taxation of the various Trusts, according to their types:

**Israeli Residents Trust** (Section 75G)

**Vesting** -
Vesting an asset with a Trustee by an individual, not for consideration, as defined in Section 88 of the Ordinance, will not be considered as a sale for the purpose of the provisions of Part E of the Ordinance (Section 75G (d)). It is hereby clarified, regarding the vesting of an asset the transfer of which the provisions of Part E of the Ordinance or the Law for the Taxation for Land apply, such a Law will apply, accordingly.

The transfer of the consideration as defined in Section 88 of the Ordinance will be considered as a sale for the purpose of the provisions of Part E. Regarding the vesting of a consideration which is lower than market value, see the definition of “consideration” in Chapter 2 above. Regarding vesting by a body of persons, see Chapter 8 below.

**Taxing the Trustee’s income** -
As a rule the income of a Trustee will be taxed pursuant to the provisions of Chapter 3 of the circular – Principles of taxing the Trustee’s income. The provisions which will be detailed below will apply in determining the current income of a Trustee and the capital gains resulting from the sale of assets by the Trustee or due to distributing assets, as follows:

1. The Trustee’s income and assets will be considered as income and assets of an individual Israeli resident even if the Settlor is no longer an Israeli resident and this for so long as the Trust is considered to be an Israeli Resident Trust.
2. Should a Trust become an Israeli Resident Trust for the first time after one of its Settlors was an Israeli resident for the first time or a returning resident, the provisions of Section 14(a), 14(c) 16, 97(b) or 97(b)(3) of the Ordinance will apply to the Trustee’s income (hereinafter: “The tax relief clauses”), accordingly. It is hereby clarified that the tax relief clauses will apply only in connection with the Trustee’s assets which were abroad (or in Israel, regarding Section 97(b)(3)) of the Ordinance prior to the Settlor being an Israeli resident and in relation to the Trustee’s income derived from such assets.
3. The tax relief clauses will apply also to a Trust established by anyone who was an Israeli resident for the first time and/or a returning resident,
after being an Israeli resident, subject to the conditions and restrictions set forth in these sections. The entitlement to the tax relief will be in connection with the balance of the period from the date of his becoming an Israeli resident until the end of the period set forth in the tax relief sections.

4. Should a Trust become an Israeli Resident Trust for the first time after one of the Beneficiaries in it became an Israeli resident for the first time or a returning resident, the tax relief clauses will apply to the Trustee’s income and this regarding the Trustee’s assets which were located abroad (or in Israel, regarding Section 93(b3)) of the Ordinance prior to the Beneficiary being an Israeli resident and in connection with the Trustee’s income derived from such assets.

5. Should a Trust be established as an Israeli Resident Trust and at any time is no longer be considered as such, the tax relief clauses will apply in the event that the Trust again became an Israeli resident (excluding if the tax relief clauses applied at the time of the establishment by an Israeli Settlor as mentioned in sub-section (3) above). In this regard the tax relief section will apply only once.

6. The provisions of Section 100a of the Ordinance will not apply on the day on which the Settlor or the Beneficiary stopped being an Israeli resident, as long as the Trust is an Israeli Resident Trust. The provisions of this section will apply at the time where the last one of them stopped being an Israeli resident.

Exceptions to taxing the Trustee’s income in his name [Sections 75G (g) and 75G (h)]

a. Attributing the Trust’s Income to the Beneficiary:
   An Israeli Resident Trust’s income will be considered the income of the Beneficiary subject to all the following conditions exist:
   1. The Beneficiary is an Israeli resident.
   2. The Trust is irrevocable.
   3. The income was distributed in cash to the Beneficiary up to the end of 6 months from the end of the tax year in which the income was produced or accrued or until the date of submitting the tax return for that tax year (including administrative extensions granted), whichever is the earlier. It should be clarified that if only part of the income in a tax year was distributed, attributing the income to the Beneficiary will apply only to the part distributed, while the balance will be attributed to the Trustee and reported by him as required.
   4. Income included in the annual report that the Trustee submitted pursuant to Section 131 of the Ordinance as income distributed and not taken into account in calculating his income or his taxable income.
   5. Income included in the annual tax return that the Beneficiary submitted for the tax year in which the income was produced or accrued (even if distributed after the end of the tax year).
6. The Trustee and the Beneficiary attached to the annual tax return as mentioned above a notice of the distribution and their opting for the income of the Trustee that was distributed to be seen as the income of the Beneficiary.

Where income is considered to be income of the Beneficiary as mentioned above, the income distributed will be added to the Beneficiary's other income in that year for all intents and purposes, including regarding setoff of losses, deductions, exemptions and tax calculations. Thus for example, the Beneficiary will be entitled to benefit from the exemption under Section 9(5) of the Ordinance, tax brackets, credits under Section 11 of the Ordinance, (Credits for Foreign Tax). A Beneficiary which is a “public institution” will be entitled to an exemption under Section 9(2) of the Ordinance.

Income so attributed to the Beneficiary will maintain its character as existed when held by the Trustee. Should during a tax year a Trustee have different types of income and the Trustee distributed to the Beneficiary part of the income produced in the tax year, it will be seen as if a proportional part of all types of income produced in that year were distributed to the Beneficiary as a ratio of the income he received to the Trustee’s total income. Nevertheless if it is proved that a certain assets or income were dedicated to a certain Beneficiary in the Deed of Trust, the Beneficiaries’ income will be attributed accordingly.

The provisions of Section 75f (taxing a Trust’s income) and Section 75g (b) (attributing income to the Settlor), (c) (Determining an Israel Resident Trust as an Israeli resident) and (h) (Tax Relief for New Immigrants and Retuming Residents) will not apply to income so distributed. Should it be distributed, the Beneficiary will be assessed and will be subject to the assessment and taxed.

Should the Trustee distribute income to a Beneficiary and the source of that income is in a property which was vested in the Trustee by the Settlor and that asset was sold by the Trustee, the capital gains will be considered, as the Beneficiary’s income as if it was accrued on the sale of the asset by the Trustee. (The original price, the balance of the original price and the date of acquisition of the asset will be as when held by the Settlor, and the amount of depreciation will be the amount the Settlor would have been entitled to deduct for that asset).

It is hereby clarified that the provisions detailed in this Section do no apply to the distribution of an asset from the Trust to the Beneficiary.

b. Attributing the Trust’s income to the Trust’s Settlor:
An Israeli Resident Trust’s income will be taxed as income of the Settlor subject to the following conditions:

7. The Trust is revocable.
8. There is only one Settlor of the Trust and he is an individual Israeli resident and is still alive. Regarding this, the Settlor and his spouse who created the Trust will be considered as one Settlor.

9. The Settlor and the Trustee filed notice of the choice that they wish that the assessee and the person liable to the tax due to the Trustee’s income will be the Settlor. The notice will be submitted to the assessing officer together with the return under Section 131 of the Ordinance in the year of the creation of the Trust. Regarding reports on Trust’s which were established prior to the start (January 1, 2006) see Chapter 10 below.

10. The choice by the Settlor and Trustee will also apply to the following tax years and they will not be entitled to retract their choice as long as all the conditions of the section exist.

11. The assessee and the party liable to tax on the Trustee’s income will be the Settlor. Nevertheless, the Settlor’s final tax debt due on the Trustee’s income may also be collected from the Trustee’s assets and the Trustee’s income.

12. The Settlor will report on the Trustee’s income in a tax return pursuant to Section 131 of the Ordinance.

13. Should the Settlor die or no longer be an Israeli resident, the Trustee will be the assessee and liable to the tax and the obligations of Trusts Chapter will apply to him.

14. The provisions of Section 75F and Section 75G(b)-(h) will not apply to the Trustee’s income.

Distributing an asset to a Beneficiary –

The distribution of an asset to a Beneficiary is considered as a direct transfer from the Settlor to the Beneficiary, and it will be taxed or exempt in accordance with the law applying to the Settlor (Section 75G (f)); regarding this the following provisions will apply:

1. The Settlor will be seen as an Israeli resident even if he was a foreign resident at the time of the distribution.

2. Should the Trust have a number of Settlors and the transfer of property from one of them was taxable, the distribution will be taxed.

Termination of the life of the Trust (Section 75N) –

Should an Israeli Resident’s Trust end and, after the distribution of the assets, a balance of losses remains which has not been setoff, and had there been profits, such would have been taxable in Israel, subject to the provisions of the Ordinance, these losses will be considered as losses of the Settlor in the year the Trust ended. Such losses will be setoff by the Settlor subject to the provisions of the Ordinance. Should the Trust’s Settlor die prior to the end of the Trust, these losses will not be able to be setoff; should the Trust have a number of Settlors, each of them will be ascribed his proportional share of the losses according to the value of the assets which were vested in the Trustee in relation to all the assets vested on the date of the vesting. A Trustee’s losses will be classified according to the sources of the income as existed with the Trustee, and the Trustee’s losses transferred from previous tax years will be seen as the Settlor’s losses transferred from those tax years.
The Trust's Residency
Section 75G (a) (2) stipulates, that an Israeli resident Trust is considered as an Israeli resident.

A Foreign Resident Settlor Trust [Section 75i]

Vesting -
As mentioned in the “vesting” paragraph in an Israeli Resident Trust.

Taxing the Trustee’s income -
As a rule the income of the Trustee will be taxed pursuant to the provisions of Chapter 3 of the circular - Principles for taxing the Trustee’s income. The provisions which will be detailed below will apply in determining the current income of a Trustee and the capital gains resulting from the sale of assets by the Trustee or due to distributing assets, as follows:

1. The Trustee’s income will be seen as income of a foreign resident individual and the Trustee’s assets as the assets of a foreign resident individual.

2. Should the Settlers be residents of a number of countries, the Trustee’s assets will be viewed as being proportionally held by individual foreign residents and the Trustee’s income as if produced or accrued proportionally by those individuals. Ascribing income and assets to individuals will be done according to the ratio between the value of the assets vested in the Trustee by each of the Settlers in relation to all the assets vested, and all at the time of each vesting.

Exceptions in Taxing the Trustee’s Income -

a. The provisions of Section 75G (g) (ascribing the Trustee’s income to the Beneficiary) will apply regarding a distribution to an Israeli resident Beneficiary in an irrevocable Trust on the existence of the terms in the section.

b. The provisions of section 75G (h) (ascribing the Trustee’s income to the Settlor) will apply regarding a revocable Trust even if the Settlor is not an Israeli resident on the existence of the terms in the clause.

All the above in this matter relates to an Israeli Residents Trust.

Distribution of an Asset to a Beneficiary -
The provisions of Section 75G (f) will apply regarding this matter. However, a Settlor who is an Israeli resident will not be viewed as an Israeli resident. The distribution of the assets to the Beneficiary will be considered as a direct transfer from the Settlor to the Beneficiary and will be taxed or exempt according to the law applying to the Settlor.

Termination of the Life of the Trust (Section 75N) -
Should a Foreign Resident Settlor Trust end, and after the distribution of its assets, losses remain which were not setoff, and had there been profits such would have been taxable in Israel, subject to the provisions of the Ordinance, the said losses will be considered as losses of the Settlor in the year that the Trust ended. Such losses will be setoff by the Settlor subject to
the provisions of the Ordinance. Should the Trust’s Settlor die prior to the end of the Trust, these losses will not be able to be setoff; should the Trust have a number of Settlors, each of them will be ascribed his proportional share of the losses according to the value of the assets which were vested in the Trustee in relation to all the assets vested on the date of the vesting. A Trustee’s losses will be classified according to the sources of the income as existed with the Trustee, and the Trustee’s losses transferred from previous tax years will be seen as the Settlor’s losses transferred from those tax years.

The Trust’s Residency
Section 75I(c) stipulates that a Foreign Resident Settlor Trust will be considered a Foreign Trust.

A Foreign Resident Beneficiary Trust [Section 75j]

Vesting –
Vesting of an asset to a Trustee will be considered as transfer of the asset directly from the Settlor, who is an Israeli resident, to a foreign resident Beneficiary and will be taxed or exempt according to the law applying to the Settlor.

Taxing the Trustee’s Income –
As a rule the income of the Trustee will be taxed pursuant to the provisions of Chapter 3 of the circular – Principles for taxing the Trustee’s income. The provisions which will be detailed below will apply in determining the current income of a Trustee and the capital gains resulting from the sale of assets by the Trustee or due to distributing assets, as follows:

1. The Trustee’s income will be seen as income of an individual Israeli resident and the Trustee’s assets as assets of an individual Israeli resident.
2. Should the Beneficiaries be residents of a number of foreign countries, the Trustee’s assets and the Trustee’s income will be seen as assets and income of Beneficiaries who are foreign resident individuals according to their proportional share in the assets and income. Should the Deed of Trust clearly instruct different methods of ascribing income/assets to certain Beneficiaries, the ascribing will be done accordingly.

Distribution of an Asset to a Beneficiary –
The distribution of an asset in a Trust to a foreign resident Beneficiary will not be considered as a sale regarding the provisions of Part E of the Ordinance. It is hereby clarified that regarding the distribution of an asset on whose transfer Part B of the Ordinance or the Land Tax Law applies; such a Law will apply, accordingly.

Termination of the Life of the Trust (Section 75N) –
Should a Foreign Resident Beneficiary Trust come to an end, and after distributing the assets a balance of the loss remains which is not setoff and, had there been profits, such would have been taxable in Israel, subject to the provisions of the Ordinance, these losses will be considered as losses of the Beneficiary in the year the Trust ended. These losses will be setoff by the Beneficiary subject to the provisions of the Ordinance; Should there be a
number of Beneficiaries on the date of the end of the Trust, each of them will have his proportional share in the losses according to his proportional share in the distribution of the assets and the income, as existed during the period of four years ended in the year in which the Trust ended. The Beneficiaries losses will be classified according to the sources of income and according to their classification as existed in the hands of the Trustee and the Trustee’s losses will be seen as having been transferred from previous tax years, as the Beneficiary’s losses transferred from those tax years.

The Trust’s Residency
Section 75J (c), stipulates that a Trust of a foreign resident Beneficiary will be seen as a foreign resident.

A Trust pursuant to a will [Section 75I]

Vesting –
Vesting to a Trust pursuant to a will, will not be considered as a sale for the purpose of the provisions of Part E. From a basic point of view, such vesting of an asset will be the same as bequeathing the asset. This applies also to assets included in Chapter B of the Ordinance and rights in land and land corporations will have the same meaning as in the Land Taxation Law.

Taxing the Trustee’s Income –
As a rule the income of the Trustee will be taxed pursuant to the provisions of Chapter 3 of the circular – Principles for taxing the Trustee’s income. The provisions which will be detailed below will apply in determining the current income of a Trustee and the capital gains resulting from the sale of assets by the Trustee or due to distributing assets, as follows:
1. The Trustee’s income will be seen as the Beneficiary’s income and the Trustee’s assets as the Beneficiary’s assets.
2. Should the Trust have at least one Israeli Beneficiary, the Trustee’s income and the Trustee’s assets will be seen as the Israeli individual resident’s income/assets. Should all the Beneficiaries in the Trust be foreign residents, the Trustee’s income and the Trustee’s assets will be seen as assets/income of those individual foreign residents according to their proportional share in the income and assets as mentioned in the chapter “Distribution of a Foreign Resident Beneficiary Trust”.
3. Should the Trust have at least one Beneficiary who is an Israeli resident for the first time or a returning resident, and during the tax year there was no other Beneficiary who is an Israeli resident, in addition to the provisions of Section 75F the provisions of tax relief clauses (Section 75L (g)) will apply to the Trustee’s income. It is hereby clarified that the tax relief clauses will apply only to the Trustee’s assets which were outside Israel (or in Israel for the purpose of Section 97(b3)) of the Ordinance prior to the Beneficiary being an Israeli resident, and to the Trustee’s income derived from such assets.
4. Should the Beneficiary no longer be an Israeli resident, the provisions of Section 100a will apply at that time, with the necessary changes (Section 75L (h)).
Exceptions to taxing a Trustee Income in his Name –

a. The Trustee’s income will be considered as the Beneficiary’s income, subject to the following conditions (Section 75L (h)).

1. The Trust is a Trust pursuant to a will in which there is only one Beneficiary and he is still alive.
2. The Beneficiary and Trustee announced their choosing that the party and the party to be assessed and taxed on the Trust income will be the Beneficiary. The notice will be submitted to the assessing officer together with the return under Section 131 of the Ordinance in the year of the creation of the Trust. Regarding reports on Trust’s which were established prior to the start (January 1, 2006) see Chapter 10 below.
3. The choice of the Beneficiary and the Trustee will also apply to the following tax years and they will not be entitled to retract their choice as long as the Beneficiary is an Israeli resident and as long as the conditions set forth in the said section prevail.
4. The party assessed and taxed on the Trustee’s income will be the Beneficiary. Nevertheless, the final tax debt for the Beneficiary’s income due to the Trustee’s income may also be collected from the Trustee’s assets and the Trustee’s income.

Should the Beneficiary and the Trustee so choose the following provisions will apply:

1. The Beneficiary will report on the Trustee’s income in the tax return under Section 131 of the Ordinance.
2. The provisions of Section 75F (Principles for taxing the Trustee’s income) and 75L will not apply to the Trustee’s income, apart from the provisions that stipulate that the vesting and distribution will not be considered as a sale for the purpose of the provisions of Part E and that the Beneficiary who is a resident for the first time or a returning resident is entitled to the tax benefit clauses.
3. It is hereby clarified that the distribution of income and the distribution of the Trustee’s assets by the Trustee to the Beneficiary will not be taxed as long as the terms set forth in the section prevail.
4. It is hereby clarified that the distribution of income derived from the sale of an asset vested in the Trustee, will be seen as if the asset was transferred from the Settlor directly to the Beneficiary and for this purpose the provisions of Section 75G (f) will apply and the Beneficiary will be taxed on the capital gains from the sale of the asset.

The Trustee’s income will be considered as the Beneficiary’s income, subject to the following conditions (Section 75L (f) and Section 75L (g)):

1. The Trust is a trust pursuant to a will.
2. The income was distributed in cash to the Beneficiary within six months of the end of the tax year in which the income was produced or accrued, or the date of filing the tax return for the said tax year (including administrative extensions granted), whichever is the earlier. It should be clarified that if only part of the income in a tax year was distributed, attributing the income to the Beneficiary will apply only to the part distributed, while the balance will be attributed to the Trustee and reported by him as required.

3. Income included in the annual report that the Trustee submitted pursuant to Section 131 of the Ordinance as income distributed and not taken into account in calculating his income or his taxable income.

4. The income was included in the annual return that Beneficiary submitted for the tax year in which the income was produced or accrued (even if distributed after the end of the tax year).

5. The Trustee and the Beneficiary attached to the above-mentioned annual tax returns, notice of the distribution and their choice that the Trustee’s income distributed will be seen as the Beneficiary’s income.

It is hereby clarified that these provisions do not apply regarding the distribution of an asset from the Trustee to the Beneficiary.

Distribution of an Asset to a Beneficiary -
The distribution of an asset to the Beneficiary will not be considered as a sale for the purpose of Part E of the Ordinance.

Termination of the Life of the Trust (Section 75N) -
Should a trust pursuant to a will come to an end, and after distributing its assets, a balance of loss remains which was not setoff, and had it had a profit it would have been taxed in Israel, subject to the provisions of the law, the losses will be considered as the Beneficiary’s losses in the year in which the Trust came to an end. These losses will be setoff by the Beneficiary subject to the provisions of the Ordinance; Should there be a number of Beneficiaries on the date of the end of the Trust, each of them will have his proportional share in the losses according to his proportional share in the distribution of the assets and the income, as existed during the period of four years ended in the year in which the Trust ended.

The Beneficiaries losses will be classified according to the sources of income and according to their classification as existed in the hands of the Trustee and the Trustee’s losses will be seen as having been transferred from previous tax years, as losses transferred of the Beneficiary from those tax years.

The Trust’s Residency -
Section 75N (c) (1) stipulates that a Trust pursuant to a will which had at least one Israeli Resident Beneficiary was one Israeli resident at least is considered as an Israeli resident.
Chapter 7
CHANGES IN THE CLASSIFICATION OF TRUSTS

The type of Trust is determined according to the residency of the Settlor, the Beneficiary or both, whichever relevant, and according the terms set for every type of Trust (e.g., the revocability of the Trust). It is hereby clarified that the type of Trust will be examined in every tax year and may change on a certain date during the tax year.

The following are the relevant rules for changing the classification of the Trust:
1. The residency of the Settlor prior to his death is maintained also after his death regarding the classification of the Trust. It should be emphasized that the residency of the Settlor will be examined according to the definitions of “Israeli resident” and “foreign resident” (regarding the Settlor) in Section 75C.
2. The death of the Beneficiary may cause a change in the classification in the Trust.
3. The change in the residency of the Settlor and/or any Beneficiary is likely to cause a change in the classification of the Trust.
4. A change in a relevant term of the conditions set forth in the types of Trusts.

An Israeli residents Trust - will discontinue being considered as such on the date on which it will no longer have any Israeli resident Settlor and Israeli resident Beneficiary. The last date will be the date on which the last of the Settlors was no longer an Israeli resident and also the last of the Beneficiaries was no longer an Israeli resident. It is hereby clarified that even if the Company discontinued being an Israeli resident the Trust classification will not change so long as there is at least one Beneficiary who is an Israeli resident. The same applies when the last Beneficiary stopped being an Israeli resident and so long as there is one Settlor at least who is an Israeli resident.

Regarding this the following provisions will apply:
  a. There was a Trust which discontinued being a Foreign Resident Settlor Trust, the provisions of Section 100a of the Ordinance will apply on the terminating date, mutatis mutandis. This means, that when a Settlor stopped being an Israeli resident the provisions of Section 100a of the Ordinance will not apply to him as long as there is at least one Beneficiary who is an Israeli resident. The provisions of the Section will apply only at the time when the last Settlor and the last Beneficiary stopped being Israeli residents.
  b. Should there be a Trust that discontinued being a Foreign Resident Beneficiary Trust (for example: Due to the removal of the revocable condition) for the purpose of Part E of the Ordinance, the Trust’s assets will be seen as if they sold on the day of termination as a foreign resident.

Not withstanding the aforesaid, a Trust which was established as a Foreign Resident Settlor Trust in favor of an Israeli resident Beneficiary and became an Israeli Residents Trust due to the immigration of the Settlor, will no longer be considered as such as detailed below:
• When the Settlor discontinued being an Israeli resident. In such a case the Trust will be classified as a Foreign Resident Settlor Trust in accordance with the provisions of the first part of Section 75(I) (a) (a Trust which on the date of its creation and during every tax year all its Settlors are foreign residents). The provisions of Section 100a of the Ordinance will apply on the date on which the Settlor discontinued being an Israeli resident (Section 75H (c)).

• Where the Beneficiary discontinued being an Israeli resident as the terms of Section 75G (a) no longer exist (on the date of its creation there was no Israeli Resident Settlor) – see Section 75G (a). The Trust will be classified as a Foreign Resident Beneficiary Trust and the Trust’s assets will be seen as if sold on the date of termination as a foreign resident (Section 75G (b)).

Foreign Resident Beneficiary Trust – should one of the Beneficiaries in it be an Israeli resident, the Trust will become as of that date an Israeli Residents Trust and the provisions of Section 75G will apply to it. In circumstances where in addition a Beneficiary whose identity is not known or when a Trustee did not comply with his obligation to report that all the Beneficiaries are foreign residents, the Trust will become an Israel Residents Trust. Should all the Settlors during the tax year be foreign residents, the Trust will become a Foreign Resident Settlor Trust.

Foreign Resident Settlor Trust – should during a tax year one of the Settlors become an Israeli resident, the Trust will no longer be considered a Foreign Resident Settlor Trust and will be classified as an Israeli Residents Trust or as a Foreign Resident Beneficiary Trust, pursuant to the conditions. Should the Settlor immigrate to Israel the Trust will be considered as an Israeli resident and the Trustee’s income will be considered as the income of an Israeli resident individual. The Settlor is entitled to benefit from the tax relief clauses as an immigrant or returning resident.

Trust Pursuant to a will – the classification will not change due to a change in the residency of the Beneficiary itself. Nevertheless, the results of the tax are likely to change due to a change in the Beneficiary’s residency. Should one Beneficiary immigrate to Israel, the Trust will be considered as an Israeli Residents Trust and the Trustee’s income will be seen as income of an Israeli resident individual. The Beneficiary will be entitled to benefit from the tax relief clauses, if at the time of his becoming an Israeli resident, another Beneficiary in the same Trust who was an Israeli resident. Should the last of the Beneficiaries discontinue being an Israeli resident, the provisions of Section 100A of the Ordinance will apply.
Chapter 8

VESTING FROM AN ASSOCIATION OF PERSONS (Section 75M)

In those cases where an association of persons vested an asset with a Trustee, the following provisions will apply:

1. The vesting will be considered as a sale for the purpose of the provisions of the Ordinance (Section B or Section E, accordingly).

2. If the vesting association of persons is a company, the vested asset will be seen as a dividend distributed to the individual shareholders who hold it, directly or indirectly, at the rates of their entitlement to a dividend, and this even if the shareholders have credit rights in the company and even if the company does not have surpluses for distribution. This income from a dividend will be calculated at the market value of the asset vested. A shareholder who is an Israeli resident must report this income. Should the vesting company be an Israeli resident, it will be required to withhold tax at source from the dividend.

3. As clarified in the definition of “Trust Settlor” in Chapter 2 of the circular, when a body of persons vests an asset in a Trust, the shareholders are likely also to be considered as Settlors, as detailed in Section 75M.

Chapter 9

DIRECTIVES REGARDING THE PAYMENT OF TAX, COLLECTION AND PENALTIES

[Section 75o]

1. The provisions of any law regarding the payment of tax, reporting, collection and penalties will apply to the Trustee because of the Trustee’s income and because of the Trustee’s assets, unless specifically stated otherwise. It is hereby clarified that this provision does not derogate from the application of other provisions under any law which will applies to the Settlor, on meeting the conditions appearing therein. Thus for example: the provisions of Section 119A of the Ordinance (Collecting tax in certain circumstances) and Section 216B of Ordinance (intentional transfer of assets to avoid the collection of tax) will apply to the Settlor.

2. Should there be a number of Trustees in a Trust, the Trustees are liable to tax applying to the Trust’s income, jointly and separately.

3. In an Israeli Residents Trust – the final tax debt of the Trustee may be collected from any of the Settlors, even if he is no longer an Israeli resident. Regarding a Trust created prior to the Amendment, these provisions will apply only if the Trust was revocable. Regarding Trusts created from the date of publication of the Amendment and thereafter, the provisions will apply to Israeli Residents Trusts, whether revocable or not; this provision will apply also under circumstances where the assessing officer found that, notwithstanding the declarations of the Settlor and the Trustee, the conditions defined in order to classify the Trust as a Foreign Resident Beneficiary Trust did not exist and it is seen as if it never was a Foreign Resident Beneficiary Trust.

4. A final tax debt of the Trustee can be collected from every Beneficiary to whom a distribution was made after the start of the tax year, for which the debt exists, provided that not more than the amount of the final tax debt will be collected, or from the amount or value of the assets that it received in a distribution, whichever is the lower. This authority exists also if the Trust has ended.
Chapter 10
OBBLIGATION TO REPORT, NOTICES AND DECLARATIONS

In the framework of the Amendment, Section 31 of the Ordinance was amended in relation to Trusts. Factors connected with a Trust must file an annual return, various declarations and notices, as detailed below. These obligations to report do not depend on and are not affected by the residency of the Trustee, the residency of the Trust or the law under which the Trust was created.

It is hereby clarified that the said reporting obligations do not derogate from any other obligation of reporting applying under any law on the Settlor, the Beneficiary or the Trustee. Thus for example: An Israeli resident who created a Trust of the Foreign Resident Beneficiary Trust type, must report on vesting an asset with a Trustee as the vesting is considered as a sale.

Reports, Notices and Declarations by the Settlor:

a. A Settlor who during a tax year created a Trust or vested an asset or the right to income from an asset in a Trustee, must file an annual return under Section 131(A)(5b)(1) of the Ordinance in that year; notwithstanding this directive, a foreign resident Settlor who vested in a Trustee in a Trust which is not an Israeli Residents Trust, an asset located outside Israel will be required to file an annual return on the creation of the Trust only in the first tax year in which it is obligated to file an annual return for any reason whatsoever, excluding due to the creation of the Trust itself.

The Settlor is required to detail, within the framework of the annual return, all the following (Section 121(C1)(1) of the Ordinance):

- The identity of the Trustee, the Trust’s Protector and Beneficiaries, and their residencies
- Details of assets vested, including the original price, the balance of the original price, the purchase value and the balance of the purchase value, the date of purchase and the vesting date;

b. An annual return under Section 131 of the Ordinance for the year in which the Foreign Resident Beneficiary Trust was established, the Settlor will submit a duly certified affidavit regarding the Trust being an irrevocable one as mentioned in the definition of “an Irrevocable Trust” and a declaration that the Trust does not have an Israeli Resident Beneficiary, or an Israeli Resident Beneficiary whose entitlement to the Trust is subject his discontinuing being an Israeli resident, and no such Beneficiary can be added to it (Section 75J(a)(4)(b)).

c. An Israeli resident who created a Trust prior to the commencement date (January 1, 2006) and it had not yet ended by the starting date, will file a return for the 2006 tax year as required by law, in which he will detail the date the Trust was created, the identity of the Trustee, the Beneficiaries and the Trust’s Protector and the assets vested with the Trustee, the date of vesting and their details, including the original
price, the value of the purchase and the purchase day; should the 
Trust be an “irrevocable” Trust the Settlor will attach to the annual 
return a duly certified affidavit regarding the Trust being irrevocable 
as mentioned in the definition of “an Irrevocable Trust”; should the 
Trust be a Foreign Resident Beneficiary Trust, the Settlor will attach to 
the annual return a declaration that the Trust does not have any Israeli 
resident Beneficiaries, or an Israeli Resident Beneficiary whose 
entitlement in the Trust is subject to his discontinuing being an Israeli 
resident, and no such Beneficiary can be added (Section 80(D) (2) of 
the Amending Law)).

d. Should a Foreign Resident Settlor Trust become a Foreign Resident 
Beneficiary Trust or an Israeli Residents Trust, due to the immigration of 
the Settlor to Israel - the Settlor will be required to submit the details 
mentioned in Section 131 (C1)(1) in the framework of the annual 
return for the first tax year in which he is obligated to file an annual 
return. Should the Trust became a Foreign Resident Beneficiary Trust, 
the Settlor will attach to the annual return in the first tax year in which 
he is obliged to file an annual return, a legally certified affidavit 
regarding it being an irrevocable Trust and a declaration that the 
Trust does not have an Israeli Resident Beneficiary, or an Israeli 
Resident Beneficiary whose entitlement to the Trust is subject to his 
discontinuing being an Israeli resident, and no such Beneficiary can 
be added to the Trust (Section 75J(a)(4)(b)).

e. A Settlor in an Israeli Residents Trust which is revocable, or a Settlor in a 
Foreign Resident Trust which is revocable, who wishes to be assessed 
and taxed on the Trustee’s income, is required to submit to the 
assessing officer, together with the annual return, for the year in which 
the Trust was created, such an application (Section 75G(h) and 
75I(b)); in a Trust created before the starting date (January 1, 2006), 
the Settlor will be entitled to request to being assessed and taxed due 
on the Trustee’s income in a notice submitted to the assessing office 
together with the annual return for the 2006 tax year (Section 
80(D)(3)) of the Amending Law).

f. Should the Settlor transfer to the Trustee an asset on which the 
provisions of the Land Tax Law (Betterment tax, Sales Tax and 
Purchase Tax) 5723 – 1963 apply on its transfer, or the provisions of 
Part B of the Ordinance apply, the Settlor will regularly report on the 
transfer of the asset as required by this provision.

g. A Settlor who died is not required to report or to issue notices or 
declarations due after his death. Non submission of a report, notice or 
declaration by a Settlor who died prior to the date of the report will 
not be considered as non-compliance with the terms required for the 
purpose in the provisions of the Trusts Chapter. To avoid doubt it is 
hereby clarified that the Trustee and the Beneficiaries must comply 
with their obligations to report, issue notices and declarations also 
after the death of the Settlor.
Reports, notices and declarations by the Trustee (an Israeli resident and a foreign resident):

a. A Trustee in an Israeli resident created Trust (whether during the year of creation or during the current year) or a Trustee who had income or assets in Israel must file an annual return. The return will detail all the Trustee’s income during the tax year and a notice about the distribution of income and assets during the tax year, while providing details of the name of the Beneficiaries and the amounts distributed to them (Section 75J (f), 131(A)(5b)(2) and 131(C1)(2) of the Ordinance).

b. A Trustee in a Foreign Resident Settlor Trust, a Trustee in a Foreign Resident Beneficiary Trust and a Trustee in a Trust pursuant to a will which did not have an Israeli Resident Beneficiary, who files an annual return due to income produced or accrued in Israel, is not obligated to include in it income produced or accrued outside Israel, even if he is an Israeli resident (Section 75O (e)). Should the Trust not have income whose source is in Israel, the Trustee is not obligated to file a return but, if the Trust has only an asset in Israel (and no income in Israel) the Trustee will file an annual return and state in it only the fact of the existence of the asset and its details.

c. Should the Trust no longer be an Israeli Residents Trust, the Trustee will inform the assessing officer of this soon after the ending date. Should the Trust become a Foreign Resident Beneficiary Trust, the Trustee will report as required by law on the sale of the “Trustee’s Assets” to a foreign resident on the ending date (Section 75G (b)(c)).

d. In the annual return the Trustee is required to report (in addition to the Trustee’s income and the other details required by law) details of the Settlor, details of each of the Beneficiaries, the dates of the distribution and details of the asset distributed, details of the assets vested, including the original price, the balance of the original price, the purchase value and the balance of the purchase value, the date of purchase and the date of vesting (Section 131(C1)(1)(2) of the Ordinance).

e. In the annual return for the year in which the Trust ended the Trustee will detail the losses remaining in the Trust (Section 75N (a)-(c)).

f. A company for holding a Trust’s asset is not required to file a return under Section 131 of the Ordinance due to the Trustee’s income or relating to the Trustee’s assets held by it for the Trustee (Section 75P (b)).
Declarations and Notices in a Foreign Resident Beneficiary Trust:

a. The annual return for the first tax year in which the Trust is obliged to file a return for a Foreign Resident Beneficiary Trust, the Trustee will attach to the report his legally certified affidavit regarding the Trust being irrevocable as mentioned in the definition “an Irrevocable Trust” and a declaration that the Trust does not have an Israeli resident Beneficiary or an Israeli resident Beneficiary whose entitlement in the Trust is conditional on his being an Israeli resident, and such a Beneficiary cannot be added to it (Section 75J(f)). It is hereby clarified that regarding a Trust established prior to the commencement date (January 1, 2006) and not yet ended prior to the commencement date, the Trustee will submit such an affidavit and declaration in the return for the first annual tax year in which he is required to file a return.

b. Should the Trust discontinue being an irrevocable Trust, the Trustee will submit a notice of this to the assessing officer together with the annual return for that year.

c. In the annual return that Trustee files every year, he will attach a notice on every distribution made during the tax year while detailing the names of the Beneficiaries and the amounts distributed to them (Section 75J(f) and 131(C1)(2) of the Ordinance). In addition, to the annual return the Trustee will submit a declaration that the Trust does not have any Israeli Beneficiary, or the Israeli Beneficiary whose entitlement in the Trust is conditional on his discontinuing being an Israeli resident, and such a Beneficiary cannot be added (Section 75J(f) and 75J(a)(4)(b)).

d. If the Trustee is not obligated to file an annual return under Section 131 of the Ordinance for that year, he will submit to the assessing office a such a declaration by April 30 of the following year (Section 75J(f) of the Ordinance) but he will not be required to submit a notice of a distribution (e.g.: on distributing income whose source is from abroad and all the Beneficiaries are foreign residents).

c. Within 90 days from the date of publishing this circular, the Trustee in a Trust will report as mentioned, on the distribution to the Beneficiaries made during the two years prior to the commencement date (January 1, 2006) (Section 80(D)(3) of the Amending Law).

Application to Ascribe the Trustee’s Income to the Settlor or the Beneficiary:

a. In an Israeli Residents Trust which is irrevocable or in a Foreign Resident Settlor Trust which is irrevocable or in a Trust pursuant to a will, in which the Israeli resident Beneficiary requests to be assessed and taxed for the income distributed, on the existence of the terms of Section 75G(g) or 75I(b) or 75L(f), whichever relevant, the Trustee will attached to his annual return a duly certified affidavit, regarding the Trust being
an irrevocable one (apart from a Trust pursuant to a will) and a notice of the distribution and regarding the choice that the income will be seen as the income of the Beneficiary (Sections 75G (g)(4), 75I (b) and 75L(f)).

b. In a Trust pursuant to a will in which there is only one Beneficiary and he is alive, and he requests to be assessed and taxed on the Trustee’s income, on the existence of the terms in Sections 75L (e) the Trustee will attach to the annual return for the year in which the Trust was created a notice on their choice that income will be seen as the income of the Beneficiary (Section 75 I(e)). In a Trust established prior to the commencement date (January 1, 2006), the Trustee will submit such an application together with the annual return for the 2006 tax year (Section 80(D) (3) of the Amending Law).

c. In an Israeli Resident Trust which is revocable or in a Foreign Resident Settlor Trust which is revocable, and the Settlor requests to be assessed and taxed on the Trustee’s income, on existence of the terms in Section 75G (h) or 75I (b), whichever relevant, the Trustee will attach to the annual return for the year in which the Trust was created, a notice on such choice (Section 75 G((h) and 75I(b)). In a Trust established prior to the commencement date (January 1, 2006), the Trustee will submit such an application together with the annual return for the 2006 tax year (Section 80(D) (3) of the Amending Law).

Reports and Notices by the Beneficiary:

a. An Israeli Resident Beneficiary to whom cash or an asset was distributed during the tax year, even if he is not liable to tax for them in Israel, must file a return in the year of distribution under Sections 131(A)(5b)(3) of the Ordinance.

b. A foreign resident Beneficiary who received a distribution during the tax year of an asset in Israel (pursuant to the provisions of Section 89 of the Ordinance) will submit to the assessing officer, on the legal date for filing an annual return for the year of the distribution, a notice of such distribution.

c. In a report or notice mentioned in sub clause (a) or (b) above, the Beneficiary will provide details of the assets or of the income distributed to him (Section 131(C1)(3) of the Ordinance).

An application to Attribute the Trustee’s Income to the Beneficiary:

a. In an Israeli Resident Trust which is irrevocable or in a Foreign Resident Settlor Trust which is irrevocable or in a Trust pursuant to a will, in which the Israeli resident Beneficiary requests to be assessed and taxed on the income distributed on the existence of the terms of Section 75G (g) or 75H (b) or 75L (f), whichever relevant, the Beneficiary will attach to his annual return a notice on the distribution and on his choice that
the income be seen as the Beneficiary’s income (Section 75G (4), 75H (b) and 75L (f)).

b. In a Trust pursuant to a will in which there is only one Beneficiary and he is alive, and he requests to be assessed and taxed, on the existence of the terms of Section 75L (e), the Beneficiary will attach to the annual return for the year of the Trust’s creation, a notice on his choice for the income to be seen as the Beneficiary’s income (Section 75L (e)). In a Trust established prior to the starting date (January 1, 2006) the Beneficiary will submit an application as mentioned, together with the annual return for the 2006 tax year (Section 80(D) (3) of the Amending Law).
Chapter 11

THOSE CASES WHERE THE PROVISIONS OF THE TRUST TAXATION CHAPTER WILL NOT APPLY

Section 75Q stipulates that the provisions of the Trustees Chapter will not apply to:

1. “A Trust Fund” as defined in Section 88 of the Ordinance and joint investments fund abroad.
2. A provident fund.
3. A Trust created in order to secure the existence of a certain debt. For example: A lawyer who holds funds in trust for a party to a transaction until the compliance with the obligations under the contract.
4. The administrator of an estate, a guardian appointed by the court, a trustee in a bankruptcy, a functionary under Section 350 of the Company’s Law, a company’s liquidator and a receiver.
5. A charitable trust which is a “public institution” as defined in Section 9(2) of the Ordinance.
6. A Trustee as defined in Section 102 of the Ordinance.

The provisions of the Chapter will not apply to an agency within the meaning of the Agency Law, 5725 – 1965. In all legal systems there are differences between Trusts and Agencies and this matter will be examined from the fundamental aspect.

The main differences between a “Trust” under the general law and an “Agency” under the general law are:

1. In an Agency the assets are owned by the principal, while in a Trust the Trustee is the formal owner of the assets.
2. An Agent may carry out only the legal actions for his principal and his actions bind and entitle the principal (often also criminal liability), while the Trustee acts independently as the controller of the assets and the Settlor is not responsible for his actions; the Agent is obligated to act according to the instructions of his principal and is not entitled to use his discretion if he did not receive specific authority for this, while the Trustee is required to use his discretion and to act independently.
3. The Agent is obligated to the Principal, while the Trustee is obligated to act in favor of the Beneficiaries.
4. The Agent is bound by the directives of the Principal, who is entitled to change them or to discontinue the Agency at any time, while the Trustee is not subject to the directives or instructions of the Settlor which do not appear in the Trust deed.
5. The death of the Principal or the Agent results in the end of the Agency, while the death of the Settlor or the Trustee will not necessarily result in the end of the Trust (the Trustee will be replaced by another).
Thus, for example, the provisions of the Trust Chapter will not apply to a person who serves as an attorney, representative, agent, receiver, branch or manager of a foreign resident in Israel, as far as his function is limited to this and for this purpose the provisions of Section 108 of the Ordinance will apply. Nevertheless, the provisions of the Chapter will apply to a Trustee who has a directive, control or management of property for any person lacking legal competence, as stipulated in Section 106 of the Ordinance, apart from a guardian appointed by the court.

The Trusts Chapter does not apply to every disposition which is a sale of a right in real estate or an action in a land corporation within the meaning of the Land Taxation Law (Betterment, Sale and Purchase) 5723 – 1963, for which the provisions of this Law will continue to apply, as clarified in Chapter 12 below. Nevertheless, the real estate is considered as an asset for the purpose of this Chapter and therefore the provisions of the Trustees Chapter will apply to its income.

### Chapter 12

**TRUST ACCORDING TO THE LAND TAXATION LAW**

As stated above, the provisions of the Trusts Taxation Chapter in the Ordinance do not apply to the sale of a right in land or a right in a land corporation on which the Land Taxation Law applies (Betterment, Sale and Purchase) 5723 – 1963, (hereinafter: “the Land Taxation Law” or “the Law”). Thus, for example, section 75 g(d) of the Ordinance regarding Trusts of Israeli residents stipulates that “Vesting to a Trustee .... will not be considered as a sale for the purpose of the provisions of Part E’ of the Ordinance”, to distinguish from the provisions of the Land Taxation Law.

The following is a condensed review of the taxation of Trusts under the Land Taxation Law and the comparison between the provisions of the Land Taxation Law and the Trust Taxation Chapter in the Ordinance as a result of Amendment 147 to the Ordinance:

A Trust under the Land Taxation Law is arranged in clauses 73(F), 74, 119 and 69 of the Land Taxation Law, Regulation 27 of the Land Taxation Regulations (Betterment, Sale and Purchase) (Purchase Tax), 5735 – 1974 and Regulation 2 of the Land Taxation Regulations (Betterment, Sale and Purchase) Exemption from Sales Tax), 5760 – 2000. From a fundamental point of view regarding land taxation, the Trustee will be seen as one who only lent his name in favor of the Beneficiary and therefore from this the taxation under the Law is derived.

Generally, the Trustee is appointed by the Beneficiary in order to carry out the purchase transaction of the right in land or the right in a land corporation in favor of the Beneficiary. In many cases one can claim that the actions of the Trustee are a type of Agency under the Agencies Law. According to Sections 73(F) and 74 of the Land Taxation Law, the Trustee is required to report to the Director of Land Taxation that the purchase is in the framework of a Trust and that the real purchaser is the specific Beneficiary.
Stemming from this report, at the time of the purchase, criteria have been determined for the purpose of the purchase tax assessment according to the Beneficiary's data and in the future, when the Trustee transfers the asset in the name of the Beneficiary such transfer will be exempt from Land Betterment Tax under Section 69 of the Law and exempt from purchase tax under Regulation 27 of the Purchase Tax Regulations.

Often, at a later stage, the Trustee sells the asset to a third party (where the proceeds are for the benefit of the Beneficiary). In such a case the assets will be seen as sold under the significant parameters of the Beneficiary where also from a formal point of view the seller is the Trustee.

In view of the above, the concept of the Trust under the Trust Taxation Chapter in the Income Tax Ordinance is not compatible with the Trust concept under the Land Taxation Law and therefore, when a right in land or a right in a land corporation is transferred to the Trust, the Land Taxation Law will apply regarding the transfer/sale of the right but, regarding current income from that right (e.g. rent) the provisions of the Trust Taxation Chapter as detailed in this circular, will continue to apply.

**Chapter 13**

**APPLICATION AND INTERIM DIRECTIVES**

*(Section 80(d) of the Amending Law)*

1. The Trusts Chapter will come into force when Amendment 147 of the Ordinance comes into force, i.e. on January 1, 2006 (hereinafter: “the Commencement Date”) unless specifically stated otherwise.

2. The Chapter will apply to Trusts established from the Commencement Date and thereafter. Regarding Trusts which were established prior to the Commencement Date, the provisions of the Chapter regarding Trustee income produced or accrued on the starting day thereafter will apply.

3. The Trusts Chapter is intended to clarify the tax law applying to Trusts. The Chapter arranges in a detailed manner the aspects connected with taxation of Trusts throughout the duration of their lives. Regarding a tax event and revenues connected with Trust, which occurred or produced prior to the Amendment, the existing Law will apply prior to the Amendment. For this purpose the provisions of Section 82 - 84 and Section 86 of Ordinance will apply as formulated prior to the Amendment. It is hereby clarified that the Trusts Chapter and the arrangements included in it do not prevent and do not harm any contention regarding taxation of a tax event and income connected with Trusts which occurred as mentioned immediately prior to the Amendment.

4. The demand requiring that the Trust documents state that an Israeli resident Beneficiary cannot be added (Section 75J(a)(4)(a)) will apply only regarding a Foreign Resident Beneficiary Trust created on the starting day and thereafter.

5. The provisions regarding a guarantee of a Settlor on a final tax debt of a Trustee (Section 76 o(b)) will apply regarding an Israeli Resident Trust which is revocable and which was created prior to the starting date and regarding such a Trust which is irrevocable and created on the date of publication of the Amendment (August 10, 2005) and thereafter.
1. In the definition of “endorsement” in Section 82 of the Ordinance the word “Trust” is deleted.

2. In the definition of “relation” in Section 88 of the Ordinance it states that a Trustee will be considered as a “relation” in the following way:
   a. Of the Settlor – in an Israeli Resident Trust or in a revocable Trust.
   b. Of the Beneficiary – in a Foreign Resident Beneficiary Trust or pursuant to a will.
   The Trustee will not be considered as a “relation” regarding Section 97 of the Ordinance and regarding alternatives 6 and 7 to the definition “revocable Trust”

3. Section 107 of the Ordinance is cancelled (the obligation of two individual Trustees).

4. An addition to Section 73c of the Law for the Encouragement of Capital Investments, 5719 – 1959. The added clause states, that in a company with an approved enterprise, or an enterprise it is better that the means of control in it are held in Trust, directly or indirectly, the provisions of the Trusts Chapter will apply.
1. **Proposal’s General Principals**

1.1. **Relevant Central Data to Establish Tax Rate:** The relevant formats in establishing the tax rate for trust capital, as described in chapter 1.4 are: settlor’s residence, trustee’s residence, beneficiary’s residence, rate of revocability of the trust, transfer date of the foreign assets to Israel (prior or subsequent to 1.1.2003 reason being that from the time it was gifted to a foreign resident, it was no longer exempt from tax according to part E of the Ordinance), the foreign tax that is due on the trust income, the place of origin for the trust income and the income generated from them and the stature of the trust regarding the tax treaty (is the trust a body upon which the treaty applies if not, read- is the trust considered resident for the purpose of relevant treaty).

1.2. **Incidence – “Trust Eligibility”:** Subsequent to the difficulty establishing the level of revocability of the trust, the level of revocability will be established in regard to the similar criteria detailed in Part Four 2 of the Income Tax Ordinance (herein, adjustment: “Trust Chapter” and “The Ordinance”) relating to the levels interpreted from paragraphs 82-84 of the ordinance (from the understanding of “The reason given for Annulment” in paragraph 84 of the ordinance).

It must be emphasized that the proposed test of revocability for income tax purposes is lenient and doesn't come to vote on the ministry’s stance of the tests mandating the test of revocability for the tax years 2006 and after, institutional tests clearly defined in the trust chapter.

Trusts, to which all of the following criteria apply, will be considered as trusts where irrevocability is in question, as valid albeit low (herein: “Eligible Trust”) and can be included in the proposed order.

The criteria are:

A. None of the settlors, including spouses, is also a beneficiary of the trust, directly or indirectly.

B. None of the beneficiaries, directly or indirectly, is a child of the settlor under the age of 20 for the tax year 2003, and if he was a beneficiary he was married by the tax year 2003.

C. Neither the settlor or the trustee can revoke the trust.

D. The settler cannot refund himself the asset vested in the trust.

The terms “settler” and “beneficiary” will be defined in the trust chapter.

1.3. **Foreign Tax Payment by a Trust:** For the reason that the tax credit was established for foreign tax paid by a trust or paid in the same country that the income was generated and there only, benefit from a complex task and in certain instances almost impossible (regarding multiple tax years and/or many and assorted tax regimens), two alternatives have been established:
A. The choice of tax rate as presented in the table following; that applies to trust capital, as detailed in chapter 1.4, without the possibility of receiving foreign tax benefit.

B. There is a choice regarding income found in the trust as of 31.12.2005, all or partial (herein: “extraneous income”), because capital gain from future sales are fully taxable in Israel, including changes warranted in established tax rates, specific and pertaining to each instance.

1.4. “Trust Capital”: The tax rates in the following table apply to trust capital; in this regard, “trust capital”-equated with trust assets, including cash and cash equivalents, as of 31.12.2005 and in addition parities of distributions between 2003 and 2005. Trust capital will be established without regard to asset value, to the cash source or cash equivalency and to encompass the capital on assets that yielded the same cash or cash equivalent.

Trust assets included in the settlement (which constitute part of the trust capital) will be foreign assets only on condition that their sale chapter 89(b) of the ordinance does not apply. Regarding cash and its equivalent included in trust capital and generated from Israeli income, will be neutralized by part of the trust capital entitled to this settlement.

As explained in chapter 2, the trust must present reports and relevant documentation that equate the assets to 31.12.2005 and the proposed distribution parity in the aforementioned tax years.

1.5. Establishment of New Immigration: New immigration of trust assets that are included in the trust capital, upon which full tax was paid according to the settlement, from the starting date, the assets will be on parity (which constitutes the basis for establishing trust capital). This cost will be considered the depreciation cost for deduction and capital gain that will be generated in the future with the sale of the asset; regarding foreign tax benefits with the future asset sale, these will only be given (in accordance with the instructions of the ordinance) only on the same part of foreign tax that relates to excess capital that exceeds the new costs as described above. This same part of foreign tax that relates to capital up to the new cost will not get entitlements (see chapter 3.1.a above).

Regarding foreign assets in the settlement- as described above in chapter 3.1.b, on the sale date of the asset any increase in value will be subject to tax, as evaluated on the sale date (in the event that the trust is subject to tax at the time of the sale), via foreign tax benefits according to the ordinance. It will be clear, that the parity of the foreign assets to the settlement as of 31.12.05 will not equal the original price, not according to depreciation given as a deduction and not per the directive of part h of the ordinance.

2. Procedure
Requests to arrange trust taxation as stated should be submitted to the international tax unit professional section by 31.10.2008.

The requests will be handled by the unit, with the accompaniment of the judicial department and coordination with the assessing officer with whom
the trust file was opened (if there was a need to open). The requests should be accompanied with the following documentation:

- Deed of Trust;
- Letter of Request (if there is);
- Correspondence between the settlor and trustee;
- Appraisal of the assets included in the trust capital;
- Settlor authorization of the categorization of the trust (identification of the settlors and beneficiaries) revocability of the trust (authorization as an "eligible trust" as defined in chapter 1.2 above) and confirmation of facts related to income and assets, including parities and date of purchase, as per the chart relating to the settlement routes;
- Trust financial reports for the years 2003-2005, audited or reviewed by an accountant;
- A detailed report of trust capital, as described in chapter 1.4 above as of 31.12.2005;
- Additional reports and affidavits as requested by the international tax unit.

### Tax Settlement Tracks According to the Type of Trust

<table>
<thead>
<tr>
<th>Acquisition Date</th>
<th>Settlor</th>
<th>Trustee</th>
<th>Beneficiary</th>
<th>% Tax</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prior to 1.1.03</td>
<td>Israeli Settlor</td>
<td>Foreign Trustee</td>
<td>Israeli Beneficiary</td>
<td>6%</td>
<td></td>
</tr>
<tr>
<td>After 1.1.03</td>
<td>Israeli Settlor</td>
<td>Foreign Trustee</td>
<td>Israeli Beneficiary</td>
<td>6%</td>
<td>On increased value after acquisition - if he paid tax with vesting a non cash asset</td>
</tr>
<tr>
<td>Irrelevant</td>
<td>Foreign Settlor</td>
<td>Foreign Trustee</td>
<td>Israeli Beneficiary</td>
<td>10%</td>
<td>On any increase in value - if he did not pay tax with vesting a non cash asset</td>
</tr>
<tr>
<td>Irrelevant</td>
<td>Foreign Settlor</td>
<td>Israeli Trustee</td>
<td>Foreign Beneficiary</td>
<td>4%</td>
<td></td>
</tr>
<tr>
<td>Irrelevant</td>
<td>Foreign Settlor</td>
<td>Israeli Trustee</td>
<td>Israeli Beneficiary</td>
<td>4%</td>
<td></td>
</tr>
<tr>
<td>Prior to 1.1.03</td>
<td>Israeli Settlor</td>
<td>Foreign Trustee</td>
<td>Foreign Beneficiary</td>
<td>4%</td>
<td></td>
</tr>
<tr>
<td>Prior to 1.1.03</td>
<td>Israeli Settlor</td>
<td>Israeli Trustee</td>
<td>Foreign Beneficiary</td>
<td>4%</td>
<td></td>
</tr>
<tr>
<td>After 1.1.03</td>
<td>Israeli Settlor</td>
<td>Foreign Trustee</td>
<td>Foreign Beneficiary</td>
<td>4%</td>
<td>On increased value after acquisition - if he paid tax with vesting a non cash asset</td>
</tr>
</tbody>
</table>

**Comment:**

In the event there is a foreign beneficiary or there is a foreign settlor as well (in addition to the beneficiary or the Israeli settlor, as per the case), in the manner in which the tax rate differs for each one according to the table above, the proposed settlement can be split into two settlements, one
pertaining to the Israeli beneficiary / foreign settlor, according to the partial rate of the different trust beneficiaries or according to parity of the assets vested by the different settlors of the trust, as per each case. In the event that there are discrepancies among the beneficiaries, a trustee declaration of the eligibility rate of each trustee must be submitted.
Unofficial Translation of Explanatory Note to Complete the Forms Regarding the Reporting of Trusts issued by the Israeli Tax Authority.

General

On 11.6.2008 a law to amend the Income Tax ordinance was published (No.165), 2008, 5768 (henceforth: “Amendment No.165”) which regulates, inter alia, the reporting obligations, notices, declarations and applications relating to Trusts. Amendment No.165 completes the promulgation of Amendment No.147 to the Income Tax ordinance, according to which, inter alia, was added Chapter 4(2) dealing with Trusts (henceforth they will all be called, as applicable: "Amendment 147", “the Ordinance” and “The Chapter on Trusts”)

One of the aims of Amendment 165 is to reduce the scope of the annual reporting that is demanded according to the framework of Amendment No.147, and to apply the requirements for annual reporting, in principle, only to the Trustee of a Trust, while for an Israeli resident Settlor and Beneficiary the obligation of an annual return has been converted into an obligation of a report only.

The content of the chapter on Trusts, in the version subsequent to Amendment No.165, relates to income that is produced or generated from 1 January, 2006, and also concerns Trusts that were established before this date.

Because of the changes that are planned regarding the types of Regulatory reports according to the chapter on Trusts (changes promulgated in the framework of Amendment No.165, as mentioned above) the manager of the Tax authority postponed the date of submission of all the reports, notices, applications, and declarations required by that chapter.

Therefore:
The date for submission of all reports, applications and declarations that are required according to the chapter on Trusts, as in the version after Amendment No.165, and also the date for submission of the report on the matter of Trusts, according to paragraph 131 of the Ordinance, for the tax years 2006 and 2007, applicable also to Trusts established before 1 January 2006- will be until 31.10.2008.

The obligation to give notice or to submit the Annual Report, that falls on the trustee, settlor, representative of the settlor, beneficiary or representative of the beneficiary, as applicable, relates to each and every Trust for which there is an obligation to submit a report or notice.

Thus, in principle, a trust for which a report or notice is submitted, as applicable, will be included in the listings of the Tax Authority and an assessment file will be opened for it.

For a Trust for which an assessment file is managed, as mentioned, an assessment file will be opened and dealt with by the assessing officer, as follows:

a. A trust whose Trustees are all Israeli Residents – at the Assessors’ Office Tel Aviv 1; 
b. A trust where at least one Trustee is an Israeli citizen- at the Assessors’ Office Tel Aviv 3.
Each one of the aforesaid Assessing Officers will henceforth be called “The Assessing Officer of the Trust” even if a file has not actually been opened for that Trust. All the required reports according to the Chapter on Trusts in the version after Amendment No.165, those obligated to submit, the date for submission, and the forms for submission are explained below. For convenience, a table is attached containing all the above details, according to the different types of Trusts.
Notices and Declarations:

Form 143—“Declaration of a Foreign Beneficiary Trust

The duty exists to submit a declaration of the existence and classification of a Trust as a Foreign Beneficiary Trust. This declaration is in the absence of Israeli resident beneficiaries, or the absence of Israeli resident beneficiaries whose eligibility is due to their ceasing to be Israeli Resident, and in the absence of the possibility to recruit beneficiaries.

The said declaration is to be submitted in the following circumstances:

A. According to clause 75 J(A)(4)(b) of the ordinance, an Israeli resident Settlor will submit the said Declaration attached to the notice that he submitted in the matter of creating a Trust [Form 147-see below].

B. According to clause 75J(6) of the Ordinance, a trustee of a Foreign Beneficiary Trust will submit the said declaration, every tax year, at one of the following two dates:

- if there is a duty to submit an annual report for that Trust – form 143 is to be attached as an addendum to that report;
- if there is no duty to submit an annual report for that Trust – form 143 is to be submitted by 30.4 of the year following the tax year.

In the declaration submitted by the trustee, as an addendum to the annual report or a separate annual notice, as mentioned above, the trustee is to also explain the details relating to distributions made in the tax year (one can refer to Form 151(H), if a report is submitted). It is clear that a Settlor submitting a declaration according to Clause 75J(a)(4)(b) of the Ordinance, is not obligated to provide details of distributions made during that tax year.

Additional Instructions:

- Together with Form 143 submitted as above, whether by the Settlor or by the trustee, Form141 is to be submitted (Declaration of an Irrevocable Trust). It is clear that the absence of Form141 does not classify the trust as a Foreign Beneficiary Trust, but as an Israeli Resident trust.

- Form 143 is to be submitted to the Assessing Officer of the Trust, by the settlor or by the trustee. In addition, the settlor is to send a copy of the said notice to the assessing Officer where his file is dealt with, if there is one (together with form147 to be submitted by him to the same assessing officer – see below).
Unofficial Translation of Explanatory Note to Complete the Forms Regarding
the Reporting of Trusts issued by the Israeli Tax Authority.

Form 144—“Declaration of a Foreign Beneficiary Trust

According to Clause 75F9(a)(1) and (2) of the ordinance, the possibility exists to elect
that one of the Settlors (in an Israeli Resident Trust) or one of the beneficiaries (in a
testamentary Trust that is considered Israeli resident) will report on Income of the
trust in the trust file instead of the trustee of the same trust. This alternative is possible
in the following circumstances:

The conditions, instructions and dates for submitting Form 144 are as follows:
1. there is no Israeli Resident Trustee in the Trust
2. the choice of this alternative cannot be reversed while the Representative
   Settlor and the representative Beneficiary, as applicable, is still alive and is an
   Israeli resident and as long as there is no Israeli resident trustee in the Trust.
3. Form 144 signed by the trustee and by all the Settlors (including the
   Representative Settlor) or all the Beneficiaries (including the representative
   Beneficiary), as applicable, is to be submitted to the Assessing Officer of the
   Trust once only, as an addendum to the annual report of the Trust submitted
   by the representative Settlor or the Representative Beneficiary, as applicable,
   for the year in which this alternative is chosen.

2 Additional Instructions
   - Reports regarding Trust Income are to be submitted by the Representative
     Settlor or the Representative Beneficiary, as applicable, instead of the
     trustee, to the
     Assessing Officer of the Trust. The income of the Trust is to be reported
     by means of the “Report for the Trustee of a Trust” (Form 1327- see
     below) and not in the annual personal report of the Representative Settlor
     or the Representative Beneficiary, as applicable.
   - Form 144 can be submitted together with Form 147 (Notice of creation of
     a Trust or Transfer to a Trust), on condition that it is submitted before the
date of submission of the annual report of the trust for the tax year during
which this alternative is chosen, according to the instructions provided
below in the explanation for Form 147.
   - The choice of an alternative does not have to be in the year of the creation
     of the Trust.
Unofficial Translation of Explanatory Note to Complete the Forms Regarding the Reporting of Trusts issued by the Israeli Tax Authority.

Form 147-“Notice of Creation of a Trust or Transfer to a Trust”

It is mandatory to submit a notice of the creation of a Trust or the transfer of an asset or income to a Trust in each of the following circumstances:

A. According to Clause 75I G 1(a) of the Ordinance, a Settlor who created a Trust or who transferred an asset or income to a Trust, while an Israeli resident, is to submit said notice within 90 days from the date of the said creation or transfer;

B. According to Clause 75I G 1(c) of the Ordinance, the Settlor of a “Foreign Resident Trust” that became an “Israeli Resident Trust” or a “Foreign Beneficiary Trust” following the Aliya or return to Israel of the Settlor, is to submit said notice up to the date 30.4 of the year following his Aliya or his return to Israel however, if the Settlor is obligated to submit a report according to Clause 131 of the Ordinance- at the time of submitting the report.

C. According to Clause 75I G 2(a)(1) of the Ordinance, a trustee of a “Testamentary Trust” is to submit said notice within 90 days from the day of fulfilling the instructions of the will regarding the formation of the said trust

Additional Instructions

- Form 147 is to be submitted to the assessing Officer of the Trust. In addition, the Settlor is to send a copy of said form to the Assessing Officer dealing with his personal file, if there is one.
- A settlor who submits Form 147 according to Clause 75I G 1(a) of the Ordinance, including for a Trust that was formed before 1 January 2006, should detail in the section, ”Transfers to a Trust”, the details of the assets and income that were transferred to the Trust from the date of formation of the Trust to the Tax Year that said form was submitted, but not more than five years prior to the Tax Year during which he became Israeli Resident.
- Form 144 (Notice of Appointment of Representative Settlor/Representative Beneficiary) can be submitted together with Form 147, as stated above, or Form 148 (Notice of Income Distribution to a Settlor of an Israeli Resident Trust or an Income Distribution to the Beneficiary of a Testamentary Trust) as stated below.
Unofficial Translation of Explanatory Note to Complete the Forms Regarding the Reporting of Trusts issued by the Israeli Tax Authority.

Form 148—“Notice of Income Distribution to the Settlor of an Israeli Resident Trust or an Income Distribution to a Beneficiary of a Testamentary Trust”

The possibility exists according to Clauses 75 G(H) and 75L(5) of the Ordinance, to choose that the Israeli Resident Settlor of an Israeli Resident Trust which is an Irrevocable Trust and an Israeli Resident beneficiary of a Testamentary Trust that is regarded as Israeli Resident, as applicable, will be assessable for tax and liable for tax on the income of the Trustee.

The conditions, the instructions and the dates for submission of Form 148 are as follows:

1: The Settlor or the Beneficiary, as stated above, is the only Settlor or Beneficiary of the Trust, or he and his spouse are the only Settlors or the only Beneficiaries of the Trust, as applicable.

2: The choice of this alternative cannot be reversed as long as the Settlor or the Beneficiary, as applicable, is still living and is an Israeli resident.

3: Form 148 signed by the Settlor or the Beneficiary as applicable, and by the trustee, is to be submitted once only to the assessing officer, as and addendum to the annual return submitted by the Settlor or the beneficiary, as applicable, for the tax year that the Trust was formed.

Additional Instructions

- Form 148 is to be submitted to the Assessing Office where the file of the Settlor or the Beneficiary is managed, as applicable. In addition, a copy of said form is to be sent to the Assessing officer of the Trust.

- The choice of this alternative, does not confer on the Trustee the obligation to submit and annual report of the Income of the Trust. The obligation to submit said report falls on the Settlor or the Beneficiary, as applicable, and the said report is to include all the income of the Settlor and the Beneficiary, as applicable, including income of the Trust.

- In the case where notice of the choice of this alternative is not given after Form 147 is submitted or the trust has a file in the Income Tax listings, effort must be made to cancel the duty, incumbent on the trustee, to submit the report, in the file of the Trust.

- Form 148 can be submitted together with Form 147 (Notice of Creation of a Trust or Transfer to a Trust), on condition that it is submitted before the date of submission of the annual report of the Settlor or the Beneficiary, as applicable, for the tax year that the trust was formed. In the case where Form 148 is submitted together with Form 147 that the trustee submits following establishment of a testamentary trust that is considered Israeli resident, the said two forms are to be sent to the assessing office where the file of the beneficiary is dealt with, with a copy to the assessing officer of the Trust.

- In the cases where the Settlor or the Beneficiary, as applicable, submits a personal return for the tax year 2006 or 2007 that does not include income derived from the Trust, income derived from his choice of this alternative is to be reported to the assessing officer to whom the said personal return was submitted.
Unofficial Translation of Explanatory Note to Complete the Forms Regarding the Reporting of Trusts issued by the Israeli Tax Authority.

Form 149—“Notice of Income Distribution that a Beneficiary Received in the Tax Year”

According to clause 75I G 3 of the Ordinance, an Israeli resident beneficiary who received from a Trust a distribution of an asset that is not cash, is obligated to submit form 149 to date 30.4 of the year following the year in which he received the said distribution, however, if the beneficiary has the duty to submit a report according to Clause 131 of the Ordinance- at the date of submission of the annual return.

It is clear that there is an obligation to submit Form 149 even if the distribution does not consist of income subject to tax in Israel.

1 The Condition of the Beneficiary being an Israeli Resident is valid from the 2009 tax year and onward.

4 Additional Instructions
- Form 149 is to be submitted to the assessing officer of the Trust.
- In addition, the Beneficiary has to send a copy of Form149 to the assessing officer where his personal file is dealt with, if there is one.

Annual Return and Addendums to the Annual Return

The following are the details of those who are obliged to submit an annual return for Trusts and the supplementary documents to be attached to the said return.

The Report according to Clause 131 of the Ordinance

Clause 131(A)(5b) of the Ordinance states the duty to submit an annual report for Trusts which applies to the Settlor, The representative Settlor, the beneficiary or the representative beneficiary, as applicable.

Note: According to Clause 134A(5) of the Ordinance, the Minister of Finance with the approval of the Finance committee of the Knesset, is authorized to issue, for a Trustee, an exemption from the obligation to submit said report. The said regulations are not yet established.
Form 1327- Report for a Trustee of a Trust: Accounting for Israeli and Foreign Income for the Tax Year

Form 1327 is the annual return applicable to the income of a Trustee of a Trust, and is to be submitted separately for each Trust.

Form 1327 is to be submitted to the assessing officer of the Trust by those specified below:

A. The Trustee of an Israeli Resident Trust only if the Settlor did not choose to be assessable and liable according to the requirements of Clause 75G(H) of the ordinance and is not elected as representative Settlor, according to the definition in clause 75F 1 of the ordinance [according to clause 131(A)(5b)(1) of the ordinance];

B. The Trustee of a Testamentary Trust that is considered Israeli Resident according to clause 75 L (C)(1) of the ordinance, and only if the beneficiary did not choose to be assessable and liable according to the requirements of Clause 75 L9(E) of the ordinance and did not choose to be the representative beneficiary, according to the definition in clause 75F 1 of the ordinance [according to clause 131(A)(5b)(1) of the ordinance];

C. The trustee of a Trust that has an asset or income in Israel [ according to clause 1319A0(5B)(2) of the ordinance];

D. The representative Settlor or a representative beneficiary, according to the definition in clause 75L1 of the ordinance [according to clause 131(A)(5b)(1) of the ordinance].
Unofficial Translation of Explanatory Note to Complete the Forms Regarding the Reporting of Trusts issued by the Israeli Tax Authority.

Form 1301- Report for an Individual: Accounting for Israeli and Foreign Income for the Tax Year

A settlor or beneficiary who chose to be assessable and liable according to the requirements of clauses 75 (G)(H) and 75 L(E) of the Ordinance, is liable to submit an annual return according to clause 131(A)(5B)(3) of the ordinance that is to be submitted on Form 1301. In the said return all the income of the settlor and the beneficiary, as applicable, is to be included, including income of the Trust whether distributed or not.

In this case, the trustee is not obligated to submit an annual return regarding that Trust.

A Settlor or Beneficiary, who chose to be assessable and liable according to the requirements of clauses 75 (G)(G) and 75 L((F) of the Ordinance, is liable to submit an annual return according to clause 131(A)(5B)(3) of the ordinance on Form 1301. In the said return all the income of the settlor and the beneficiary, as applicable, is to be included, including income distributed to him from that Trust.

In this case, the trustee is obligated to submit an annual return regarding income of the Trust, in Form 1327, as stated above.

Addendums to the Annual Return

The following addendums, as applicable, are to be attached to form 1327 and form 1301, all or some of them, as established in the ordinance:
Unofficial Translation of Explanatory Note to Complete the Forms Regarding the Reporting of Trusts issued by the Israeli Tax Authority.

Form 151H – Notice Regarding Details of a Trust

Clause 131 (C1) of the ordinance establishes the duty for providing details of facts regarding the Trust, including details regarding the Settlor, the Beneficiary the Trustee and the protector of the Trust, transfers to the trustee and distributions to the beneficiary.

Form 151H is to be submitted as an Addendum to the annual return (with Form 1301 and Form 1327, as applicable), regarding each of the following Trusts

a. An Israeli Resident Trust or a Testamentary Trust that is regarded as Israeli Resident according to Clause 75 L (C)(1) of the ordinance, only if the Settlor or the Beneficiary did not choose to be assessable or liable according to the regulations of clauses 75G(H) or 75L(E) of the ordinance and was not chosen as representative Settlor or representative Beneficiary, according to the definition in clause 75F1 of the ordinance.
   In this case form151H is to be submitted as an addendum to form 1327 submitted by the Trustee

b. An Israeli Resident Trust or a Testamentary Trust that is regarded as Israeli Resident according to Clause 75 L (C)(1) of the ordinance, where the Settlor of it or the beneficiary of it, as applicable, chose to be assessable and liable for tax according to clause 75G(G) or (H) of the ordinance or clause 75 L (E) or (F) of the ordinance.
   In this case form151H is to be submitted as an addendum to form 1301 submitted by the Settlor or the Beneficiary, as applicable.

c. An Israeli Resident Trust or a Testamentary Trust that is regarded as Israeli
   Resident according to Clause 75 L (C)(1) of the ordinance, where the Settlor
   or the beneficiary of it, chose to be representative Settlor or representative
   Beneficiary, according to the definition in clause 75F1.
   In this case form151H is to be submitted as an addendum to form 1327 submitted by the representative Settlor or the representative Beneficiary, as applicable.

d. Another type of Trust, that does not subscribe to the above clauses a. to c, that has assets or income in Israel.
Form 141 – “Declaration of an Irrevocable Trust”

According to Clause 75C of the ordinance, a Trust that is not a revocable Trust, as defined in the same clause, will be regarded as irrevocable on condition that a legally authorized declaration of the Settlor and the Trustee on its status as Irrevocable is attached.

Submission of Form 141, signed by the Settlor and the Trustee and legally authorized, will fulfill the said condition.

Form 141 is to be submitted in each of the following cases:

- as an addendum to each annual report (on Form 1327) submitted regarding income of an irrevocable Trust;

6 attached to Form 142 (Declaration of a Foreign Beneficiary Trust), that is submitted by the Trustee and by the Settlor (in the case of the Settlor- together with Form 147)

- as an addendum to the annual report of the Trust (Form 1327) that in the case of Trustee income in it that has been distributed to an Israeli-resident Beneficiary, they chose to distribute to that beneficiary to whom the income was distributed, according to Clause 75G(G) of the ordinance.

- as an addendum to the annual return submitted by an Israeli resident beneficiary (on Form 1301), for which it is chosen that income allocated to him from a trustee will be distributed to him, according to clause 75 G(G) of the ordinance.
Unofficial Translation of Explanatory Note to Complete the Forms Regarding the Reporting of Trusts issued by the Israeli Tax Authority.

**Form 142 – “Notice of allocation of Income to a Beneficiary following Distribution”**

According to the Chapter on Trusts the possibility exists to choose that income which is produced or generated in a certain tax year and has been distributed to the beneficiary, will be regarded as income of that beneficiary in that same tax year. This alternative is available to an Israeli resident beneficiary, as follows:

- according to Clause 75G(G) of the ordinance - for an Israeli resident Trust that is an irrevocable Trust;
- according to Clause 75I(B) of the ordinance – for a foreign settlor trust;
- according to Clause 75JB((F) of the ordinance – for a testamentary trust that is regarded as Israeli Resident according to Clause 75JB(C)(1)

The conditions for choosing this alternative:

1. The Distribution was done before the expiration of six months from the end of the tax year in which the income was produced or generated, or up to the submission date of the Annual Report, whichever is earlier.
2. In the report that the Trustee submits for that Trust and for that tax year, that income is described as income allocated to the beneficiary and is not taken into account in the establishment of the income of the trustee for that Trust.
3. The income is included in the annual return (Form 1301) that the beneficiary submitted for that tax year.
4. Form 142, signed by the trustee and the beneficiary to whom income was allocated, is to be submitted to the assessing Officer as an addendum to the annual return (Form 1301) that the beneficiary submits and as an addendum to the Annual return that the trustee submits (Form 1327).

Additional Instructions

- in the cases where the beneficiary submits a personal annual return for the tax year 2006 or 2007, that does not include income that was allocated by the Trust, one must refer to the assessing officer to whom the said personal return was submitted, and report on income derived from his choice of this alternative.
- in the cases where this alternative is chosen, regarding the number of Beneficiaries to whom income is allocated, a separate form 142 must be completed for each beneficiary. The trustee is to attach to the annual return (Form 1327) all the Forms 142 that were completed for that tax year.
Form 143 – “Declaration of a Foreign Beneficiary Trust”

As detailed above, Form 143 is to be submitted as an addendum to the annual return (Form 1327) regarding income of a trustee in a Foreign Beneficiary Trust that has assets or income in Israel.
### Unofficial Translation of Guide Issued by Israeli Tax Office

#### Type of Trust

<table>
<thead>
<tr>
<th>Alternative</th>
<th>Trust Report</th>
<th>Israeli Resident Trust</th>
<th>Allocation to a Beneficiary Pursuant to Distribution</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>75g</td>
<td></td>
<td>75g(g)1</td>
</tr>
</tbody>
</table>

#### Creation of a Trust or Vesting to a Trust

<table>
<thead>
<tr>
<th>Reports/ Notices and the Requirement of Submission</th>
<th>Form 147 (Notice of Trust Establishment &amp;/or Vestment to Trust) – submitted by the Israeli resident settlor to the assessing officer with a copy for the assessing officer in which the settlor file is administered, if applicable</th>
</tr>
</thead>
</table>
| Date of Reporting                                 | 1. In a trust that was created by a settlor while he was Israeli resident – within 90 days of the day established [paragraph 75 o1(a)]
|                                                    | 2. In a trust that was created by a settlor while he was a foreign resident, and reverted to be an Israeli resident trust after his becoming Israeli resident – until 30 April of the year following his Israeli residency or until the date for settlor annual reporting (if it needs to be submitted), as per case [paragraph 75 o1(c)] |

#### Optional Reporting at this Date

<table>
<thead>
<tr>
<th>Form 144 (Notice of Appointment of Representing Settlor/Representing Beneficiary)</th>
<th>Form 148 (Notice of Settlor Income Allocation in an Israeli Resident Trust or Beneficiary Income Allocation as per Will) – attached to form 147</th>
</tr>
</thead>
</table>

#### Annual Reports

<table>
<thead>
<tr>
<th>Reports/ Notices and the Requirement of Submission</th>
<th>Form 1327 (Annual Report of a Trustee of a Trust) – submitted by the trustee3 to the trust’s assessing officer</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Form 1327 (Annual Report of a Trustee of a Trust) – submitted by the trustee3 to the trust’s assessing officer</td>
<td>2. Form 151h (Notice of Details of the Trust) – attached to the annual report of the trust and the beneficiary</td>
</tr>
<tr>
<td>2. Form 151h (Notice of Details of the Trust) – attached to the annual report of the trust</td>
<td>3. Form 144 (Notice of Appointment of Representing Settlor/Representing Beneficiary) 1 – attached to the annual report of the same year that the alternative was chosen. It should be submitted only if it was not otherwise submitted with the notice of vesting in form 147.</td>
</tr>
<tr>
<td>3. Form 148 (Notice of Settlor Income Allocation in an Israeli Resident Trust or Beneficiary Income Allocation as per Will) – attached to the</td>
<td>4. Form 141 (Declaration of an</td>
</tr>
</tbody>
</table>

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1 Only if this alternative was chosen!
2 One may choose the same alternatives that are submitted in the form, until the date of submission for the relevant annual report. Along with this, if at the same time of the report on trust establishment the alternative was chosen, the report designated for reporting on the trust at this time must be submitted.
3 Or the representing settlor, if this alternative was chosen.
<table>
<thead>
<tr>
<th>Date of Reporting</th>
<th>According to the order’s instruction regarding annual submission date [paragraphs 132-133]</th>
</tr>
</thead>
</table>
| Additional Reports at this Date | 1. Notice of change of trust classification, as per paragraph 75o2(a)(2)  
2. Notice of trust termination, as per paragraph 75o2(a)(2)  
- The aforementioned notices will be marked in the place designated, in Form 151h (Notice of Details of the Trust) |
| Reports/ Notices and the Requirement of Submission | 1. **Form 149** (Notice of Distribution Received by Beneficiary During Tax Year)- submitted by an Israeli resident beneficiary that received parity cash distribution, to the assessing officer of the trust with a copy for the assessing officer with whom the file is administered, if exists  
2. **Form 151h** (Notice of Details of the Trust) as an addendum to the annual report (for those requiring submission, as previously stated) – details of the distribution, in the place designated |
| Date of Reporting | 1. Regarding **Form 149** submitted by the beneficiary until 30 April of the year following the year of distribution or until the date the annual report submitted by the beneficiary (if he is required to submit), as per case [paragraph 75o3]  
2. Regarding **Form 151h** (for those requiring submission)- at the time of submission of the annual report |
<table>
<thead>
<tr>
<th>Type of Trust Alternative</th>
<th>Foreign Settlor Trust Trust Report</th>
<th>Allocation to Beneficiary Subsequent to Distribution 75(i)(b)</th>
<th>Foreign Beneficiary Trust</th>
</tr>
</thead>
<tbody>
<tr>
<td>Establishment of a Trust or Vesting to a Trust</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reports/ Notices and the Requirement of Submission</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Date of Reporting</td>
<td>Within 90 days of declaration [paragraph 75o1(a)]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Annual Reports</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reports/ Notices and the Requirement of Submission</td>
<td>1. <strong>Form 1327</strong> (Annual Report of a Trustee of a Trust) – submitted by the trustee to the assessing officer of the trust, only if he had Israeli income or assets 2. <strong>Form 151h</strong> (Notice of Details of the Trust) as an addendum to the annual report. Details in this form regarding vesting and distribution will include only Israeli income and assets</td>
<td>1. <strong>Form 1327</strong> (Annual Report of a Trustee of a Trust) – submitted by the trustee to the assessing officer of the trust. 2. <strong>Form 151h</strong> <strong>Form 151h</strong> (Notice of Details of the Trust) as an addendum to the annual report. 3. <strong>Form 141</strong> (Declaration of an Irrevocable Trust) - attached to the annual trust report. 4. <strong>Form 1301</strong> (Annual Report for an</td>
<td>1. <strong>Form 1327</strong> (Annual Report of a Trustee of a Trust) – submitted by the trustee to the assessing officer of the trust, only if he had Israeli income or assets. 2. <strong>Form 151h</strong> (Notice of Details of the Trust) as an addendum to the annual report. Details in this form regarding vesting and distribution will include only Israeli income and assets 3. <strong>Form 143</strong> (Declaration of a</td>
</tr>
</tbody>
</table>

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4 Only if this alternative was chosen. This paragraph refers to the set directives given in paragraph 75 g (g).
<table>
<thead>
<tr>
<th><strong>Form 142</strong> (Notice of Income Allocation to a Beneficiary Subsequent to Distribution) – attached to the annual report of the trust and the trustee</th>
<th><strong>Form 141</strong> (Declaration of an Irrevocable Trust) – attached as an addendum to the annual report (if there is a requirement for submission) or attached to Form 143 even when there is no requirement for submission.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Date of Reporting</strong></td>
<td>According to the order’s instruction regarding annual submission date [paragraphs 132-133] - Regarding a trust that requires annual reporting, all of the aforementioned forms are to be submitted according to the order’s instruction regarding annual submission date [paragraphs 132-133] - Regarding a trust that doesn’t require annual reporting, Forms 143 and 141 must be submitted until 30 April of the year following the tax year [paragraph 75j(f)]</td>
</tr>
<tr>
<td><strong>Additional Reports at this Date</strong></td>
<td>1. Notice of change of trust classification, as per paragraph 75o2(a)(2) 2. Notice of trust termination, as per paragraph 75o2(a)(2) - The aforementioned notices will be marked in the place designated, in <strong>Form 151h</strong> (Notice of Details of the Trust)</td>
</tr>
</tbody>
</table>
### Trust Distribution

<table>
<thead>
<tr>
<th>Reports/ Notices and the Requirement of Submission</th>
<th>Details of the Trust) if an annual report was submitted, or in Form 143 (Declaration of a Foreign Beneficiary Trust) if an annual report was not submitted.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. Form 149</strong> (Notice of Distribution Received by Beneficiary During Tax Year)- submitted by an Israeli resident beneficiary that received distribution of asset cash value, to the assessing officer of the trust with a copy for the assessing officer with whom the file is administered, if exists</td>
<td><strong>Form 151h</strong> (Notice of Details of the Trust) as an addendum to the annual report (if there was a requirement for submission). Details in this form, in the specified area, will include only Israeli income and assets.</td>
</tr>
<tr>
<td><strong>2. Form 151h</strong> (Notice of Details of the Trust) as an addendum to the annual report (if there was a requirement for submission). Details in this form, in the specified area, will include only Israeli income and assets</td>
<td></td>
</tr>
<tr>
<td><strong>3. Form 151h</strong> (Notice of Details of the Trust) as an addendum to the annual report. Details in this form will include only Israeli income and assets in the specified area.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Date of Reporting</th>
<th>At the time of submission of the annual report.</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Regarding <strong>Form 149</strong> submitted by the beneficiary until 30 April of the year following the year of distribution or until the date the annual report submitted by the beneficiary (if he is required to submit), as per case [paragraph 75o3]</td>
<td><strong>Form 151h</strong> (for those requiring submission)- at the time of submission of the annual report</td>
</tr>
<tr>
<td>- Regarding <strong>Form 151h</strong> (for those requiring submission)- at the time of submission of the annual report</td>
<td><strong>Form 151h</strong> (for those requiring submission)- at the time of submission of the annual report</td>
</tr>
</tbody>
</table>
## Unofficial Translation of Guide Issued by Israeli Tax Office

<table>
<thead>
<tr>
<th>Type of Trust</th>
<th>Trust According to a Will</th>
<th>No Israeli Resident Beneficiaries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alternative</td>
<td>75l(c)(1) At Least One Israeli Resident Exists</td>
<td>75l(c)(2) No Israeli Resident Beneficiaries</td>
</tr>
<tr>
<td></td>
<td>Allocation to Individual Beneficiary 75l(e)⁵</td>
<td>Allocation to a Beneficiary Pursuant to Distribution 75l(g)⁶</td>
</tr>
</tbody>
</table>

### Establishing a Trust or Vesting to a Trust

#### Reports/ Notices and the Requirement of Submission

| Date of Reporting | 75o2(a)(1) Within 90 days of the will’s instruction to establish a trust |

#### Optional Reports at this Time*⁷

| Form 144 (Notice of Appointment of Representing Settlor/ Representing Beneficiary)³ – attached to Form 147 |
| Form 148 (Notice of Settlor Income Allocation in an Israeli Resident Trust or Beneficiary Income Allocation as per Will) – attached to Form 147. In this instance, the forms should also be submitted to the assessing officer who administers the beneficiary’s file. |
| Form 144 (Notice of Appointment of Representing Settlor/ Representing Beneficiary)³ – attached to Form 147 |

### Annual Reports

#### Reports/ Notices and the Requirement of Submission

| 1. Form 1327 (Annual Report of a Trustee of a Trust) – submitted by the trustee to the assessing officer of the trust. 2. Form 151h (Notice of Details of the Trust) as an addendum to the annual trust |
| 1. Form 1327 (Annual Report of a Trustee of a Trust) – submitted by the trustee to the assessing officer of the trust. |
| 1. Form 1327 (Annual Report of a Trustee of a Trust) – submitted by the trustee to the assessing officer of the trust, only if he had Israeli assets or income. |

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⁵ Only if this alternative was chosen!

⁶ Only if this alternative was chosen. This paragraph refers to the set directives given in paragraph 75g(g).

⁷ One may choose the same alternatives that are submitted in the form, until the date of submission for the relevant annual report. Along with this, if at the same time of the report on trust establishment the alternative was chosen, the report designated for reporting on the trust at this time must be submitted.

⁸ Or a representing beneficiary, if this alternative was chosen.
<table>
<thead>
<tr>
<th>Date of Reporting</th>
<th>According to the order’s instruction regarding annual submission date [ paragraphs 132-133]</th>
</tr>
</thead>
</table>

2. **Form 151h** (Notice of Details of the Trust) as an addendum to the annual report. Details in this form regarding vesting and distribution will include only Israeli assets and income.

3. **Form 144** (Notice of Appointment of Representing Settlor/Representing Beneficiary) 5 - as an addendum to the annual report in which the alternative was chosen. To be submitted only if not submitted as an attachment to Notice of Trust Establishment in Form 147.

4. **Form 151h** (Notice of Details of the Trust) as an addendum to the annual report. Details in this form regarding vesting and distribution will include only Israeli assets and income.

5. **Form 148** (Notice of Settlor Income Allocation in an Israeli Resident Trust or Beneficiary Income Allocation as per Will) as an addendum to the report submitted by the beneficiary, only for the year the trust was established (with a copy for the assessing officer of the trust). Submitted only if not submitted as an attachment to Notice of Vesting in Form 147.

6. **Form 141** (Declaration of an Irrevocable Trust) – attached as an addendum to the annual report.

5. **Form 1301** (Annual report for an Individual) – submitted by a beneficiary who was allotted income subsequent to distribution to the assessing officer in which the file is administered with the election symbol of the change in the place specified.

6. **Form 142** (Notice of Income Allocation to a Beneficiary Subsequent to Distribution) – attached to the annual report of the trust and the trustee.
### Additional Reports at this Date

1. Notice of change of trust classification, as per paragraph 75o2(a)(2)
2. Notice of trust termination, as per paragraph 75o2(a)(2)
   - The aforementioned notices will be marked in the place designated, in Form 151h (Notice of Details of the Trust)

### Trust Distribution

<table>
<thead>
<tr>
<th>Reports/ Notices and the Requirement of Submission</th>
<th>Trust Distribution</th>
</tr>
</thead>
</table>
| 1. **Form 149** (Notice of Distribution Received by Beneficiary During Tax Year)- submitted by an Israeli resident beneficiary that received parity cash distribution , to the assessing officer of the trust with a copy for the assessing officer with whom the file is administered, if exists.  
   - In the alternative allocation to an individual beneficiary [as per paragraph 75 l(h)], Form 149 need not be submitted, on condition that the distribution details were included in Form 151(h) submitted as an addendum to the trust report. | Form 151h (Notice of Details of the Trust) as an addendum to the annual report (if there was a requirement for submission). Details in this form, in the specified area, will include only Israeli income and assets. |
| 2. **Form 151h** (Notice of Details of the Trust) as an addendum to the annual report. Details in this form will include only Israeli income and assets. | |

### Date of Reporting

- Regarding **Form 149** submitted by the beneficiary until 30 April of the year following the year of distribution or until the date the annual report submitted by the beneficiary( if he is required to submit), as per case [paragraph 75o3]
  - Regarding **Form 151h** (for those requiring submission)- at the time of submission of the annual report

- At the time of submission of the annual report
Unofficial Translation of Form issued by Israeli Tax Office

Form 141

Declaration of Irrevocable Trusts
According to Chapter 75c of the Income Tax Ordinance (1)

For the Tax Year_______

A. Details of the Trust

<table>
<thead>
<tr>
<th>Details of the Trust</th>
<th>File Number of the Trust (2)</th>
<th>Date Trust Established</th>
<th>Name of Trust (From herein known as the Trust)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>/</td>
<td></td>
</tr>
</tbody>
</table>

Type of Trust

□ Israeli Resident
○ Foreign

Settlor

□ as per a will,
whereby at least one of the beneficiaries is an Israeli resident

□ Foreign
Beneficiary

□ as per a will,
where none of the beneficiaries is an Israeli resident

Date of Death

B. Characteristics (3) of the Trust

A. Not able to revoke the trust, to transfer or to return assets or to benefit from assets to one of the following: the Settlor, the spouse of the Settlor, the estate of the Settlor or a “held body of persons” (4) and all is direct or indirect

B. The Settlor or his spouse is not a beneficiary of the trust

C. The Settlor or his spouse cannot become trustees of the trust

D. The child of the Settlor, that this tax year is under 18, is not a trustee of the trust as long as the Settlor or his spouse is still alive

E. It is impossible to transfer assets or income to the Settlor’s child that is under 18, directly or indirectly, if the settler or his spouse is still alive

F. “Held body of persons” is not a beneficiary of the trust

G. The Settlor or the “held body of persons” are not used as a trustee or a protector of the trust

H. The Trustee or the protector of the trust is not a relative (5) (6)

I. The Settlor or his relative cannot direct the activity of the trust

J. The Settlor or his relative, cannot directly or indirectly to guide the trustee in manners of governing the trust, its assets, changing of beneficiaries or distribution of the trust’s assets or income

K. The trustee is not mandated to get permission, either directly or indirectly, from the settler or his relative to enact a specific action

L. The Settlor or his relative are not allowed to advise, directly or indirectly, to revoke the trust or to change trustees except according to that which is legal

M. Within the trust there cannot be a trustee (7) whose identity is unknown

N. There cannot be a stockholder whose identity is unknown, directly or indirectly, in “held body of persons” that is a trustee of the trust

O. No additional or change of Trustees, during the tax year, unless pre-determined in the bylaws of the trust

C. Declaration of the Trust

I, the undersigned, after I have been instructed to relay the truth, and will be subject to legal punishment if I do otherwise, affirm with my signature that all of the details are correct according to my knowledge, this trust is an “irrevocable trust” according to chapter 75c if the Income Tax
### Ordinance (new version) 1961

<table>
<thead>
<tr>
<th>Date</th>
<th>Name</th>
<th>ID Number</th>
<th>Type of ID</th>
<th>Signature</th>
</tr>
</thead>
</table>

**Certified Signature by an Attorney**

I, the undersigned, affirm that on this date _/_/ appeared before me

□ who is known to me personally  □ I identified according to his identity card number

Upon his identification he has been instructed to relay only truth and is subject to punishment according to law if he does not comply, I have instructed these instructions and signed before

<table>
<thead>
<tr>
<th>Date</th>
<th>Name</th>
<th>ID Number</th>
<th>Type of ID</th>
<th>Signature and stamp</th>
</tr>
</thead>
</table>

**D. Settlor Declaration** (except in the case of a will)

I, the undersigned, after I have been advised to declare only the truth and after knowing that I will be subject to legal punishment if otherwise, attest with my signature that the above details are correct according to my understanding, the trust is an “irrevocable trust” as outlined in chapter 75c of the new Income Tax Ordinance-1961

<table>
<thead>
<tr>
<th>Date</th>
<th>Name</th>
<th>ID Number</th>
<th>Type of ID</th>
<th>Signature</th>
</tr>
</thead>
</table>

**Certified Signature by an Attorney**

I, the undersigned, affirm that on this date _/_/ appeared before me

□ who is known to me personally  □ I identified according to his identity card number

Upon his identification he has been instructed to relay only truth and is subject to punishment according to law if he does not comply, I have instructed these instructions and signed before

<table>
<thead>
<tr>
<th>Date</th>
<th>Name</th>
<th>ID Number</th>
<th>Type of ID</th>
<th>Signature and stamp</th>
</tr>
</thead>
</table>

---

1. This form is to be used under the following conditions
   1. As an addendum to the annual report in the irrevocable trust file where a mandatory annual report according to chapter 131 of the ordinance has been established
   2. As an attachment with Form 143 (Declaration of Foreign Trusteeship of a Trust) whether submitted by the Executor or by the Trustee
   3. As an attachment to Form 142 (Statement of the Relationship of Income to the beneficiary in determining Distribution)

2. Trust registration number with the Israeli Assessing Officer, if applicable

3. These characteristics, as they apply to a foreign beneficiary only, “Settlor” – excluding one considered executor according to chapter 75d (a)(3) or (4) in the Ordinance, and of these only

4. “held body of persons” excluding public institutions that 10% or more of the governing body that is “held” by the Settlor, his spouse or child that within the tax year is under 18 whilst the author or his spouse is still alive

5. “relative” as defined in articles (1) through (3) defining a relative in chapter 88 of the ordinance

6. One can turn to the Tax Authority to prove that there were mitigating circumstances to appoint a relative as a trustee and his ability to advise the trust will not be affected

7. One can turn to the Assessing Officer to prove that the same trustee or stockholder in the body-of-persons that he is a trustee cannot be the Settlor, his spouse or child under 18 or “held body of persons”

8. Identity number:

   **For an Israeli Citizen - a Teudat Zehut**
   For an individual who incorporated in Israel or registered with the Israeli Company Registrar -
   Registration number allocated by the Israeli Company Registrar
   An individual who is not an Israeli citizen - A personal number, as determined by income tax registrant.

   If a number has not been issued by the income tax authorities, he must register the number with the country of residence of the same “Held body of persons” and attach the incorporation certification that was issued in the same country.
**Unofficial Translation of Form issued by Israeli Tax Office**

The Israel Tax Authority

**Notification of Award of Income to a Beneficiary following Distribution**

From an Israeli Resident Trust, a Foreign Settlor Trust or a Testamentary Trust

According to Paragraphs 75 G(G), 75I(B) or 75L(F) of the Income Tax Ordinance

**Addendum to the Annual Tax Return for the Year __________**

**Trust Details**

<table>
<thead>
<tr>
<th>Trust File Number (2)</th>
<th>Date of Settlement of the Trust</th>
<th>Name of the Trust (henceforth: The Trust)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

**Details of the Beneficiary Awarded Income Following Distribution (henceforth: The Reporting Beneficiary)**

<table>
<thead>
<tr>
<th>Name</th>
<th>Identification Number (3)</th>
<th>Type of Identification Number(3)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Details of the Reporting Trustee (4)**

<table>
<thead>
<tr>
<th>Name</th>
<th>Identification Number (3)</th>
<th>Type of Identification Number(3)</th>
<th>Country of Residence</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
</tbody>
</table>

**Type of Trust:** (Insert ✓ in the applicable box) **Israeli Resident** **Foreign Settlor** **Testamentary**

A. The Trust is an “irrevocable trust” (5), as defined in clause 75(c) of the Ordinance.

B. The Reporting Beneficiary is an Israeli resident.

C. The Trust distributed income that was produced or earned in the current tax year, to the Reporting Beneficiary, as detailed below (6):

<table>
<thead>
<tr>
<th>Date of Distribution</th>
<th>Amount of Income Distributed</th>
<th>Source of the Income from which the Distribution was made</th>
</tr>
</thead>
<tbody>
<tr>
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</tr>
<tr>
<td><strong>Total:</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

D. The amounts of income detailed in Clause C above, were distributed in cash to the Reporting Beneficiary either before the expiry of 6 months from the end of the tax year during which the income was produced or earned, or until the time of submitting the Return for the said tax year, whichever is earlier.

E. We declare our choice that the distributed Trust income as detailed above is considered as income of the Reporting Beneficiary. We are aware that this choice determines that the Beneficiary will include the income in the return that will be submitted according to Clause131 as stated in Clause 75G(G)(3), for that tax year and the Beneficiary will report as stated in Clause 75G(G)(2).

We declare that the information submitted in this form is complete and correct.
<table>
<thead>
<tr>
<th>Details of the Reporting Trustee and his signature</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name</td>
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<tr>
<td>------</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Details of the Reporting Beneficiary and his signature</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name</td>
</tr>
<tr>
<td>------</td>
</tr>
</tbody>
</table>

(1) The addendum is to be submitted by the Trustee of the Trust, the “Representative Settlor” or the “Representative Beneficiary, as appropriate and by the beneficiary awarded the income following distribution – as an addendum to the annual return submitted by each one of them.

(2) The Trust Registration Number with the Assessing Officer in Israel.

(3) Identification Number:
For an Israeli Citizen – Identity Number
For an association incorporated in Israel or registered with the Registrar of Companies in Israel – the registration number issued by the Registrar of Companies in Israel.
For a Non-Israeli Citizen – entity number, as determined by the Income Tax listings. If a number has not yet been determined by the income tax listings, one must submit a passport number and attach a photocopy of the passport.
For an association incorporated outside of Israel and not registered with the Registrar of Companies in Israel – entity number, as determined by the Income Tax authority. If a number has not yet been determined by the income tax listings one must submit the entity number from the same country of residence as the association and include the Certificate of Incorporation that was issued in that country.

(4) The details of the “Reporting Beneficiary” or of the “Representative Settlor” or of the “Representative Beneficiary”, as applicable, according to the Return submitted in the file of that Trust.

(5) A Declaration of Irrevocable Trust must be attached – Form 141.

(6) If the income was produced or earned in the tax year from different sources - the distributed amount awarded to the beneficiary as income, should be done proportionately from each type of income source, unless it is established in the Trust Deeds that a particular source of income is specifically for that beneficiary and the income is not distributed.
**Unofficial Translation of Form issued by Israeli Tax Office**

**Declaration by a Foreign Trustee of a Trust**

According to Chapter 75 j(f) and 75 j (a)(4)(b) of the Income Tax Ordinance (1)

For the Tax Year ___________

### Trust Details

<table>
<thead>
<tr>
<th>Trust’s File Number (2)</th>
<th>Date Trust Established</th>
<th>Name of Trust (Herein: <strong>The Trust</strong>)</th>
</tr>
</thead>
</table>

### Change in the Types of Trust / Termination of Trust

- [ ] no change in the type of trust for the tax year
- [ ] Type of trust differs from the trust _____ to a foreign trust beneficiary
- [ ] The trust was terminated on _______________
  - Reason for the change: _______________________

### Details of the reporting trustee (3)

<table>
<thead>
<tr>
<th>Name</th>
<th>Identity Number (4)</th>
<th>Type of Identity Number</th>
<th>Country of residence</th>
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</thead>
</table>

<table>
<thead>
<tr>
<th>Postal Address</th>
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</thead>
</table>

### Israeli Postal Address (5)

<table>
<thead>
<tr>
<th>Name</th>
<th>Identity Number</th>
<th>Type of Identity Number</th>
<th>Country of residence</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Postal Address</th>
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</thead>
</table>

### Details of the Trust Protector

<table>
<thead>
<tr>
<th>Name</th>
<th>Identity Number</th>
<th>Type of Identity Number</th>
<th>Country of residence</th>
</tr>
</thead>
</table>

### Details of the beneficiary and his signature

<table>
<thead>
<tr>
<th>Name</th>
<th>Identity Number</th>
<th>Type of ID Number</th>
<th>Country of Residence</th>
<th>Signature</th>
<th>Date</th>
</tr>
</thead>
</table>

### Details of all of the Trustees

<table>
<thead>
<tr>
<th>Name</th>
<th>Identity Number</th>
<th>Type of Identity Number</th>
<th>Country of residence</th>
</tr>
</thead>
</table>

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### Details of all of the Settlors

<table>
<thead>
<tr>
<th>Name</th>
<th>Identity Number</th>
<th>Type of Identity Number</th>
<th>Country of residence</th>
</tr>
</thead>
</table>

- | | | |
- | | | |
### Details of all the Beneficiaries (6)

<table>
<thead>
<tr>
<th>Name</th>
<th>Identity Number</th>
<th>Type of Identity Number</th>
<th>Country of residence</th>
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</tbody>
</table>

### Distribution Details (7) (to be completed only when the form is submitted by a trustee)

<table>
<thead>
<tr>
<th>Date of Distribution</th>
<th>NIS amount of Distribution</th>
<th>Details of the distributed Asset - if the distribution was monetarily equivalent</th>
<th>Name of the Beneficiary</th>
<th>Country of Residence</th>
</tr>
</thead>
<tbody>
<tr>
<td>/ /</td>
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<td>/ /</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

A. Correct at the end of the tax year, the trust is “foreign trustee of a trust” as delineated in chapter 75 (1) of the Income Tax Ordinance (new version) 1961 (herein: The Ordinance)
B. There is no Israeli resident trustee in the trust, as delineated “Israeli resident” in chapter 75c of The Ordinance
C. There is no Israeli resident trustee in the trust who by the trust is entitled to be Israeli resident, as delineated in chapter 75c of the Ordinance
D. An additional trustee cannot be added as stated in chapters b and c above
E. This trust is irrevocable. Attached below is the declaration of an Irrevocable trust – form 141
I Declare That the Details given in this Form are Complete and Correct

Details and signature of the Individual completing this Declaration

<table>
<thead>
<tr>
<th>Name</th>
<th>Identity Number</th>
<th>Type of ID Number</th>
<th>Country of Residence</th>
<th>Signature</th>
<th>Date</th>
</tr>
</thead>
</table>

The document will be submitted under these circumstances:

a. by the trustee, as a supplement to the annual foreign trustee of a trust report that requires annual reporting and for trusts that do not require annual reporting, up until the 30th April of the year following the tax year

b. by the settler, as a one time notification according to chapter 75j (a)(4)(b), attached to notification of trust establishment (form 147)

2 The trust registration number with the assessing officer, if there is

3 If the trust has more than one trustee:
   - the reporting trustee should be one of the trustees before whom the assessing officer will post all notifications, requests, etc.
   - if amongst the trustees at least one is Israeli resident, the reporting trustee should be Israeli resident
   - every one of the settlors that requires receipt of this notice should affirm the reporting trustee.

4 The Identity Number:
For an Israeli Citizen – Teudat Zehut
For a body of individuals that incorporated in Israel or registered with the Israeli Company Registrar – The number allocated by the Israeli Company Registrar
For a non Israeli Citizen - personal number, as allocated by the income tax authority. If no number has been allocated by the income tax authority, one must register passport number and attach a photocopy of the passport
For a body of individuals which incorporated outside of Israel and are not registered with the Israeli Company Registrar - personal number, as allocated by the income tax authority. If no number has been allocated by the income tax authority, one must register the personal number from the same country of residence as the body of individuals and include incorporation documentation that was issued in that country.

5 One must complete this field only when the reporting trustee is a foreign resident

6 In the event a beneficiary is a body of individuals (excluding public institutions) one must include a holder of one or more, of any type of intermediary governor, directly or indirectly, in the same body of individuals

7 Distribution of assets in Israel or income from Israeli assets, including distribution at the termination of the trust
Unofficial Translation of Form issued by Israeli Tax Office

Form 144

Notification of Choosing a Settlor Representative / Beneficiary Representative

According to Chapter 75 f1 of the Income Tax Ordinance (1)

For the Tax Year ____________

Trust Details

| Trust’s File Number (2) | Date Trust Established / / / | Name of Trust (Herein: The Trust) | Type of Trust
|-------------------------|-----------------------------|----------------------------------|-------------------|

We hereby affirm that the assess ability and accountability of tax for the trust income and for income activities of the trust (herein: “Representative Taxpayer”) will be:

☐ Israeli Resident Trust- “Settlor Representative whose details are:

☐ According to Will

“Representative Beneficiary” whose details are:

Details of the representative taxpayer

<table>
<thead>
<tr>
<th>Name</th>
<th>Identity Number (3)</th>
<th>Type of Identity Number</th>
<th>Israeli Postal Address (for the representative taxpayer)</th>
</tr>
</thead>
</table>

A. The representative taxpayer is an Israeli resident.
B. There is no trustee of the trust that is an Israeli resident.
C. The trustee must submit to the representative taxpayer all required information for him to attain a complete understanding of the trustee or the income of the trustee.
D. We are aware that this appointment is for future tax years as well, and a new selection is not needed as long as the representative taxpayer remains Israeli resident and alive.
E. We are aware that the directions of chapter 75 f1 apply only as long as the representative taxpayer is Israeli resident and as long as there is no trustee of the trust who is Israeli resident.

We are mandated to report to the assessing officer if the representative taxpayer ceases to be Israeli resident or in the event that one of the trustees becomes an Israeli resident or if an Israeli resident is added as an additional trustee.

We Affirm That the Details We Have Provided in this Form are Complete and Accurate

Details of the trustees and their signatures

<table>
<thead>
<tr>
<th>Name</th>
<th>Identity Number</th>
<th>Type of ID Number</th>
<th>Country of Residence</th>
<th>Signature</th>
<th>Date</th>
</tr>
</thead>
</table>

Details of the remaining settlors or beneficiaries and their signatures (4)

<table>
<thead>
<tr>
<th>Name</th>
<th>Identity Number</th>
<th>Type of ID Number</th>
<th>Country of Residence</th>
<th>Signature</th>
<th>Date</th>
</tr>
</thead>
</table>

The document will be submitted by the representing Settlor or the representing beneficiary, as per the situation, attached to the annual trust statement according to chapter 131 of the ordinance, for the first
year of a trust where the Settlors, trustees and beneficiaries were chosen, as per the situation, at the beginning of instruction chapter 75 fl.

- This document may be submitted along with form 147 (Notification of the Establishment of a Trust &/or Acquisition into a Trust) that is submitted prior to the annual trust statement, by the representing Settlor or the representing beneficiary, as per situation.

2 The trust registration number with the assessing officer, if there is

3 The Identity Number:
   - For an Israeli Citizen – Teudat Zehut
   - For a body of individuals that incorporated in Israel or registered with the Israeli Company Registrar – The number allocated by the Israeli Company Registrar
   - For a non Israeli Citizen - personal number, as allocated by the income tax authority. If no number has been allocated by the income tax authority, one must register passport number and attach a photocopy of the passport
   - For a body of individuals which incorporated outside of Israel and are not registered with the Israeli Company Registrar - personal number, as allocated by the income tax authority. If no number has been allocated by the income tax authority, one must register the personal number from the same country of residence as the body of individuals and include incorporation documentation that was issued in that country

4 In an Israeli resident trust all other settlors must fill in their details and sign. In a trust according to a will, all other beneficiaries must sign.
Unofficial Translation of Form issued by Israeli Tax Office
Form 147
The Israel Tax Authority

Notification of Creation of a Trust or Transfer to a Trust
According to Paragraphs 75I (G)1 and 75I G 2(A) (1) of the Income Tax Ordinance 1

I submit this notice:
□ As an Israeli Resident Settlor, following transfer to a Trust
□ As a Settlor, due to the change of the Trust to an Israeli Resident Trust or to a Foreign Beneficiary Trust, following my Aliyah or my return to Israel on date ____________
□ As a Trustee, due to the establishment of a Testamentary Trust

Trust Details

<table>
<thead>
<tr>
<th>Name of the Trust (herein: The Trust)</th>
<th>Date of Settlement of the Trust</th>
<th>Trust</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>

□ Revocable □ Irrevocable 2

□Israeli resident □ Testamentary Trust, with at least one Israeli Resident beneficiary
□Foreign Beneficiary 3 □ Testamentary Trust, with no Israeli Resident beneficiaries

Date of Settlor’s Death

Details of 3: □ Reporting Trustee □ Representative Settlor □ Representative Beneficiary □ Tax Assessable and Liable Settlor □ Tax Assessable and Liable Beneficiary

<table>
<thead>
<tr>
<th>Name</th>
<th>Identity Number 5</th>
<th>Type of Identity Number 5</th>
<th>Country of Residence</th>
</tr>
</thead>
<tbody>
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</table>

Postal Address

Address for Postal Delivery in Israel 5

<table>
<thead>
<tr>
<th>Name</th>
<th>Identity Number 5</th>
<th>Type of Identity Number 5</th>
</tr>
</thead>
<tbody>
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</table>

Postal Address

Details of the Trust Protector

<table>
<thead>
<tr>
<th>Name</th>
<th>Identification Number 5</th>
<th>Type of Identity Number 5</th>
<th>Country of Residence</th>
</tr>
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</table>

Details of all the Trustees

<table>
<thead>
<tr>
<th>Name</th>
<th>Identification Number 5</th>
<th>Type of Identity Number 5</th>
<th>Country of Residence</th>
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</table>

Names of all the Settlors/Details of all the Testators

<table>
<thead>
<tr>
<th>Name</th>
<th>Identification Number 5</th>
<th>Type of Identity Number 5</th>
<th>Country of Residence</th>
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</tbody>
</table>
**Names of all the Beneficiaries**

<table>
<thead>
<tr>
<th>Name</th>
<th>Identification Number</th>
<th>Type of Identity Number</th>
<th>Country of Residence</th>
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<tbody>
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</tbody>
</table>

**Transfers to a Trust**

During the Tax year I transferred to the Trust, as detailed above, assets and/or income from assets as detailed below:

<table>
<thead>
<tr>
<th>Date of Transfer</th>
<th>Description of Asset/Income</th>
<th>Original Price NIS to the Settlor</th>
<th>Balance of Original Price/Balance of purchase value NIS at date of Transfer</th>
<th>Date of Acquisition of the Asset by the Settlor</th>
<th>Amount of the Transfer NIS</th>
<th>Payment Received</th>
</tr>
</thead>
<tbody>
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**Details and Signature of Submitter**

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<thead>
<tr>
<th>Name</th>
<th>Identity No</th>
<th>Type of I.D. No</th>
<th>Signature</th>
<th>Date</th>
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This form is to be submitted in the following circumstances:

a. By a Settlor who created a trust or transferred an asset to a Trust while he was Israeli resident – Within 90 days of the creation or the transfer.

b. By a Settlor who created a trust or transferred an asset to a Trust while he was Foreign resident and afterwards became a Israeli Resident for the first time, or a returning resident – until 30 April of the year following his Aliyah or his return to Israel, and if he was obliged to submit an Annual Return for the year of his Aliyah or his return, at the time of submitting the return.

c. By the Trustee of a Testamentary Trust - Within 90 days of the establishment of that Trust

In cases mentioned in paragraphs A or B above, the form is to be submitted by the Settlor to the Tax Assessor of the Trust (see the explanatory notes for the forms) and a copy is to be submitted to the Tax Assessor who deals with the file of the Settlor, if applicable.

In the case mentioned in paragraph C above, the form is to be submitted by the Trustee to the Tax Assessor of the Trust.

---

2 Form 141 – Declaration of an Irrevocable Trust to be attached
3 Form 143 – Declaration of Foreign Beneficiary Trust to be attached
4 If a Settlor or Beneficiary is chosen who is Assessable or is liable for tax due to Income of the Trustee according to paragraph 75G(H) this field must contain the details of the Settlor or the Trustee as applicable, and Form 148 is to be attached (Notification of Income Allocation for a Settlor of an Israeli Resident Trust or Income Allocation for a Beneficiary of a Testamentary Trust).
   - If a “Representative Settlor” or a “Representative Beneficiary” is appointed according to paragraph 75 F1 of the Ordinance, this field must be completed with details of the Representative Settlor or the Representative Beneficiary, as applicable, and Form 144 is to be Attached (Notification of Appointment of Representative Settlor or Representative Beneficiary)
- the reporting Trustee will be one of the trustees of the trust with whom the assessing officer will deal in all matters pertaining to submitting notices, demands etc.
- If the trust has at least one trustee who is Israeli resident, the Reporting Trustee will be the Israeli resident.
- Each of the Settlors who is obligated to submit this notice, should indicate the same Reporting Trustee.

5 The Identification Number:
- For an Israeli Citizen – Identity Number
- For an association incorporated in Israel or registered with the Registrar of Companies in Israel – the registration number issued by the Registrar of Companies in Israel.
- For a Non-Israeli Citizen – entity number, as determined in the Income Tax listings. If an entity number has not yet been determined in the income tax listings, one must submit a passport number and attach a photocopy of the passport.
- For an association incorporated outside of Israel and not registered with the Registrar of Companies in Israel – entity number, as determined by the Income Tax listings. If a number has not yet been determined in the income tax listings one must submit the entity number from the same country of residence as the association and include the Certificate of Incorporation that was issued in that country.

6 This field must be completed only if the reporting Trustee is a foreign resident and has not been appointed “Representative Settlor” or “Representative Beneficiary” or if he is a Settlor who is assessable and liable for tax or if he is a Beneficiary who is assessable and liable for tax, whichever is applicable.

7 In the case of a Beneficiary who is an Association (excluding a Public Institution) all those who hold one or more of any type of methods of control, directly or indirectly, in that association.

8- The Settlor submitting this notice regarding a Trust that was created before the date of inception (1.1.2006), should indicate the details of the assets transferred to the Trust from the date of creation of the Trust to the Tax Year for which he is submitting this notice.
- The Settlor submitting this notice according to paragraph IG 1(c) of the ordinance should indicate the details of the assets transferred to the Trust from the date of creation of the Trust to the Tax Year for which he is submitting this notice, but for not more than five years prior to the tax year that he became Israeli resident.

9 In the case of a cash vestment to a trust, only these fields should be detailed: Date of Transfer, Description of the asset/income, and Amount of the transfer in NIS.

10 For property in Israel, the Plot # and the Portion # must be indicated.

11 “Original Price” and “Balance of Purchase Value” – as defined in paragraph 88 of the Ordinance. “Purchase value” and “Balance of Purchase Value” – as defined in paragraph 5(B)(3) of the Property Tax Law.

12 For transfer of an asset that is not cash – indicate the market value of the transferred asset.

13 This field is to be completed only if payment is received for transfer of assets to the trustee or when the transfer constitutes a sale according to the instructions of the ordinance and the regulations it empowers.
Unofficial Translation of Form issued by Israeli Tax Office

Form 148

Notification of Income Allocation for a Settlor of an Israeli Resident Trust
Or Income Allocation for a Beneficiary of an Israeli Resident Trust
According to Chapter 75 g (h) or 75 l (e) of the Income Tax Ordinance

<table>
<thead>
<tr>
<th>Trust Details</th>
<th></th>
<th></th>
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<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Trust’s File Number</td>
<td>Date Trust Established</td>
<td>Name of Trust (Herein: The Trust)</td>
<td>Type of Trust</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>□ Israeli Resident □ According to Will</td>
<td></td>
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</tr>
</tbody>
</table>

Details of the Settlor (for an Israeli resident trust) Details of the Beneficiary (for a trust according to a will) that are assessable and accountable (herein: “The Reporting Taxpayer”)

<p>| | | | |</p>
<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>Details of the Testator/ Testators (for trusts according to wills)</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Name</td>
<td>Identity Number</td>
<td>Type of Identity Number</td>
<td></td>
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</tr>
</tbody>
</table>

F. The reporting taxpayer is either the settlor or the sole beneficiary of the trust, or he and his spouse are the sole settlors or beneficiaries of the trust, as per the situation.

G. The reporting taxpayer is the sole Israeli resident.

H. We affirm that our choice for reporting taxpayer is assessable and tax accountable for trust income, and he will include all of the trust income in the submitted report according to chapter 131 of the ordinance.

I. We are aware that this appointment is for future tax years as well, and a new selection is not needed as long as the representative taxpayer remains Israeli resident and alive.

We Affirm That the Details We Have Provided in this Form are Complete and Accurate

Details of the trustees and their signatures

<p>| | | | | | | |</p>
<table>
<thead>
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</table>

Details of the representative taxpayer and his signature

| | | | | | | |

The document will be submitted by the representing Settlor or the representing beneficiary, as per the situation, attached to the annual trust statement according to chapter 131 of the ordinance, for the first year of a trust where the Settlors, trustees and beneficiaries were chosen, as per the situation, at the beginning of instruction chapter 75 f1.

- This document may be submitted along with form 147 (Notification of the Establishment of a Trust &/or Acquisition into a Trust) that is submitted prior to the annual trust statement, by the representing Settlor or the representing beneficiary, as per situation.
2 The trust registration number with the assessing officer, if there is
3 The Identity Number:
   For an Israeli Citizen – Teudat Zehut
   For a body of individuals that incorporated in Israel or registered with the Israeli Company Registrar – The number allocated by the Israeli Company Registrar
   For an Israeli Citizen – personal number, as allocated by the income tax authority. If no number has been allocated by the income tax authority, one must register passport number and attach a photocopy of the passport
   For a body of individuals which incorporated outside of Israel and are not registered with the Israeli Company Registrar - personal number, as allocated by the income tax authority. If no number has been allocated by the income tax authority, one must register the personal number from the same country of residence as the body of individuals and include incorporation documentation that was issued in that country
4 A beneficiary of a trust according to a will only – upon condition that the beneficiary is an Israeli resident, from the 2009 tax year and thereafter.
Unofficial Translation of Form issued by Israeli Tax Office

Notification of Distributions Received by a Beneficiary
For the Tax Year ___________
According to Chapter 75 p3 of the Income Tax Ordinance (1)

Trust Details

<table>
<thead>
<tr>
<th>Trust’s File Number (2)</th>
<th>Date Trust Established</th>
<th>Name of Trust (Herein: The Trust)</th>
</tr>
</thead>
<tbody>
<tr>
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</table>

Details of the Settlors

<table>
<thead>
<tr>
<th>Name</th>
<th>Identity Number (3)</th>
<th>Type of Identity Number</th>
<th>Country of Residence</th>
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</thead>
<tbody>
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</table>

Details of (4): □ Trustee □ Reporting Trustee □ Settlor Representative □ Assess able Accountable Settlor □ Assess able Accountable Beneficiary

Type of Trust: □ Israeli resident □ foreign settlor □ as per will

During the tax year, the aforementioned trust distributed the following assets that are not monetary

<table>
<thead>
<tr>
<th>Date of Distribution</th>
<th>Description of Asset Distributed</th>
</tr>
</thead>
<tbody>
<tr>
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</tr>
</tbody>
</table>

Details of the beneficiary and his signature

<table>
<thead>
<tr>
<th>Name</th>
<th>Identity Number</th>
<th>Type of ID Number</th>
<th>Country of Residence</th>
<th>Signature</th>
<th>Date</th>
</tr>
</thead>
<tbody>
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</tbody>
</table>

The document will be submitted by the representing Settlor or the representing beneficiary, as per the situation, attached to the annual trust statement according to chapter 131 of the ordinance, for the first year of a trust where the Settlors, trustees and beneficiaries were chosen, as per the situation, at the beginning of instruction chapter 75 f1.

- This document may be submitted along with form 147 (Notification of the Establishment of a Trust &/or Acquisition into a Trust) that is submitted prior to the annual trust statement, by the representing Settlor or the representing beneficiary, as per situation.

2 The trust registration number with the assessing officer, if there is
3 The Identity Number:
For an Israeli Citizen – Teudat Zehut
For a body of individuals that incorporated in Israel or registered with the Israeli Company Registrar –
The number allocated by the Israeli Company Registrar
For a non Israeli Citizen - personal number, as allocated by the income tax authority. If no number has been allocated by the income tax authority, one must register passport number and attach a photocopy of the passport
For a body of individuals which incorporated outside of Israel and are not registered with the Israeli Company Registrar - personal number, as allocated by the income tax authority. If no number has been allocated by the income tax authority, one must register the personal number from the same country of residence as the body of individuals and include incorporation documentation that was issued in that country
4 One must enter the details of one of the choices in accordance with the account that was submitted for the same trust.
### Unofficial Translation of Form issued by Israeli Tax Office

**Trust’s File Number**

---

**Notification of Trust Details**

According to Chapter 131(c1) of the Income Tax Ordinance

**Addendum to the Annual Report for the Tax Year ___________**

Place √ in the appropriate box

---

#### Trust Details

<table>
<thead>
<tr>
<th>Name of Trust (herein: the Trust)</th>
<th>Date Trust Established / /</th>
<th>Licensed Dealer Number</th>
<th>□ Revocable</th>
<th>□ Irrevocable 2</th>
</tr>
</thead>
</table>

**Type of Trust** (as per end of the tax year)

- □ Israeli resident
- □ foreign settlor
- □ foreign beneficiary 3
- □ As per will, where at least one beneficiary is Israeli resident
- □ As per will, where none of the beneficiaries is Israeli resident

**Date of death of settlor**

---

#### Change in the Types of Trust / Termination of Trust

- □ no change in the type of trust for the tax year
- □ The trust was terminated on ________________
- □ Type of trust differs from the trust _____ to a foreign trust beneficiary
- □ Reason for the change ________________

---

**Details of**

- □ reporting trustee
- □ presenting settlor
- □ presenting beneficiary
- □ Assess ability Accountability settlor
- □ Assess ability Accountability beneficiary

<table>
<thead>
<tr>
<th>Name</th>
<th>Identity Number 5</th>
<th>Type of Identity Number</th>
<th>Country of residence</th>
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**Postal Address**

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**Israeli Postal Address**

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<tr>
<th>Name</th>
<th>Identity Number</th>
<th>Type of Identity Number</th>
<th>Country of residence</th>
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**Postal Address**

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**Details of the Trust Protector**

<table>
<thead>
<tr>
<th>Name</th>
<th>Identity Number</th>
<th>Type of Identity Number</th>
<th>Country of residence</th>
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<tbody>
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</table>
### Details of all of the Trustees

<table>
<thead>
<tr>
<th>Name</th>
<th>Identity Number</th>
<th>Type of Identity Number</th>
<th>Country of residence</th>
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</table>

### Details of all the Settlors / All of the Testators (for trusts as per wills)

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<tr>
<th>Name</th>
<th>Identity Number</th>
<th>Type of Identity Number</th>
<th>Country of residence</th>
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### Details of all the Beneficiaries

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<thead>
<tr>
<th>Name</th>
<th>Identity Number</th>
<th>Type of Identity Number</th>
<th>Country of residence</th>
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</table>

For the tax year distributed &/or transferred to the beneficiaries listed below, income or income from assets

<table>
<thead>
<tr>
<th>Date of Distribution</th>
<th>Beneficiary’s Identity Number</th>
<th>NIS Amount of Distribution</th>
<th>Description of Asset / Income</th>
<th>Acquisition Date</th>
<th>NIS Original Price/ Replacement Value</th>
<th>NIS Balance Original Price/ Replacement Value</th>
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</tbody>
</table>

100
Vestings to a Trust beginning from the establishment of the Trust Vested to the Trust, whose Details are Listed Below income or Income from Assets as Described Below

<table>
<thead>
<tr>
<th>Date of Vesting</th>
<th>Description of Asset / Income</th>
<th>NIS Original Price/ Replacement Value by the settlor</th>
<th>NIS Balance Original Price/ Replacement Value on the day of vestment</th>
<th>Acquisition Date by the Settlor</th>
<th>NIS Amount of Vestment</th>
<th>Consideration Received</th>
</tr>
</thead>
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</table>

Details and signature of the Individual Completing this Declaration

<table>
<thead>
<tr>
<th>Name</th>
<th>Identity Number</th>
<th>Type of ID Number</th>
<th>Country of Residence</th>
<th>Signature</th>
<th>Date</th>
</tr>
</thead>
</table>

The trust registration number with the assessing officer, if there is

- Form 141 must be attached (Declaration of an Irrevocable Trust)
- Form 143 must be attached (Declaration of Foreign Trustee)
- If a settler or a beneficiary that is tax assess able and accountable was chosen for trust income according to chapter 75g (h) or 75 l(e), one must complete this field with the details of the settler or the beneficiary as applicable, for the first year that a trust report was submitted to the bursar and this switch was chosen, form 148 must be added (Notice of Income Allocation for a Settler for Foreign Trusts or on Allocation to a Beneficiary as per a Will) unless form 147 was already submitted by the settler or the trustee.

- if a “Representing Settlor” or a “Representing Beneficiary” was chosen according to chapter 75fl of the Ordinance, this field must be completed with the details of the representing settler or the representing beneficiary for the first year that a trust report was submitted to the bursar and this switch was chosen, form 144 must be included (Notification of the Election of a Representing Settlor or Representing Beneficiary) unless form 147 had already been submitted by the settler or trustee.

The Identity Number:
For an Israeli Citizen – Teudat Zehut
For a body of individuals that incorporated in Israel or registered with the Israeli Company Registrar – The number allocated by the Israeli Company Registrar
For a non Israeli Citizen - personal number, as allocated by the income tax authority. If no number has been allocated by the income tax authority, one must register passport number and attach a photocopy of the passport
For a body of individuals which incorporated outside of Israel and are not registered with the Israeli Company Registrar - personal number, as allocated by the income tax authority. If no number has been allocated by the income tax authority, one must register the personal number from the same country of residence as the body of individuals and include incorporation documentation that was issued in that country.

- One must complete this field only when the reporting trustee is a foreign resident and a “Representing Settlor” or “Representing Beneficiary” was not chosen or an assess able accountable settler or an assess able accountable beneficiary.

- In the event a beneficiary is a body of individuals (excluding public institutions) one must include a holder of one or more, of any type of intermediary governor, directly or indirectly, in the same body of individuals.

101
8 Distribution of cash to the beneficiaries, these fields must be completed: identity number of the beneficiary, date of distribution, NIS amount of distribution, description of income or income from assets.

9 In the case of a trust with a foreign settler as per chapter 75i(a) a trust with a foreign beneficiary as per chapter 75j(a) or trust as per will where there is no Israeli beneficiary as per 75l(c)(2) only details of Israeli income or income from Israeli assets are given.

10 Distribution of assets that is not money or vested assets that are not money, the market value of the asset should be given.

11 For Israeli real estate one must detail the plot of land.

12 Original price as detailed in chapter 88 of the Ordinance. Replacement value as detailed in chapter 5 (b)(3) real estate tax.

13 Cash vestings for the trust, the following fields must be completed: date of the vesting, description of the asset/income, NIS amount of vesting.

14 This field must be completed only if consideration received was in the transfer of assets to the trustee.
To: The Assessment Office _________

Trustee of a Trust’s Report
Israeli and Foreign Income Report
2006 Tax Year
Year Beginning 1.1.2006 and Ending 31.12.2006

If the form is not filled out properly or some of the required documentation not included, the assessment officer according to chapter 131 of the Ordinance will see this as a report not submitted.

General Details

This report is for a trustee of a trust that is required to submit a report according to chapter 131 (a)(5b)

- □ Included is the report – Details of the Trust – Form 151h
- □ Included is the report - Declaration of an Irrevocable Trust - Form 141
- □ Income relating to the beneficiary as per distribution, the beneficiary submits Form 142 and Declaration of an Irrevocable Trust - Form 141

<table>
<thead>
<tr>
<th>Internal Documentation</th>
<th>Trust File Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Computerized □ Hand Written</td>
<td></td>
</tr>
</tbody>
</table>

One must list details current at the date report is completed. If the details given differ from those given in previous reports, place an X in the line where the change has occurred.

Type of Trust (as of the tax year):

- □ Israeli residence
- □ Foreign Settlor- □ Israeli assets or income
- □ Foreign beneficiary- □ Israeli assets or income
- □ As per will, where at least one of the beneficiaries is Israeli
- □ As per will, where none of the beneficiaries is Israeli
**Mandatory Income** after permissible write-offs and exemptions according to the Tax Ordinance and laws of Adjustment

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income requiring maximum tax rate of 49%</td>
<td>265</td>
</tr>
<tr>
<td><strong>Income requiring special tax rates</strong></td>
<td></td>
</tr>
<tr>
<td>Key money whose advanced payment was paid</td>
<td>065</td>
</tr>
<tr>
<td>Within 30 days - restricted tax 35%</td>
<td></td>
</tr>
<tr>
<td>Interest on securities – tax rate 10%</td>
<td>074</td>
</tr>
<tr>
<td>Interest on securities, gains on provident funds</td>
<td></td>
</tr>
<tr>
<td>And dividends from approved/preferred enterprises</td>
<td></td>
</tr>
<tr>
<td>At a tax rate of 15%</td>
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<tr>
<td>Interest on dividends, deposits and savings plans,</td>
<td></td>
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<tr>
<td>Interest from provident funds, dividends and gains</td>
<td></td>
</tr>
<tr>
<td>From redeemable stocks (part subject to this tax rate)</td>
<td></td>
</tr>
<tr>
<td>Tax rate of 20%</td>
<td></td>
</tr>
<tr>
<td>Dividends for owners of substantial stock and other</td>
<td></td>
</tr>
<tr>
<td>Income – tax rate 25%</td>
<td></td>
</tr>
<tr>
<td>Interest on securities, unlawful withdrawals from</td>
<td></td>
</tr>
<tr>
<td>Provident funds and redeemable stocks (part subject</td>
<td></td>
</tr>
<tr>
<td>To this tax rate) – tax rate 35%</td>
<td></td>
</tr>
<tr>
<td><strong>Income from capital gains and land betterment</strong></td>
<td>054</td>
</tr>
<tr>
<td>Security and betterment form numbers that were included</td>
<td></td>
</tr>
<tr>
<td>Sum of sales (capital gains and betterments) (not including</td>
<td>056</td>
</tr>
<tr>
<td>Capital gains from marketed securities)</td>
<td></td>
</tr>
<tr>
<td>Sum of sales from capital gains of marketed securities</td>
<td>256</td>
</tr>
<tr>
<td>(Copy addendum c addendum c1 and addendum c2-</td>
<td></td>
</tr>
<tr>
<td>Capital gains from securities)</td>
<td></td>
</tr>
<tr>
<td>Rental Income – tax rate 10%</td>
<td>222</td>
</tr>
<tr>
<td>Foreign rental income according to chapter 122a-</td>
<td>225</td>
</tr>
<tr>
<td>Tax rate 15%</td>
<td></td>
</tr>
<tr>
<td>Income from gambling, lotteries and taxable prizes</td>
<td>227</td>
</tr>
<tr>
<td>At a tax rate 25%</td>
<td></td>
</tr>
<tr>
<td><strong>Foreign Income</strong></td>
<td>290</td>
</tr>
<tr>
<td>Sum of all foreign income (attach addendum d</td>
<td></td>
</tr>
<tr>
<td>In addition, all foreign income will be itemized on this form)</td>
<td></td>
</tr>
<tr>
<td>Tax Free Income source</td>
<td>209</td>
</tr>
</tbody>
</table>
Balances to be brought for the 2007 tax year:

<table>
<thead>
<tr>
<th>A. Business and employment losses (not foreign)</th>
<th>079</th>
</tr>
</thead>
<tbody>
<tr>
<td>B. Losses from residential income (not foreign)</td>
<td>179</td>
</tr>
<tr>
<td>C. Capital loss that was not offset (not foreign)</td>
<td>166</td>
</tr>
<tr>
<td>D. Foreign loss to be brought forward (detailed)</td>
<td>299</td>
</tr>
<tr>
<td>In addendum d</td>
<td></td>
</tr>
</tbody>
</table>

Prepayment turnover, original deductions, tax improvement and bank account

| Amount of turnover without business or employment VAT | 294 |
| And other income taxed at the maximum tax rate, from all | |
| Business, Israeli or foreign, during the 2007 tax year | |
| Total amount of original balances (not prepaid) from other | 040 |
| Income included in this report (attached ______ Confirmations) | |

| Total tax revenue that was established by the tax | 041 |
| Revenue assessor (capital only) | |

| Tax refund, if applicable, should be transferred to my account under my | |
| Name as a trustee of the trust in bank: Branch Bank Account Number | |
| 277 278 |

Declaration of the submitter of this report who is ☐ Representing Trustee ☐ Representing Settlor ☐ Representing Beneficiary

I hereby declare that during this tax year there was no additional trust income included in this report, and the details given in this accountancy are true and complete.

☐ In completing this reporting, I was assisted, financially reimbursed, by the following contributor whose details follow

________________                __________________
Date                        Signature of Submitter

Details of the Contributor Completing this Report

<table>
<thead>
<tr>
<th>Name of Office</th>
<th>Dealer License Number</th>
<th>Address including code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of Contact</td>
<td>Telephone Number</td>
<td>Address including code</td>
</tr>
</tbody>
</table>

________________    __________________
Date              Signature
For your information, The Israeli Tax Authority’s website is [www.mof.gov.il/taxes](http://www.mof.gov.il/taxes)

<table>
<thead>
<tr>
<th>Type of taxpayer</th>
<th>Date report submitted</th>
<th>Type of calculation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-ch.b</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4-ch.c</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9-“law not applicable”</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Withholding greater than income</th>
<th>Bookkeeping</th>
<th>Internal Documentation</th>
</tr>
</thead>
<tbody>
<tr>
<td>01-field 040 greater than earned income or allotment</td>
<td>00</td>
<td>Computerized Manual</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Credit Amount</th>
<th>Code</th>
<th>Deficiency Fine</th>
</tr>
</thead>
<tbody>
<tr>
<td>038</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Date</th>
<th>Name</th>
<th>Signature</th>
</tr>
</thead>
</table>
To: The Assessment Office

Office Stamp
Date Report Submitted

Trustee of a Trust's Report

Israeli and Foreign Income Report

2007 Tax Year
Year Beginning 1.1.2007 and Ending 31.12.2007

If the form is not filled out properly or some of the required documentation not included, the assessment officer according to chapter 131 of the Ordinance will see this as a report not submitted.

Mark an X in the appropriate box

General Details

This report is for a trustee of a trust that is required to submit a report according to chapter 131 (a)(5b)

☐ Included is the report – Details of the Trust – Form 151h

☐ Included is the report - Declaration of an Irrevocable Trust - Form 141

☐ Income relating to the beneficiary as per distribution, the beneficiary submits Form 142 and Declaration of an Irrevocable Trust - Form 141

Trust under the directorship of a foreign body of persons traded abroad

☐ Yes, Form 150

☐ No attached

Trust with rights under the directorship of a foreign body of persons not traded

☐ Yes, Form 150

☐ No attached

☐ The report is based on the accounting booklets that are managed by Addendum Chapter for bookkeeping instruction

Bookkeeping procedures □ Double □ One sided

Registered fund operative ☐ Yes ☐ No

Internal Documentation

□ Computerized □ Hand Written

One must list details current at the date report is completed. If the details given differ from those given in previous reports, place an X in the line where the change has occurred.

Type of Trust (as of the tax year):

☐ Israeli residence ☐ Foreign Settlor- ☐ Israeli assets or income

☐ Foreign beneficiary- ☐ Israeli assets or income

☐ As per will, where at least one of the beneficiaries is Israeli ☐ As per will, where none of the beneficiaries is Israeli

| Postal address (street, house number, city, code) |     |
| Address of representing trustee/settlor/beneficiary |     |
| Email address |     |
| Phone Numbers |     |
| Primary business(specify) |     |
| Name of business |     |
| Business address (street, house number, city, code) |     |
| File number of primary business |     |

Trust File Number

File allowance number Business Ltd. number
**Mandatory Income** after permissible write-offs and exemptions according to the Tax Ordinance and laws of Adjustment

<table>
<thead>
<tr>
<th>Income requiring maximum tax rate of 48%</th>
<th>265</th>
</tr>
</thead>
</table>

**Income requiring special tax rates**

<table>
<thead>
<tr>
<th>Key money whose advanced payment was paid Within 30 days - restricted tax 35%</th>
<th>065</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interest on securities – tax rate 10%</td>
<td>074</td>
</tr>
<tr>
<td>Interest on securities, gains on provident funds And dividends from approved/preferred enterprises At a tax rate of 15%</td>
<td>060</td>
</tr>
<tr>
<td>Interest on dividends, deposits and savings plans, Interest from provident funds, dividends and gains From redeemable stocks (part subject to this tax rate) Tax rate of 20%</td>
<td>067</td>
</tr>
<tr>
<td>Dividends for owners of substantial stock and other Income – tax rate 25%</td>
<td>055</td>
</tr>
<tr>
<td>Interest on securities, unlawful withdrawals from Provident funds and redeemable stocks (part subject To this tax rate) – tax rate 35%</td>
<td>053</td>
</tr>
</tbody>
</table>

**Income from capital gains and land betterment**

<table>
<thead>
<tr>
<th>Security and betterment form numbers that were included</th>
<th>054</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sum of sales (capital gains and betterments) (not including Capital gains from marketed securities)</td>
<td>056</td>
</tr>
<tr>
<td>Sum of sales from capital gains of marketed securities (Copy addendum c addendum c1 and addendum c2- Capital gains from securities)</td>
<td>256</td>
</tr>
<tr>
<td>Rental Income – tax rate 10%</td>
<td>222</td>
</tr>
<tr>
<td>Foreign rental income according to chapter 122a- Tax rate 15%</td>
<td>225</td>
</tr>
<tr>
<td>Income from gambling, lotteries and taxable prizes At a tax rate 25%</td>
<td>227</td>
</tr>
</tbody>
</table>

**Foreign Income**

<table>
<thead>
<tr>
<th>Sum of all foreign income (attach addendum d In addition, all foreign income will be itemized on This form)</th>
<th>290</th>
</tr>
</thead>
</table>

**Tax Free Income** source_________________

| 209 |
Balances to be brought for the 2008 tax year:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>E.</td>
<td>Business and employment losses (not foreign)</td>
</tr>
<tr>
<td>F.</td>
<td>Losses from residential income (not foreign)</td>
</tr>
<tr>
<td>G.</td>
<td>Capital loss that was not offset (not foreign)</td>
</tr>
<tr>
<td>H.</td>
<td>Foreign loss to be brought forward (detailed in addendum d)</td>
</tr>
</tbody>
</table>

Prepayment turnover, original deductions, tax improvement and bank account

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount of turnover without business or employment VAT and other income taxed at the maximum tax rate, from all Business, Israeli or foreign, during the 2007 tax year</td>
<td>294</td>
</tr>
<tr>
<td>Total amount of original balances (not prepaid) from other Income included in this report (attached confirmations)</td>
<td>040</td>
</tr>
</tbody>
</table>

Total tax revenue that was established by the tax Revenue assessor (capital only)

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>041</td>
<td></td>
</tr>
</tbody>
</table>

Tax refund, if applicable, should be transferred to my account under my Name as a trustee of the trust in bank:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>278</td>
<td>Branch</td>
</tr>
<tr>
<td>277</td>
<td>Bank</td>
</tr>
<tr>
<td></td>
<td>Account Number</td>
</tr>
</tbody>
</table>

Declaration of the submitter of this report who is: □ Representing Trustee □ Representing Settlor □ Representing Beneficiary

I hereby declare that during this tax year there was no additional trust income included in this report, and the details given in this accountancy are true and complete.

□ In completing this reporting, I was assisted, financially reimbursed, by the following contributor whose details follow

<p>| | |</p>
<table>
<thead>
<tr>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Date</td>
</tr>
<tr>
<td></td>
<td>Signature of Submitter</td>
</tr>
</tbody>
</table>

Details of the Contributor Completing this Report

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
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<tr>
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<td>Telephone Number</td>
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</tr>
</tbody>
</table>

According to chapter 143 of the Income Tax Ordinance, I, according to the details above, affirm that I helped complete this accountancy report for payment. I hereby take responsibility according to chapter 224 of the Income Tax Ordinance.

<p>| | |</p>
<table>
<thead>
<tr>
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<tbody>
<tr>
<td></td>
<td>Date</td>
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<table>
<thead>
<tr>
<th>Type of taxpayer</th>
<th>Date report submitted</th>
<th>Irrevocable Trust</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-ch.b</td>
<td></td>
<td>- 9</td>
</tr>
<tr>
<td>4- ch.c</td>
<td></td>
<td>108</td>
</tr>
<tr>
<td>9-“law not applicable”</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Type of calculation</th>
<th>Withholding greater than income</th>
<th>Bookkeeping</th>
</tr>
</thead>
<tbody>
<tr>
<td>1- Individual</td>
<td>01-field 040 greater than earned income or allotment</td>
<td>2-</td>
</tr>
<tr>
<td>2- Foreign Resident</td>
<td></td>
<td>Internal Documentation</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Credit Amount</th>
<th>Deficiency Fine</th>
</tr>
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<tbody>
<tr>
<td>038</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Date</th>
<th>Name</th>
<th>Signature</th>
</tr>
</thead>
</table>

110
Kaplex Trust Company (1978) Ltd.

Kaplex Trust Company (1978) Ltd. ("Kaplex") was established and has been managed by Alon Kaplan Law Firm since 1978 as a family office and trust practice that was one of the first such offices in Israel. Over the years it has gained a great deal of experience and know-how in what are its main areas of expertise – international estate planning and taxation and the establishment, operation and management of trusts and holding companies.

Over the years Kaplex has made extensive use of foreign jurisdictions in order to create structures for estate planning, holding assets in private banking and trusts, and today has strong, long-standing ties with a network of professionals in prime jurisdictions, each leading in their respective fields, whose services are crucial in allowing the company's clients to enjoy the best benefits available worldwide. Kaplex is closely affiliated with practitioners worldwide.

Within Israel, the tax amendments that came into force in January 2006 have greatly simplified the establishment and management of foreign trusts, underlying companies and international business headquarters all of which are accorded a great deal of respect by Israeli and overseas tax authorities.

Kaplex aims to provide the most efficient services to its clients. Kaplex draws on the services of an Advisory Board comprising attorneys, certified public accountants and other financial professionals in Israel and around the world.

Private Client Practice: This practice provides services to clients mainly for estate planning purposes, the use of trusts for the transfer of assets to heirs, asset protection and future financial planning.

Corporate Practice: The corporate practice assists clients who transact business in more than one jurisdiction. These may include agency and distribution agreements and commercial transactions.

International Tax Consulting: This practice responds to the needs of clients who may be affected by the tax laws of more than one jurisdiction. Kaplex uses its network of international experts to render services for incoming and outgoing businesses and services in Israel. With decades of experience in constructing these relationships, the founder of Kaplex was a member of a Government Committee established to advise the Israel tax Authority regarding Israel's 2006 law for the taxations of trusts.
Michael Hunter & Partners Firm Profile

Michael Hunter & Partners is a specialist law firm dedicated to formulating and overseeing creative and comprehensive multi-national trusts, foundations and corporate structures as solutions that achieve the wealth preservation and family planning goals of our international client base. All of our partners are members of STEP, and members of our firm have been specializing in trust and estate planning for over 40 years in both the UK and Israel.

To meet the needs of our clients we are extensively involved in the drafting and negotiating of agreements in connection with the promotion of our clients' interests in a wide range of investments, including the purchase of real estate in Israel and overseas, the participation in real estate syndicates in Israel and overseas, private placement investments in both Israeli and foreign companies and the provision of funds to investment advisors and portfolio managers. We also negotiate settlements with the Israeli tax authorities on a no names basis on behalf of our clients.

When building a comprehensive structure tailored to meet the unique profile and goals of each client, we draw upon an extensive worldwide network of contacts ranging from foreign tax advisors and trust and corporate service providers to bankers and investment advisors, many of whom we have been working with closely for decades. This network of contacts enables us to achieve speedy and comprehensive, rather than piecemeal, results with maximum efficiency.

We have recently established our own in-house Israeli trust company for the benefit of our clients who have been affected by the recent Israeli trust legislation.

We pride ourselves on maintaining long term relationships with our clients and derive great satisfaction from seeing these relationships carry on from generation to generation.

We would be happy to meet with you and discuss how we can help you achieve your goals or those of your clients. Please feel free to contact Michael Hunter, Uzi Pinchasi, Eric Wachstock or Eli Hunter Zrihan at 972-3-566-5665 or by email at mhunter@lawmhn.com, upinchasi@lawmhn.com, ericw@lawmhn.com or ezrihan@lawmhn.com.
Stonehage provides international families with wealth management and fiduciary services. We know our clients well. Never intrusive, we nonetheless maintain careful watch over the families we look after, always making certain they are best advised and best served. Our vigilance is backed by knowledge, experience and a keen instinct for sound financial judgement.

For further information please contact Colin Schachat, Executive Director on +972-9-9701000

PRIVATE CLIENT & FAMILY OFFICE
FIDUCIARY
LEGAL & STRUCTURING
INVESTMENT ADVISORY
ASSET MANAGEMENT
PROPERTY
PHILANTHROPY
July 13, 2008

To Clients and Friends,

**Trusts in Israel: Action Needed by October 31, 2008**

1. Executive Summary

Recently, there have been several developments regarding local and foreign trusts for Israeli tax purposes. By October 31, 2008, trustees, settlors and beneficiaries must take appropriate action including the following:

- Review which type of trust exists under pre 1.1.06 Israeli tax law
- Review which type of trust exists under post 1.1.06 Israeli tax law
- Review tax treaty relief availability, if any
- Review whether the transitional 4%-10% tax option is worthwhile
- Review whether the trustee can/should transfer post 1.1.06 “assessable and chargeable to tax” responsibility to the settlor or a beneficiary.
- Review the anticipated post 1.1.06 tax position.
- Should an exemption be elected for distributions or allocations to non-Israeli resident beneficiaries?
- Review interaction with foreign taxes

Various alternatives may be worth considering under domestic Israeli tax law and some of Israel’s tax treaties. Calculations will generally be necessary. Clients are requested to contact us for a meeting or conference call to review these matters soon.

2. Introduction

Recently, there have been several developments in Israel regarding trusts, which are summarized below. They are relevant to trusts formed under the Trust Law, 1979, in Israel as well as foreign trusts and foundations (e.g. Lichtenstein foundations). Israeli real estate trusts are outside the scope of this note.


As part of the most recent Israeli tax reform (Amendment 147 of the Income Tax Ordinance), a new trust tax regime was introduced for Israeli and foreign trusts, commencing January 1, 2006. However, its implementation was postponed until October 31, 2008. Four main types of trust are specified in the new regime, as follows:

a. Israeli Residents’ Trust – generally subject to Israeli tax on all its income if the settlor is an Israeli resident;

b. Foreign Resident Settlor Trust – potentially exempt from Israeli tax on foreign source income (Note: settlor = grantor);

c. Foreign Resident Beneficiary Trust - potentially exempt from Israeli tax on foreign source income if all the beneficiaries are non-Israeli residents;

d. Testamentary Trust – regarded as Israeli resident and subject to Israeli tax on all its income if the deceased settlor and any of the beneficiaries are Israeli residents.

The trustee is generally “assessable and chargeable to tax” on trust income.
Prior to 2006, provisions in the Income Tax Ordinance dealing with “special transactions” imposed tax in Israel on “revocable dispositions” (revocable trusts) in certain prescribed situations.

4. Reporting Amendment June 2008

Following an amendment in June 2008, notices may be submitted to the Israeli tax authority instead of full tax returns, in certain instances – please see the table in Annex 1.

Also, the trustee may pass the “assessable and chargeable to tax” obligation to a “representative settlor” in the case of an Israeli Residents’ Trust or a “representative beneficiary” in the case of an Israeli resident Testamentary Trust.

5. Optional Tax Arrangement for pre-2006 “Qualifying Trusts”

On June 23, 2008, the Israeli Tax Authority announced an optional tax arrangement (effectively an amnesty) for trusts formed before January 1, 2006. The Israeli Tax Authority claim the irrevocability of such trusts may sometimes be doubtful. In any event, the trust may owe substantial capital gains tax if it sells pre-2006 assets after January 1, 2006.

The arrangement is available to “Qualifying Trusts” which are irrevocable trusts that meet prescribed criteria. A “qualifying Trust” is allowed to settle their pre 2006 tax liability by paying tax at a special rate - generally 4% - 10% of the value of trust assets outside Israel, as of December 31, 2005 plus distributions to beneficiaries in the years 2003 – 2005 (referred to as “trust capital”). No foreign tax credit is allowed under this arrangement.

The Israeli cost basis of such assets is then “stepped up” to the above value for future Israeli tax purposes.

Applications to participate in the optional arrangement must be submitted with relevant documents to the Israeli Tax Authority by October 31, 2008.

Careful evaluation is needed as various other alternatives may be worth considering under domestic Israeli tax law and some of Israel’s tax treaties. Calculations will generally be necessary.

6. Distribution and Allocation Regulations

On June 23, 2008, two regulations were published which will be relevant to trusts with an Israeli resident settlor and beneficiaries resident in Israel and other countries. These are:

- “The Distribution Regulations”
- “The Allocation Regulations”

Both regulations are effective retroactively to January 1, 2006. Careful evaluation is needed as various other alternatives may be worth considering under domestic Israeli tax law and some of Israel’s tax treaties. Calculations will generally be necessary.
The Distribution Regulations
The Distribution regulations are formally known as “Income Tax Regulations (Provisions for Amending Assessments of the Income of a Trustee and Determination of a Capital Gain to it Following a Distribution to a Foreign Resident Beneficiary), 2008.

The Distribution Regulations deal with income distributed to a foreign beneficiary. If such income was derived from non-Israeli sources, it will be considered exempt and tax assessments in the current or 4 preceding tax years will be amended accordingly, resulting in a refund of any Israeli tax paid (presumably with interest).

The Distribution Regulations are subject to a number of conditions. In particular, the trust must be an irrevocable “Privileged Trust” (as defined in the regulations). Also, capital gains tax must be paid, at rates of up to 47%, on the unrealized gain as of the end of the tax year preceding the first such distribution and on all subsequent asset contributions into the trust.

The Allocation Regulations
The Allocation regulations are formally known as “Income Tax Regulations (Allocation of Income to an Individual Foreign Resident Beneficiary and Determination of a Capital Gain in a Dedicated Trust), 2008.

The Allocation Regulations allow a trustee to submit to the Israeli Tax Authority an irrevocable declaration allocating income to specific foreign “dedicated beneficiaries”. If such income is derived from non-Israeli sources, it will be considered exempt thereby reducing the Trust’s tax liability for the current and future tax years. (This is different from the Distribution Regulations where tax on income is first paid, then refunded upon a distribution to a foreign beneficiary).

The year of commencement is the year after the trustee files his declaration or the same year if the declaration is filed within three months after the trust was formed.

The Allocation Regulations are subject to a number of conditions. In particular, the trust must be irrevocable “Dedicated Trust” (as defined in the regulations). Also, capital gains tax must be paid, at rates of up to 47%, on the unrealized gain on allocated assets as of the end of the tax year preceding the year of commencement and on all subsequent asset contributions into the trust.

After every 4 years, a check is carried out to see if the amounts allocated to foreign “dedicated beneficiaries” were actually distributed to them. Any under-distribution is taxed at a penal rate of 70%!! (It is assumed that Israeli residents must have benefited instead). Any over-distribution is carried forward to the next 4-yearly check.

The net effect of the Allocation Regulations is to turn a discretionary trust into a fixed interest trust. But it is not possible, apparently, to allocate capital to one beneficiary and income to another. And there may be a heavy price for not actually paying a beneficiary his full allocation.

7. Procedure

If a trust has to open a tax file, this will be done at the following:
- If all the trustees are foreign residents – with Assessing Officer Tel-Aviv 1.
- If at least one of the trustees is an Israeli resident - with Assessing Officer Tel-Aviv 3.

In addition, a number of forms relating to trusts have been published – see the list in Annex 2.
8. Reporting deadlines

In general, a trustee in Israel or abroad must file a return by April 30 after each tax year, like any individual, unless an extension is granted. If the trustee passes the “assessable and chargeable to tax” obligation to “representative settlor” or a “representative beneficiary”, they must report within the deadline.

With regard to the years 2006 and 2007, the Israeli Tax Authority announced on June 23, 2007 that the deadline for submitting all notices, declarations and annual tax returns, for trust-related matters only, is postponed to October 31, 2008. This was the latest in a series of postponements.

9. Non-Compliance

The question of whether the State of Israel can compel foreign residents to comply with the new trust tax regime raises complex issues. It should be noted that the Israeli tax law contains various sanctions in the case of non-compliance, including the collection of tax from a settlor or from a beneficiary – in the latter case, up to the amount distributed to the beneficiary.

10. Conclusion and action plan

In view of the complexity of the new Israeli trust tax regime, it is advisable for trustees, settlors and beneficiaries with any Israeli connection to consult experienced professionals in each country.

By October 31, 2008, trustees, settlors and beneficiaries must take appropriate action including the following:

- Review which type of trust exists under pre 1.1.06 Israeli tax law
- Review which type of trust exists under post 1.1.06 Israeli tax law
- Review tax treaty relief availability, if any
- Review whether the transitional 4%-10% tax option is worthwhile
- Review whether the trustee can/should transfer post 1.1.06 “assessable and chargeable to tax” responsibility to the settlor or a beneficiary.
- Review the anticipated post 1.1.06 tax position.
- Should an exemption be elected for distributions or allocations to non-Israeli resident beneficiaries?
- Review interaction with foreign taxes

The above overview is very brief and general and does not constitute advice. For further information, please contact Leon Harris (Tel: +972-3-6278660, leon.harris@il.ey.com).

Clients are requested to contact us for a meeting or conference call to review these matters soon.

* * * * * * *

Any US or other tax advice contained in the body of this e-mail is not intended or written to be used, and cannot be used by the recipient for the purpose of avoiding penalties that may be imposed under the Internal Revenue Code or any other applicable state or local laws.
## ANNEX 1: Trust Reporting Deadlines For Israeli Tax Purposes – As Amended June 2008

<table>
<thead>
<tr>
<th>Notice</th>
<th>Annual Tax Return</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Trustee</strong></td>
<td></td>
</tr>
<tr>
<td>• Inception of testamentary trust - within 90 days;</td>
<td>• The trustee of an Israeli Residents Trust or an Israeli resident Testamentary Trust (the latter having at least one Israeli resident beneficiary) - but if a settlor or beneficiary opt to be &quot;assessable or chargeable to tax&quot;, they file the return.</td>
</tr>
<tr>
<td>• change of type of trust or termination of an Israeli Residents' Trust or Testamentary Trust - by the following April 30 or the due date for filing a tax return if required.</td>
<td>• The trustee of a trust which has income or an asset in Israel. The Finance Minister is empowered to exempt trustees from filing annual tax returns if all their income is exempt from Israeli tax.</td>
</tr>
<tr>
<td><strong>Settlor</strong></td>
<td></td>
</tr>
<tr>
<td>• If he formed a trust or contribute an asset or income to a trust - within 90 days;</td>
<td>• In lieu of trustee if the settlor opted to be &quot;assessable or chargeable to tax&quot;</td>
</tr>
<tr>
<td>• If a settlor becomes an Israeli resident and an existing trust changes its status from a Foreign Resident Settlor trust to an Israeli Residents' Trust or a Foreign Resident Beneficiary Trust - by the following April 30, or the due date for filing a tax return if required. The notice will include assets and income contributed by the settlor to the trust in the five years before he became an Israeli resident.</td>
<td></td>
</tr>
<tr>
<td>• In lieu of trustee if the settlor opted to be &quot;assessable or chargeable to tax&quot;</td>
<td></td>
</tr>
<tr>
<td><strong>Beneficiary</strong></td>
<td></td>
</tr>
<tr>
<td>• If he received a trust distribution other than money, even if it is not taxable, by the following April 30 or the due date for filing a tax return if required.</td>
<td>• In lieu of trustee if the beneficiary opted to be &quot;assessable or chargeable to tax&quot;</td>
</tr>
<tr>
<td>• In lieu of trustee if the beneficiary opted to be &quot;assessable or chargeable to tax&quot;</td>
<td></td>
</tr>
</tbody>
</table>
ANNEX 2 – TRUST TAX FORMS

Following is a list of the Israeli tax forms for trusts:

- Form 141 – Declaration of an irrevocable trust.
- Form 142 – Declaration of allocation of income to a beneficiary following a distribution.
- Form 143 – Declaration of a foreign resident beneficiary trust.
- Form 144 – Notice of election of a representative settlor/representative beneficiary.
- Form 147 – Notice of formation of a trust or a contribution to a trust.
- Form 148 – Notice of allocation of income to a settlor of an Israeli Residents’ Trust or to a beneficiary of a Testamentary Trust.
- Form 149 – Notice of a distribution received by a beneficiary in the tax year.
- Form 151 – Notice of details of a trust.
- Form 1327 - trustee’s report – of income in Israel and abroad for the 2006 tax year.
- Form 1327 - trustee’s report – of income in Israel and abroad for the 2007 tax year.

In addition, guidance on filling out these forms has been issued. Please contact us for further details.
Partner with someone who knows the territory

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