



# Aliya – from a German Tax Perspective

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# I. Aliya from Germany – introduction

➤ Statistics

➤ Motives

# Some statistics

	Immigration to Israel 2012	Immigration to Israel 2013	Core Jewish Population	Percentage 2012	Percentage 2013
Germany	108	76	119,000	0.09%	0.06%
Switzerland	70	60	17,400	0.4%	0.34%
Belgium	118	196	30,000	0.4%	0.65%
United Kingdom	492	358	290,000	0.16%	0.14%
France	1244	2103	478,000	0.26%	0.44%
United States	1969	1937	5,800,000	0.03%	0.03%
Argentina	240	265	230,000	0.1%	0.11%

## II. Aliya - German income tax implications

### ➤ Unlimited income tax liability

- Tax residence in Germany

- “Home” in Germany

- “dwelling which suggests under the circumstances that one keeps and uses the dwelling”

- ❖ Dwelling

- ❖ At their disposal

- ❖ Retain

- ❖ Use

- Habitual place of abode in Germany

- Physical presence

- ❖ Habitual/customary place of abode

- ❖ Consecutive 6 months period

- Residence under the Double Tax Treaty

- Tax rates
  - Progressive tax rates – range from 0 % - 45 % plus 5.5 % solidarity surcharge
  - Flat tax rate at source for investment income and capital gain –  
 $25\% + 5.5\% = 26.375\%$
- Mid calendar year termination of German tax residence

## ➤ Limited income tax liability

- Income items include:
  - Income from German agriculture and forestry
  - Income from trade or business such as
    - ❖ Income resulting from a permanent establishment or from a partnership interest
    - ❖ Capital gains resulting from the sale of shares in a resident corporation with at least 1 % shareholding at some point within the last 5 years before the sale
    - ❖ Rental income of a **non-resident** corporation if the rented property – tangible, real estate or intangible - located in Germany
    - ❖ And the sale of such business property

- Income from self-employment
- Income from employment as far as work conducted in or results utilised in Germany
- Investment income
  - ❖ Dividend paid by a German resident company
  - ❖ Interest income (including capital gains) if debt instrument is registered in Germany or secured by domestic real estate

Other interest income, especially paid by banks or income from not secured debt instruments are not subject to tax for non-resident individuals.

- Income from rent or lease for privately held real estate located in Germany
- Specific other income:
  - ❖ Pensions paid by the German social security administration
  - ❖ Gains from the sale of real estate in Germany within a period of ten years after the purchase
- Withholding tax / or tax assessment



➤ Extended limited income tax liability for non-resident German citizen, § 2 German Foreign Tax Act

- Prerequisites

- German national
- Less than five years non tax resident in Germany
- Relocation to a low tax jurisdiction
- Substantial economic interests in Germany
- Income from German source > 16,500 Euro

- Tax consequences
  - All domestic German source income taxable
    - ❖ Interest from German financial institutions or other German creditors
    - ❖ Pensions from German based institutions
    - ❖ Capital gains upon the sale of movable assets situated in Germany
    - ❖ Capital gain upon the sale of shares in a German corporation with < 1 %
  - Tax Assessment with progressive tax rate based on worldwide income
  - Extended limited income tax liability up to 10 years after termination of unlimited tax liability

- Difficulties of implementation – Double Tax Treaty
  - Breach of EU- Law: right of free movement
  - Double Tax Treaty
  - Practical problems of implementation



### III. Aliya – German exit tax

- Substantial holding in a German or foreign corporation
  - Personal and factual prerequisites
  - Double tax Treaty – Israel/Germany
  - Deferral of payment
  
- “Entstrickung” – business property
  
- Immovable property – **no** exit tax
  
- Investment portfolios – holding of shares < 1 % - **no** exit tax



#### IV. Aliya - German inheritance and gift tax implications

- Motive for Aliya – avoidance /mitigation of German inheritance tax
  
- Unlimited inheritance tax liability
  - Home or place of habitual abode of decedent or beneficiary in Germany
  
  - German citizen and less than 5 years non-resident -extended unlimited inheritance tax liability

- **Tax rates for unlimited inheritance tax liability**

The applicable tax rate depends on the tax class of the acquirer (see below) and the value of the taxable acquisition. The basis of the tax assessment is the taxable value of the assets transferred after exemptions and reliefs.

Taxable value of the acquisition exceeds	Acquirer in Tax Class I	Tax Class II	Tax Class III
€0	7%	15%	30%
€75,000	11%	20%	30%
€300,000	15%	25%	30%
€600,000	19%	30%	30%
€6 million	23%	35%	50%
€13 million	27%	40%	50%
€26million	30%	43%	50%

- **Personal exemptions**

Note that these allowances will be granted once within 10-years in each transfer or/transferee relationship

Donee	Allowance
Spouse and the partner of a registered same-sex partnership	€500,000
Children, stepchildren and descendants of deceased children	€400,000
Children of living children	€200,000
Other persons in tax class I	€100,000
Persons in tax class II	€ 20,000
Other persons and entities in tax class III	€ 20,000

## ➤ Limited inheritance tax liability

- Not unlimited inheritance tax liability
- German situs proper subject to limited inheritance tax liability includes:
  - Real property situated in Germany
  - Business assets if connected to a permanent establishment in Germany or to a permanent representative
  - Shares in a German corporation and at least 10 % holding of the company's initial or share capital
  - Inventions, utility models and layout designs registered in a national book or register
  - Etc...
- Bank accounts or portfolio investments with a German bank or a branch of a foreign bank in Germany **not** German situs property.



- Tax rate for limited inheritance tax liability
- Exemption amount - 2000 Euro
- Option to unlimited inheritance tax liability for EU/EEA residents

## ➤ Extended limited inheritance tax liability, § 4 German Foreign Tax Act

- Prerequisites
  - German citizen
  - Less than five years non tax resident in Germany
  - Relocation to a low tax jurisdiction – less than 66.67 % of a comparable German inheritance tax
  - Substantial economic interests in Germany

- Extended domestic assets ( „erweitertes Inlandsvermögen“) include:
  - Claims against German debtors
  - Savings accounts in German banks
  - Shares in a German corporation, investment funds, real estate funds
  - Pension claims
  - Insurance claims against German insurance companies
  - Movable assets situated in Germany
- Difficulties of implementation

## ➤ Procedural provisions

- Duty of disclosure within 3 months of acquisition
- Inheritance tax Return
- Assessment

## ➤ Avoidance of double taxation

- Unilateral relief – credit method
- Double tax treaty in the field of estate and inheritance taxes

## V. Caveats

- Planning before Aliya
- Avoid having a “home” in Germany
- Avoid retaining substantial economic interest in Germany
- Avoid shareholding in a German or foreign corporation  $\geq 1\%$
- Avoid holding bank accounts in Germany

Thank You



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