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# **TAXATION OF TRUSTS IN ISRAEL**

**An Opportunity For  
Foreign Residents**

**Dr. Avi Nov**

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# Short Bio

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- **Dr. Avi Nov** is an Israeli lawyer who represents taxpayers, individuals and entities.
  - **Areas of Practice:** Tax Law, International Taxation, Business Taxation, Corporate Taxation, International Corporate Taxation, Tax Treaties.
  - **Teaching Position:** School of Law and Business Administration, College of Management (Israel).
  - **Publications:** Dr. Nov published over 40 articles in top tax journals, including:
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# Israel's New Trust Tax Regime

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- A new trust tax regime was introduced in 2006.
  - A new amendment was introduced in 2008. The aim was to ease the reporting obligations (Amendment 165).
  - There are four types of Trust:-
    - Israel Resident Settlor/Beneficiary Trust;
    - **Foreign Resident Settlor Trust** (discussed below);
    - Foreign Resident Beneficiary Trust;
    - Testamentary Trust.
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# FOREIGN RESIDENT SETTLOR TRUST

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- A trust will be classified as a foreign resident settlor trust: if (i) the settlor is a non-resident of Israel at the time of formation of the trust and during the tax year; or (ii) the settlor and the beneficiaries are non residents of Israel during the tax year.
  - **A foreign settlor trust can be used as an “offshore” trust in Israel, since it is exempt, in principle, from taxes in Israel.**
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# Trust Principles

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- ❑ In principle, the taxation of trusts in Israel follows the identity of the settlor. The residence of the trustee is not relevant.
  - ❑ The trust legislation imposes Israeli tax obligations each year, on the worldwide income of trusts settled by **Israeli resident settlors**.
  - ❑ However, **foreign resident settlors**, may settle an Israeli trust in which the foreign-source income is not subject to taxes in Israel. In certain cases, the trust may even be exempt from tax on certain income derived in Israel.
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# Reporting Liabilities

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- **Israeli trustees** are not required to report the foreign-source income of some foreign trusts that they manage.
  - **Settlors** in a “Foreign Settlor Trust” are not required to report the foreign-source income of the trust.
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# The “Underlying Company”

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- A new concept, introduced by the new trust tax regime – the “**underlying company**”; a designated company that holds the trustee's assets. The company is regarded as a “flow through entity” and the “management and control” principle does not apply.
  - A trustee can utilize an Israeli company or a foreign company to hold the trusts’ assets and neither the trustee nor the underlying company will be subject to taxes in Israel on income derived from non-Israeli sources purposes.
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# Choosing a Jurisdiction

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The choice of jurisdiction in which to establish a trust should be governed by which jurisdiction is best going to serve the administrative, financial and asset protection objectives of clients and should have the following characteristics:

- Experienced professional practitioners;
- Trust laws that appropriately and effectively protect trust assets from attack.
- Minimal or no reporting obligations for non-residents;
- A tax free jurisdiction for non-residents; and
- Protection of a wide network of double-tax treaties.

***Tax treaty countries:*** Austria, Belarus, Belgium, Brazil, Bulgaria, Canada, China (People's Rep.), Croatia, Czech Republic, Denmark, Ethiopia, Finland, France, Germany, Greece, Hungary, India, Ireland, Italy, Jamaica, Japan, Korea (Rep.), Latvia, Lithuania, Luxembourg, Mexico, Moldova, Netherlands, Norway, Philippines, Poland, Portugal, Romania, Russia, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Thailand, Turkey, Ukraine, United Kingdom, United States, Uzbekistan.

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