TAX

US-Israel Personal Tax Planning

A major US tax issue must be considered for Israeli founders who create and own US holding companies or other US corporations through which they conduct their business operations.

In general, a foreign individual who dies owning the shares of a US corporation will be subject to US estate tax with respect to the value of the shares of such US corporation. This rule applies irrespective of where the US corporation conducts business or what assets it owns.

While there is a substantial exemption from US estate tax provided for US persons, foreign individuals only are entitled to claim a $60,000 exemption from US estate tax.

Accordingly, as a numerical example, if an Israeli individual dies while owning the shares of a US corporation valued at $50,000,000, that deceased individual would be subject to a US federal estate tax liability of more than $20,000,000 and, potentially, additional state estate tax. This tax liability could be enforced against the shares of the US corporation.

Fortunately, there are a number of relatively simple planning techniques for avoiding such US estate tax.

First, the shares of the US corporation could be owned through a foreign corporation. Following the death of the individual founder, the foreign corporation would continue to own the shares of the US corporation and no US estate tax would be due.

Second, if Israeli tax issues are created by the ownership of the shares of a US corporation through a foreign corporation, an Israeli individual could own the shares of a US corporation through a foreign partnership (such as an Israeli partnership) which makes a “check the box” election to be treated as a foreign corporation for US tax purposes. The US tax consequences of this ownership structure would be the same as ownership through a foreign corporation.

Third, the shares of the US corporation could be acquired by an irrevocable trust rather than the Israeli individual, which could be structured to avoid estate tax at the Israeli individual’s death.

Fourth, if the Israeli individual only plans on owning the shares of the US corporation for a brief time, and the foregoing three ownership structures are considered too difficult to implement, it may be possible to obtain a term life insurance policy to cover the US estate tax risk for the period during which the individual owns the shares of the US corporation.

We would be pleased to assist any Israel-based clients in implementing any of the above planning techniques.

Please do not hesitate to contact us with any questions.

For more information contact:

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Lowenstein’s Tax group advises public and private companies, individuals, and investment firms on the tax consequences of their business matters while minimizing risk and advancing their strategic visions.

Clients turn to us for guidance and support on a complete range of corporate transactions: mergers and acquisitions, divestitures, restructurings, reorganizations, partnerships, and cross-border investments. We also handle tax-related administrative appeals and controversies, including those stemming from partnerships and various securities transactions.