

## Relief from Purchase Tax for New Immigrants

### Client Updates

Following the recent decision of the Real Estate Tax Appeals Committee: Eizler v. Jerusalem Real Estate Tax Authority

A few days ago, a decision was published regarding a 73-year-old widow who purchased a residential apartment "off-plan" in Israel in 2017, while she was still a resident of the United States, with the intention of immigrating to Israel and living near her daughter. The apartment was purchased from a contractor and was supposed to be delivered to the purchaser within 18 months, but its delivery was delayed due to the COVID-19 pandemic. The woman immigrated to Israel in 2020, obtained "new immigrant" status, and began residing in the apartment only in January 2022.

The purchase of a residential apartment in Israel is generally subject to purchase tax at various rates of up to approximately 10%. In this case, the purchaser claimed entitlement to one of two tax reliefs:

1. **Exemption from Purchase Tax for a Single Residential Apartment Purchaser** – An exemption from purchase tax is granted to a purchaser of a single residential apartment who is an "Israeli resident" (up to a certain ceiling), including someone who becomes an Israeli resident within two years from the date of purchase. The dispute: whether the two-year period should be counted from the date of purchase or from the actual delivery of the apartment, in cases where the apartment is still under construction and has not yet been delivered to the purchaser.
2. **Purchase Tax Relief for a "New Immigrant"** – Relief from purchase tax is granted to a new immigrant purchasing a residential apartment (0.5% up to a certain ceiling), if the apartment was purchased up to one year before immigrating to Israel or up to seven years thereafter. The dispute: whether the relief should apply even if more than a year has passed between the date of purchase and the date of immigration, due to a delay in the delivery of the apartment, and whether the construction period should be excluded from the calculation.

The taxpayer argued that the relevant periods for both reliefs should be counted only from the actual delivery date of the apartment, especially when the apartment was purchased "off-plan" from a developer. Additionally, the individual argued that the period of the COVID-19 pandemic should not be counted, and that the delay due to COVID-19 should be recognized as a "sufficient reason" to extend the deadline.

The Israel Tax Authority argued, on the other hand, that the periods should be counted from the date of purchase only, and that it does not have the authority to extend substantive deadlines set by law, even due

to the COVID-19 pandemic.

The court accepted the appeal and ruled that the provisions of the law and regulations should be interpreted in a manner that fulfills their purpose - to allow a new immigrant or a single apartment purchaser to benefit from tax reliefs, even when the apartment was purchased "off-plan" and was not yet fit for occupancy. The court held that it is unreasonable to require the immigrant or purchaser to meet rigid deadlines starting from the date of purchase, when in practice they could not reside in the apartment due to construction delays, especially when the delay was beyond their control and resulted from the COVID-19 pandemic. The court relied on the Israel Tax Authority's own guidelines and case law, which support a flexible interpretation of the law when justified circumstances exist. Accordingly, the court determined that the Real Estate Tax Authority has the power to extend deadlines, including both substantive and procedural deadlines, provided there is "sufficient cause," such as a delay resulting from circumstances beyond the taxpayer's control, including the COVID-19 pandemic or contractor delays.

This decision is significant for new immigrants and purchasers of "off-plan" apartments, who purchased the properties while they were foreign residents, clarifying that in circumstances where the delay is not within the purchaser's control (for example, the COVID-19 pandemic or contractor delays), it is possible to extend the statutory deadlines for obtaining an exemption or relief from purchase tax, and even to count the relevant period from the actual delivery date of the apartment. The decision also reinforces the prevailing case law regarding the authority of the Real Estate Tax Authority to extend any statutory deadline, provided there is sufficient cause to do so.

For more information on the tax rates applicable to new immigrants and/or foreign residents who became Israeli residents, please see our [client update](#), posted September 09, 2024.

## Key Contacts



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