A precedential Supreme Court's ruling acknowledging the "split" of a family unit for tax purposes

The Israeli Supreme Court's ruling, in Michael Sapir's Case, was published last week, and sets significant precedent reflecting on the Israeli international taxation regime in general, and on Israel residents which relocated abroad particularly.

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The aforementioned ruling deals with a Taxpayer, which relocated his life to Singapore in 2001. The Taxpayer's close family (wife and adult daughters), remained living in Israel. The Taxpayer rented an apartment in Singapore, he was hired there by different companies, and afterwards provided Consulting services through a Singapore resident company, owned by him. During the entire period, the Taxpayer's income was generated solely in Singapore.

In the Tax Assessments issued to the Taxpayer, the Israeli Tax Authority ("**ITA**") claimed that since the Taxpayer maintained relatively frequent visits in Israel, and due to the fact that his family is remained living in Israel, he should be considered to be an Israeli resident for tax purposes. Accordingly, the ITA determined that Taxpayer's income, generated in Singapore, is subject to tax in Israel.

The ITA's position was rejected by the District Court in Tel - Aviv (Income Tax Appeal 1072/07 Michael Sapir v. Kfar Saba's Tax Officer), a year ago. The District Court determined that according to the evidence presented by the Taxpayer, he managed to proof that his “center of life” is not in Israel, and therefore he should not be considered to be an Israeli resident for tax purposes.

The District Court (Judge Magen Altuvia) ruled that while a taxpayer's family's place of residence may be used as an indicator for the taxpayer's place of residence, it cannot be the decisive and/or the solely test; whereas the Taxpayer managed to proof that most of his life's significant connections are to Singapore, he should be recognized as a foreign resident for tax purposes, and therefor income generated by him in Singapore is not subject to tax in Israel.

The ITA appealed to the Supreme Court and requested to reject the District Court's resolution, acknowledging the Taxpayer as a foreign resident. The Supreme Court's ruling, issued May 21st 2014, rejected the ITA's arguments, and determined that the

resolution held by the trial court shall be left intact. The Supreme Court ruled that the Taxpayer exhibited many evidences to the District Court in order to proof his distinct connections to Singapore, in both objective and subjective aspects. The Supreme Court determined that although the Taxpayer maintained relatively frequent visits in Israel, and although he has some connections to Israel, it is not enough in order to classify him as an Israeli resident for tax purposes. Some of these connections to Israel (such as pension benefits, or social security payments) are derived from the fact that the Taxpayer lived in Israel for many years, and some of his connections to Israel are derived from his wife and adult daughters' decision to maintain their life in Israel, and not relocate to Singapore. The Supreme Court had emphasized in his ruling that the family's place of resident influences the decision whether the Taxpayer is an Israeli resident for tax purposes, but this factor alone cannot turn the scale, while most of the other aspects leads to significant connection to the foreign country.

This ruling has significant implications on Israeli residents relocated to foreign countries. The Supreme Court rejected the ITA's position, according to which once the taxpayer's close family members remain living in Israel, the taxpayer itself should be automatically classified as an Israeli resident for tax purposes. It was also determined that a taxpayer should not be forced to waive rights accumulated while living in Israel, in order to relocate his center of life abroad, and detach his Israeli residence. According to the ruling, in every case one's significant connections must be examined in a thorough and profound way. In case most of taxpayer connections are to a foreign country - he should be considered as a foreign resident, and income generated by him in the foreign country should not be subject to tax in Israel.

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Associated publications in the Israeli press:

http://www.themarker.com/law/1.2327506

http://www.ynet.co.il/articles/0,7340,L-4522229,00.html

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