

Registering a foreign company for VAT purposes

» By Doron Afik

Many non-Israeli corporations with a physical presence in Israel but not registered in Israel may be exposing their executives to criminal charges. The law is very explicit. Such a company must be registered with the relevant local authorities. Non-compliance is a criminal offence.

But over and above the criminal issue, a foreign company operating but not registered in Israel loses money because a duly registered company is entitled to receive reimbursements for VAT payments.

In Israel, businesses effectively do not pay VAT (currently set at 18%) for the purchase of goods and services in Israel. This is because a business is entitled to be reimbursed by the state for VAT paid by it (either by set-off of VAT collected by it from clients or by filing a claim for (reimbursement).

However, in order to receive such a tax benefit, a VAT file must be opened by such a business. To do so, the business must be registered and have a bank account in Israel.

Generally, this can be done by two ways.

One way is to establish an Israeli wholly owned subsidiary. In such a case, the VAT authorities will require at least one Israeli director for the corporation. If no such director is appointed, the corporation will have to appoint a tax representative to personally guarantee all VAT obligations of the corporation. A tax representative is a very expensive solution. An alternate



solution is to appoint someone from a CPA firm such as Afik & Co.

Not having an Israeli director could also complicate issues with the bank and with corporate procedures that require drawing up documents in Hebrew.

The second option is to register the corporation in Israel as a foreign corporation. To mitigate the legal risks to the mother company, it may incorporate a wholly owned subsidiary and then register such a subsidiary in Israel as a foreign corporation. This will not only require a

high-cost VAT representative in Israel but will also make it very difficult to open and manage a bank account. This option is generally used for tax purposes.

The whole issue of a foreign company operating in Israel is complex and should be handled only by local experts on a case-to-case basis.

The writer is the managing partner of Afik & Co., attorneys and notaries. They specialize in international transactions, including mergers and acquisitions, and registering foreign companies in Israel. ■