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THE TAX LAWYER

TAXES 12/29/2014

In \$400M Bank Leumi Tax Evasion Settlement, Who Was Willful?

The announcement that [Israel's Bank Leumi has settled its U.S. tax charges for depositor names](#) and \$400 million was eclipsed by the holidays. Yet as the news sinks in, there is a kerfuffle with current and former bank executives over who knew what when. Leumi's shareholders may be mollified that both UBS and Credit Suisse endured similar finger pointing. Still, Bank Leumi's agreement that it willfully helped U.S. depositors evade taxes raises liability concerns.

Reports suggest that relations are strained between former Bank Leumi CEO Galia Maor and the current CEO, Rakefet Russak-Aminoach. The [former Leumi chiefs deny knowledge of U.S. tax evasion](#). Moreover, Maor and former chairman Eitan Raff reportedly believe the bank should not have admitted that it helped U.S. customers evade taxes. Advocate Ram Caspi represents Maor Raff, Zvi Itskovich, and Benjamin Naveh.

The lawyer wrote the bank about a derivative lawsuit brought in the name of Bank Leumi against its former officers. He states that the "officeholders acted in complete good faith in the performance of their duties on behalf of the Leumi Group, and they deny and contest any allegation that they knew, or should have known, that the corporations allegedly and knowingly helped US taxpayers evade payment of taxes, or that they were negligent in this matter."



How the responsibility for Leumi's actions and the cost of the deal will be allocated is not yet clear. To resolve U.S. tax charges, Bank Leumi admitted that it helped over 1,500 U.S. account holders evade taxes. Leumi has offices in New York, Florida, Illinois and California. This is the first time an Israeli bank has admitted to such criminal activity.

The bank will pay \$270 million in fines to the IRS and an additional \$130 million to New York's Department of Financial Services. There are admissions of wrongdoing and a deferred prosecution agreement from U.S. authorities. The U.S. Justice Department filed a conspiracy charge against the bank, but has agreed to defer prosecution for two years. Leumi has admitted that it put client money in tax havens and helped clients create false tax returns over a 10-year period.

Bank Leumi admitted it helped clients hide assets under assumed names and numbered accounts, used loans to get access to undeclared money, and moved undeclared assets. The bank must hand over the names of more than 1,500 U.S. account holders and must help the U.S. in other investigations.

As with UBS, prosecutors charged (and the bank admitted) that various Leumi units were able to serve wealthy U.S. clients by meeting in hotels and other locations in New York, Los Angeles and Miami to discuss accounts they couldn't talk about in Bank Leumi USA branches. The bank gave clients back-to-back loans secured by accounts in Israel, Switzerland or Luxembourg. Clients typically paid a 1 percent fee for the loans, which Bank Leumi USA issued to 205 clients from 2002 to 2010.

Regardless of precisely who in top management knew what, the statement of facts is quite detailed. It says that from 2000 - 2011, Bank Leumi helped U.S. clients conceal their assets offshore by:

- surreptitiously sending private bankers from Israel and elsewhere around the world to the United States to meet secretly with U.S. clients at hotels, parks and coffee shops to discuss their offshore account activity;
- assisting U.S. clients in using nominee corporate entities created in Belize and other foreign jurisdictions to hide their undeclared accounts by concealing the U.S. client as the true beneficial owner of the account;
- using the Bank Leumi le-Israel Trust Company as a nominee account holder for U.S. clients with accounts in Israel to conceal the U.S. client as the true beneficial owner of the account;
- maintaining U.S. clients' undeclared offshore accounts under assumed names or numbered accounts to conceal the U.S. client as the true beneficial owner of the account;
- providing hold mail services so that correspondence and other account information would not go directly to the U.S. client to make it more difficult to connect the client to the secret offshore account;
- extending loans to U.S. clients from Bank Leumi USA that were collateralized by the assets in those clients' offshore accounts, so that the clients could leverage their offshore assets to obtain and use capital in the United States while keeping their foreign accounts secret and undetected from the U.S. government; and
- after the department's investigation into UBS and other Swiss banks' criminal conduct in aiding U.S. taxpayers to evade their taxes became public, the Bank Leumi Group opened and maintained accounts for U.S. taxpayers who left UBS and other Swiss banks due to the investigation in an effort to continue to avoid detection by the U.S. government.

As part of its agreement with the Justice Department, the bank must cooperate with U.S. authorities. Yet all of the internal finger-pointing may not be over.

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