



Robert W. Wood

THE TAX LAWYER

TAXES 12/22/2014

Israel's Bank Leumi Settles U.S. Tax Charges For \$400M, Gives Depositor Names

To resolve U.S. tax charges, Israel's Bank Leumi has admitted that it helped over 1,500 U.S. account holders evade taxes. One of the largest banks in Israel, Leumi has offices in New York, Florida, Illinois and California. The settlement is costly, but it represents an important resolution for the bank, concluding difficult issues with the U.S. Department of Justice. It also shows that not only Swiss institutions are under scrutiny.

This represents the first time an Israeli bank has admitted to such criminal activity. Bank Leumi Group will pay \$270 million in fines to the IRS and an addition \$130 million to New York's Department of Financial Services. Coming on the heels of historic settlements with Swiss banks UBS and Credit Suisse, the format of the deal is similar to the one Swiss bank UBS took, with 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.

The Bank Leumi Group's parent company is Bank Leumi le-Israel, B.M. In all, the bank has subsidiaries in seven countries and more than 13,000 employees. Other subsidiaries entering into the deferred prosecution agreement include The Bank Leumi le-Israel Trust Company Ltd.; Leumi Private Bank S.A., a Switzerland-based subsidiary; Bank Leumi (Luxembourg) S.A., a Luxembourg-based subsidiary; and Bank Leumi USA, a full-service commercial bank with offices in California, Florida, Illinois and New York.

Of the \$270 million to be paid to the U.S., \$157 million is a penalty for U.S. taxpayer accounts held at Leumi Private Bank in Switzerland. Bank Leumi Luxembourg and Leumi Private Bank must cease to provide banking and investment services for all accounts held or beneficially owned by U.S. taxpayers. According to the statement of facts, 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 department, the Bank Leumi Group provided the names of more than 1,500 of its U.S. account holders. It all represents one more confirmation that when it comes to U.S. taxpayers, with FATCA and with the global transparency the IRS and DOJ have enforced, relying upon bank secrecy anywhere is unwise.

For alerts to future tax articles, follow me on Forbes. You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.