

Guide to reducing the use of cash

General

The REDUCTION OF USE OF CASH LAW, 5778 – 2018 (hereinafter: the "**Law**") was enacted in March 201. Its purpose is to circumvent the use of "black money" and assist in the fight against criminal activity, including serious crimes, tax evasion, money laundering and terrorist financing.

The Law, *inter alia*, deals with the restrictions of the use of cash and checks. The restrictions apply to dealers, persons who are not a dealers, tourists, CPAs and attorneys when providing a "business service" to a customer. The Law provides that a monetary sanction or administrative fine will be imposed on persons in breach of the Law, according to their classification, as well as the imposition of prison sentences for acts of fraud.

The Law is the product of the work of the Committee established to Examine Reducing the Use of Cash in Israel's Economy (hereinafter: the "**Locker Committee**"), which submitted its report in July 2014. According to the report, about one-fifth of Israel's economic activity is carried out with the use of "black money". The Locker Committee was of the opinion that because cash is not traceable and its users cannot be identified, it enables commercial and financial activity removed from the authorities' eyes, and therefore the use of cash enables tax evasion, money laundering and financing terrorist activities. The Committee accordingly recommended an outline for the gradual reduction of the use of cash and other paper-based payment methods, while promoting and increasing the use of electronic means of payment.

Key definitions in the Law

As in any law, this Law too contains several key definitions.

- "**Transaction**" The sale or purchase of an asset or the provision or receipt of a service.
- "**Transaction price**" The consideration agreed upon by the parties to the transaction for the asset or service, including Value Added Tax, Purchase Tax and Excise, as well as expenses associated with the transaction agreed upon with the seller of the asset or with the service provider. In this regard –
 - (1) It is of no concern whether part of the consideration was paid in actual cash, or whether paid in cash equivalents.
 - (2) Pertaining to the sale of several assets, the cumulative price of all the assets shall not be regarded as the transaction price, unless the parties have agreed on their sale at the same time.
 - (3) In any ongoing transaction for the receipt of a service, any payment to payable periodically, from time to time, shall be deemed to be the transaction price;
 - (4) In the sale of a right of lease, the consideration being paid from time to time, and not in installments, shall be deemed to be the transaction

price;

(5) In a transaction the subject of which is cash, including deposit, withdrawal, transfer or conversion of cash, the cash amount shall not be considered as part of the transaction price;

- **"Dealer"** A person who sells an asset or provides a service during the course of his business, including a non-profit organization.
- **"Person who is not a dealer"** Includes a dealer not in the course of his business.
- **"Cash payment"** Amount paid or given in cash, except for the **lower** of the following:
 - A sum of 10% of the transaction price, the amount of the gift, the amount of the donation or the amount of the loan.
 - An amount of NIS 11,000 or NIS 50,000, as applicable.
- **"Director"** The Director of the Tax Authority and the person authorized by the Director to act in his place.

The provisions of the Law regarding a Dealer

c.1 Restrictions on a Dealer (in the framework of his business)

- No cash payment may be given or received in a transaction exceeding NIS 11,000.
- No cash payment may be received from a tourist in a transaction exceeding NIS 55,000.
- No cash payment may be given or received as a wage, donation, or loan in an amount exceeding NIS 11,000. Exception : This restriction shall not apply to a loan granted by a supervised financial entity.
- No cash payment may be given or received as a gift in an amount exceeding NIS 50,000.
- No payment may be given or received through the medium of a check : in respect of transactions relating to salaries/ donations/ loans/ gift, in the absence of the name of the payee noted on the check, as a payee or as an endorsee, as may be applicable.
- An endorsee shall not endorse a check and shall not receive an endorsed check, without the name and identity number of the endorsing party noted on the check.
- A dealer shall record the method of payment by which he paid or by which'd he received the sum of money.

c.2 Sanctions on a Dealer – financial sanction

1. The measure of the financial sanction shall be determined in accordance with the degree of the violation. The elements determining the degree **of the violation** is : the sum of the "cash payment", the check payment or

the payment with the endorsed check – without the required details, the receipt or the payment without documentation.

- If the amount (relating to the violation) involved is less than NIS 25,000 – the rate of the sanction shall be 15% of the sum involved.
- If the amount (relating to the violation) involved exceeds NIS 25,000 and is up to NIS 50,000 – the rate of the sanction shall be 20% of the sum involved.
- If the (relating to the violation) involved exceeds NIS 50,000 – the rate of the sanction shall be 30% of the sum involved.

Example 1 for calculating the sanction:

Data: The transaction price is NIS 30,000 and NIS 20,000 was paid in cash.

Cash payment amount: 20,000 minus 3,000 (the lowest of 11,000 or 30,000 * 10%) = 17,000

The amount of the financial sanction: 17,000 * 15% = NIS 2,550.

Example 2 for calculating the sanction:

Data: The transaction price is NIS 120,000 and NIS 10,000 was paid in cash.

Since the amount paid in cash (NIS 10,000) is less than 10% of the "transaction price" or 11,000, the lower of the two, there is no violation.

Example 3 for calculating the sanction:

Data: The transaction price is NIS 10,000 and NIS 9,000 was paid in cash.

Since the "transaction price" is less than NIS 11,000, it is permissible to pay the entire transaction in cash.

The stages of imposition of the financial sanction:

Stage A – Written notice on behalf of the Director to the charged violator of the intention to impose a financial sanction.

Stage B – The violator may object in writing before the Director, within 45 days from the date of delivery of the notice (hereinafter: the "Objection"). The Director may extend said period by an additional period not exceeding 45 days. In addition, the Director may allow the accused party to bring his arguments before him, if he is satisfied that there are circumstances justifying it.

In the event of a violator failing to object, the notice of the intention to impose the financial sanction shall be deemed to be a payment demand given to the violator, and a payment voucher shall be sent to the violator.

- Stage C – In the event that the violator submitted an objection, the Director shall evaluate the violator's submissions and shall make one of two decisions: namely to impose a sanction or to cancel a sanction.
- Stage D – Submission of the Director's decision to the violator. In the event of a decision to impose a financial sanction, a payment demand shall be made and forwarded to the violator.
- Stage E – The payment of the sanction in the event of the Director electing to impose a financial sanction:
- The violator shall be obliged to pay the financial sanction within 30 days from the date of delivery of the demand for payment.
 - A financial sanction that is not paid timeously will accrue linkage differentials and interest.
 - The violator may request the Director to permit payment by way of instalments of the financial sanction and/or to reduce the linkage differentials and interest.
 - In addition to the payment of the sanction, the may appeal to the Magistrate's Court within 30 days of the date on which notice of the Director's decision was delivered to him. The filing of an appeal shall not delay the payment of the financial sanction, unless the Director so agrees or the Court so orders. In the event that the Court upholds the violator appeal, the financial sanction he has paid will be refunded to the violator together with linkage differentials and interest.

Repeat violation

- The cumulative conditions for a repeat violation:
 - Violation of the same provision of the Law.
 - A financial sanction that was imposed on the violator for the breach that preceded the last one.
 - The last violation was committed within two years of the previous one.
- The sanction for a repeat violation – financial sanction in the amount of the previous violation, in addition to the financial sanction for the last violation.

The provisions of the law regarding the attorney and CPA:

d.1 Restrictions on CPAs and attorneys as part of the provision of business services to customers

In addition to the provisions of section c.1 above, an attorney and a CPA shall not receive cash in the context of the provision of a "business service" to a client :

- Over NIS 11,000 – from a Dealer (in the framework of his business), for any business service.
- Over NIS 50,000 – from a person who is not a Dealer, for any business service.

"Business Service" – any of the following:

- Buying, selling or long-term leasing of real estate.
- Buying or selling of a business.
- Management of a customer's assets, including management of money, securities and real estate, as well as the management of accounts of a customer in a banking corporation [or in one of the entities listed in items 1 - 4 and 6 of the Third Schedule of the Prohibition on Money Laundering Law, 5760 – 2000](#).
- Receipt, possession or transfer of funds for the purpose of establishing or managing a corporation.
- Establishment or management of a corporation, business or trusteeship for another.

d.2 Sanction on CPAs and attorneys – administrative fine:

An administrative fine will be determined in accordance with the Administrative Offenses Regulations (Administrative Fine – Reduction of Use of Cash), to be enacted in the near future.

The provisions of the Law regarding a person who is not a Dealer:

e.1 Restrictions on a person who is not a Dealer

- He may not receive (from a Dealer or from a person who is not a Dealer) a cash payment in any transaction exceeding NIS 50,000.
- He may not make any payment in cash to a Dealer in any transaction in the course of the Dealer's business, when the transaction price exceeds NIS 11,000.
- He may not make any payment in cash to a person who is not a Dealer in a transaction, when the transaction price exceeds NIS 50,000.
- He may not make or receive payment in cash as wages, donations, or as a loan an amount exceeding NIS 11,000.
- He may not make or receive payment in cash as a gift in an amount

exceeding NIS 50,000

- He may not receive payment in check in an amount exceeding NIS 5,000 for a transaction/ wage/ donation/ loan/ gift, without the name of the payee noted on the check, as a payee or as an endorsee, as may be applicable.
- He may not give a Dealer, in the framework of his business, payment by way of a check for a transaction/ wage/ donation/ loan/ gift, without the Dealer's name being noted on the check, as a payee or as an endorsee, as may be applicable.
- He may not give a person who is not a Dealer, payment in check in an amount exceeding NIS 5,000 for a transaction/ wage/ donation/ loan/ gift, without the name of the payee noted on the check, as a payee or as an endorsee, as may be applicable.
- He may not endorse a check and may not receive an endorsed check, without the name and identity number of the endorsing party noted on the check.

e.2 Sanctions on a person who is not a Dealer – administrative fine:

Any administrative fine will be determined in accordance with the Administrative Offenses Regulations (Administrative Fine – Reduction of Use of Cash), to be enacted in the near future.

The provisions of the law regarding a tourist:

f.1 Restrictions on a tourist

- He may not make a payment in cash payment to a Dealer for a transaction exceeding NIS 55,000.
- He may not make or receive payment in cash as a wage, as a donation, or as a loan in an amount exceeding NIS 11,000.
- He may not make or receive payment in cash as a gift in an amount exceeding NIS 50,000.
- He may not endorse a check and may not receive an endorsed check, without the name and identity number of the endorsing party noted on the check.

f.2 Sanctions on a tourist – administrative fine:

Any administrative fine will be determined in accordance with the Administrative Offenses Regulations (Administrative Fine – Reduction of Use of Cash), to be enacted in the near future.

The provisions of the Law regarding fraud

A person committing fraud, including any one of the acts listed below, in order to avoid one of the prohibitions regarding the use of cash, will be liable to imprisonment for a term of three years.

- Split: a transaction, wage, donation, loan or gift.
- Recording false details in a document.

Exclusions on restrictions on the use of cash:

Restrictions on the **use of cash** will not apply **between relatives**, excluding cash payment for wages.

A relative is – a spouse, parent, parent's parent, son, daughter, brother, sister and their children, grandchild or granddaughter and the spouses of each of these and any other person who is their dependent.

The provisions of the Law with regard to a banking corporation, the Postal Bank or a license holder for the provision of deposit and credit services

i.1 Restrictions

A check shall not be paid, when:

- The name of the payee is not stated on the check
- Regarding an endorsed check in an amount exceeding NIS 10,000:
 - o Where it does not indicate the name + ID of the endorsing party and the name of the endorsee.
 - o Where it has been endorsed more than once, excluding exceptions.

i.2 Sanction – financial sanction

- A financial sanction will be imposed on a violation as stated above.
- The financial sanction will be imposed by: The Supervisor of Banks, the Supervisor, as defined in the Postal Law and the Supervisor, as defined in the Supervision of Financial Services Law, as applicable.

i.3 Applicability and exclusions

- The application of the above restrictions – July 1st 2019.
- The provisions of the Law shall not apply to: checks deposited for safekeeping with a banking corporation, the Postal Bank or a license holder for the provision of deposit and credit services prior to July 1st 2019.

The provisions of the Law regarding the purchaser of real estate rights

- A purchaser of real estate rights, who must submit a declaration under Section 73 of the Land Tax Law, will be required, within the framework of his declaration, to check one of the following two possibilities:
 - Details of the means of payment, through which the consideration is transferred are known to the purchaser.
 - Details of the means of payment are not known to purchaser at the time of submittal of this declaration.
- Completing this section is mandatory.
- A declaration submitted manually without completing the section as required, will be considered an assessment in the absence of a declaration until its completion.
- Without such details, no tax confirmation will be issued for the transaction.
- It should be clarified that even if the purchaser not as yet having transferred the payments, he can check the first option and declare the means of payment in which he intends to transfer the consideration to the seller.
- When selecting the first option, the appropriate amount must be specified next to each means of payment (cash/ bank transfer/ check/ other) so that the total amounts will match the full sale value in the declaration.
- Payment by way of taking a mortgage is akin to payment via bank transfer.
- To the extent that on the date of the declaration, payments have been made (all or some), the references must be attached to the declaration through "Sending Documents" under the heading "Reduction of Use of Cash Law References".
- When selecting the second option, the purchaser will complete in his declaration the expected delivery date of the transaction. The purchaser will be required to complete the information by the end of six months from the date of handing over possession of the land.
- The completion of the information, the amendment of the details of the means of payment and the updating of the expected date of delivery, will be made on the Tax Authority website under the heading "Land Taxation" "Completion of Means of Payment Details".
- The references of payment must be kept and presented upon request.

The Law is effective as of January 1st 2019

k.1 Restrictions on application of the Law:

- Loan agreements entered into before January 1st 2019.
- Transactions concluded before January 1st 2019, except for ongoing transactions for the receipt of a service or sale of a lease right.

k.2 Transitional provisions regarding the imposition of sanctions

Until September 30th 2019, no financial sanction or administrative fine will be imposed for violation of the Law, unless the violator receives a **written warning** of the violation and has thereafter infringed **the same provision**.

k.3 Transitional provisions in respect of a Dealer whose business is granting interest-free credit (charity)

- **Charity** – A person whose business is in the provision of non-interest-bearing credit to an individual or to another, whose business is the provision of such credit.
- Postponement of the restrictions on the use of cash for a charity that **gives** or **receives a donation or gift in cash** until the 13 of July 2022.

k.4 Transitional provisions regarding the residents of Judea, Samaria and Gaza

- The application of restrictions on the use of cash will be postponed in respect of:
 - A resident of Judea, Samaria and Gaza who is not an Israeli citizen.
 - An Israeli citizen who gives/ receives payment in cash to a resident/ from a resident of Judea, Samaria and Gaza who is not an Israeli citizen
- The postponement is for 3 years.
- The Israel Money Laundering Prohibition Authority must be informed of transactions with residents of Judea, Samaria and Gaza.
- Within the framework of the Law, Section 11L1 of the Prohibition on Money Laundering Law was added, according to which an Israeli citizen must report to the Money Laundering Prohibition Authority when the following conditions are met:
 - He gave or received payment in cash from a resident of Judea, Samaria and Gaza who is not an Israeli citizen.
 - The payment/ receipt is for: a transaction/ wage/ donation/ gift/ loan, whose price exceeds NIS 50,000.

Section 11L1 of the Prohibition on Money Laundering Law lists the dates of such reporting, the reporting address and the details to be reported.

Publication of the financial sanction

Any financial sanction imposed will be published on the Tax Authority website and will include, *inter alia*, the following details: the imposition of the financial sanction, the nature of the violation, the amount of the financial sanction imposed, and details of the violator (without mentioning his name), such as: area of residence, occupation and the like.