

# Technology & Innovation in Israel: The Role of the Legal System

Indian Defense Delegation

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# Legal Transformations behind the Economic Successes

Some highlights of 30 years of  
practicing high tech law in Israel

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# Lessons of 25 Years of Practicing Hi-Tech Law in Israel

- “Silicon Valley” practices have been adapted to the Israeli legal and business environment
- Corporate, tax and other fields of law have been revised slowly and steadily to level the playing field
- Local legal and accounting professions have grown increasingly sophisticated
- Israeli legal “innovations” have helped push this process

# Then and Now

	Then	Now
Currency Controls	Complex and Byzantine	Gone!
Stamp Tax	Inefficient, complex and sometime costly	Gone!
Acquisition by Reverse Triangular Merger	No – only share purchase	YES, like in the U.S.
Tax Free Reorganizations	Very few	Better, but not as good as the U.S.
Capital Gains Treatment for Founders Shares and ESOP	No	Yes
Capital Gains Tax on Foreign Investors	Yes	No
Capital Gains Treatment for VC Carried Interest	No	Yes, subject to certain rules

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# Corporate Law

- In general, Israeli companies “look and feel” like US corporations (shareholders, directors, officers, limited liability)
- Companies Law adopted in 2000 leans more towards Delaware, less towards the UK (replaced England’s 1929 Companies Act!)
- Enables acquisitions by reverse triangular merger (key to modern company acquisitions)
- Israeli companies regularly go public in the U.S.
- Israeli companies can go bankrupt (vital for a thriving hi tech industry)

# Start-Up Companies

- Dramatic reduction in capital gains tax rate on founders' shares (creates tremendous incentive; no more complex tax planning)
- Employee Stock Options Plans (taxed at capital gains rates, and only upon exercise – key to incentivizing employees)
- Articles of Association (equivalent to Certificate of Incorporation in the US) can accommodate standard venture capital provisions
  - Liquidation Preference
  - Anti-dilution Protection
  - Minority Shareholder protections
  - Drag-Alongs, Co-Sales, ROFRs
- Recent trends: serial entrepreneurs, “single app” companies

# Venture Capital Funds

- Industry Jump-Started by “Yozma” Funds
- Most active VCs are Cayman Island Funds with parallel Israeli funds
- Tax ruling regime protects foreign investors
- GP’s carried interest taxed at capital gains rates, subject to certain rules
- VC deals look and feel like US deals – terms are a mix between East Coast and West Coast standards
- Increasing role of foreign funds

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## Other Sources of Financing

- Professional Angel Investors – serial entrepreneurs and others
- OCS and Private Incubators
- Hubs and Accelerators
- Crowd funding and accredited investor clubs – the ISA struggles to keep up



# IP Protection - Key to Hi Tech Success

- Patents, Copyrights, Trademarks, Trade Secrets
- Data Privacy
- Computer Law (not that long ago, Israel still used England's 1911 Copyright Act)
- Problem: Section 134 of Patent Law – new decision provides clarity

# Special Incentives for Israeli Technology Companies

- Office of the Chief Scientist
  - R&D funding
  - Incubator support
- Approved/Benefitted Enterprise (tax advantages)
- BIRD Foundation
- Government Support
  - Biotech funds and incubators
  - Encouragement for Institutional Investors
- Case Study: Orbimed/J&J/Takeda Incubator

## Other Relevant Israeli Legal Regimes

- Securities Laws
  - In general, based on the US-style disclosure model
- Anti-trust Laws – similar to HSR

## Conclusion

- The legal infrastructure plays a key role in enabling the hi tech revolution
- Israeli laws relevant to hi tech, while not perfect, are similar in many respects to the U.S. and more attuned to hi tech than the laws of most European countries
- Israel recognized the need to unleash the power of hi tech development