

# Epstein & Co.

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## Selling an Apartment in Israel Made Easy Seven Points You Should Consider Before You Sell an Apartment

We at **Epstein Law** can guide and accompany you through each step.

You have decided to sell your apartment. There are many reasons you might have chosen to do so. Maybe you want to downsize or move to a different neighborhood, or even another city. Whatever your reasons, consider the following seven points before you sell:

1. **Registration** - Check that your apartment is registered in your name in the appropriate land registration venue (such as the "Land Registration and Settlement of Rights Department" (*TABU*), or other registration venues). After finding a potential buyer, sellers often discover that their apartment was not properly registered in their name. A prior check can also reveal errors concerning your Identity Number or your incorrectly spelled name. This check can often save you your time and money.
2. **Property Tax** - Check whether the Property Tax (*Mas Shevach*) applies on your sale. In Israel, it is the seller who is obligated to pay the Property Tax, even if the contract privately stipulates that the buyer assumes responsibility for paying this tax. Consult an expert lawyer who can both examine your potential liability as well as find a possible exemption or a possible reduction of this tax. This can save you money, as many different rules apply. Some exemptions include apartments that were inherited or larger apartments purchased to replace two smaller ones.
3. **Improvement Levy** - You, the seller, must check if there is a Municipal Improvement Levy (*Heytel Hashbacha*) that applies to the apartment you wish to sell. Before selling a 'second hand' apartment you should check with the municipality to ascertain whether you, the owner of the apartment, are required to pay this Levy. This Improvement Levy is a form of tax that a municipality charges the seller when as a result of a local planning improvement program the value of your apartment has increased. Proper planning can prevent or mitigate many issues from arising. With the help of an experienced lawyer you might be able to reduce or cancel the Improvement Levy.
4. **Memorandum of Understanding** - Often, after the parties have reached a mutual decision to buy and sell an apartment, they summarize the terms in a document

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called a Memorandum of Understanding (*Zichron Devarim*) this document might include basic information such as the apartment's price, a schedule of payment, and apartment address. Nevertheless, do not sign a Memorandum of Understanding (*Zichron Devarim*). In many cases, this seemingly informal document can be considered a legal contract, enforceable in Israeli courts, even if the parties expressly agreed in writing that a real contract would be prepared by an attorney. Insist on a meeting with your real estate attorney who will prepare for you a proper contract that will protect your interests.

5. **Mortgage** - If you have a mortgage on the apartment, you, the seller, must present a "Letter of Intent" (*Michtav Kavanot*) from the bank that shows the amount on the mortgage that is owed. Be aware that the amount written in the Land Registration and Settlement of Rights Department (*TABU* or other relevant venues) usually does not reflect the actual amount of the mortgage on the apartment.
6. **Payment Plan** –Among other terms, your buyer and you negotiate the payment plan and the date of handing over ownership. An imprecise payment schedule can cause problems for you and could adversely affect the registration of your transaction. A knowledgeable attorney can advise you on this matter by implementing proper legal procedures to protect your interests.

There is an art to determining the payment schedule. To ensure that you are protected you should work with your lawyer to set that schedule. Here are some basic tips:

- a) The seller should remember that once the contract has been signed and payments have commenced, the buyer registers a Warning Caveat (*Hearut Azharah*, a pledge for the transaction in his favor). This Warning Caveat obligates the seller to fulfill the terms of the contract and can make it difficult to cancel the transaction once it has been registered (even in the event of breach of contract from the buyer's side). It is therefore recommended that the first payment be at the rate of the agreed compensation in case of a breach of contract.
- b) In many cases selling an apartment is done in order to purchase a different apartment. If the seller is in need of the money for the corresponding purchase as well as additional expenses involved in the two transactions, he

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should ask for a larger first payment even if he has not yet paid off his mortgage.

- c) Often, the interest of the seller is to receive a larger share of the proceeds at an early stage of the transaction and delay handing over the ownership on the apartment for as long as possible. That being said, it is also in the buyer's interest not to delay payments and pay off the seller's mortgage as soon as possible which will lead to an earlier transfer of apartment to the buyer.

- 7. **Always consult with a real estate lawyer especially throughout the negotiations!** This will save you much time, stress, money and many legal complications. As you have read above, the issues are many and the possible complications can cost you dearly. Be smart and hire an experienced real estate lawyer who will advise you throughout your selling and purchase process. Please feel free to contact us with any questions.

**Warning:** This information is not intended to constitute legal advice and should not be relied upon in lieu of consultation with the appropriate legal advisors in your own jurisdiction.

Please refer to other articles in our series: "**The Ins and Outs of Real Estate in Israel**" for non-Israelis on [www.epsteinlaw.co.il](http://www.epsteinlaw.co.il).

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