



ISSUES RELATING TO FOREIGN INVESTMENT

TURKEY Pekin & Pekin

CONTACT INFORMATION

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1. Is state governmental permission required for foreign investors to acquire real estate? If so, please identify.

Acquisition of real property by foreign investors in Turkiye is subject to below conditions:

(a) Foreign Real Person

Conditions for purchasing real property:

Non-citizen real person may purchase real properties within an (implementation development plan) and (local development plan) (cadastrated areas within central districts) those allocated and registered for this purpose - in Turkiye in order to use it as a

- (i) business place
- (ii) or resident

on the condition that it is

- (i) reciprocal
- (ii) and the legal limits are complied with.

General Ratio of Purchase:

The purchase is defined with a ratio. Accordingly, non-citizen real persons are able to purchase real properties up to 10% of the total area survey remaining within the “implementation development plan” and “local development plan” at the anticipated amount.

Total Survey Permissible for Purchase:

The total of the survey of the “real properties and the real rights that are of independent and continuous nature” which a non-citizen may own in the “overall” of the Country may not exceed (two and a half hectares).

(b) Foreign Commercial Companies Having the Legal Personality

The “commercial companies” having the legal personality and incorporated in accordance with the legislation of the foreign countries may only acquire real property and (limited real rights) over such within the frames of the special provisions of law under limited circumstances (Petroleum Law, Industrial Zones Law, Law on Encouragement of Tourism).

2. Are there other state restrictions imposed on ownership of real estate by foreign investors? To acquire interests in entities which own real estate? If so, please identify.

There are restrictions imposed on companies incorporated in Turkiye and subscribed to by the Foreign Investors (“Foreign Invested Company”).

Accordingly Turkish companies which foreign investors have incorporated or subscribed to¹ in Turkiye may purchase real property or limited real rights and utilize those rights in order to conduct the activities stated² in their articles of association (Article 36 of the Title Deed Law (Law No. 2644)).

For the purposes of purchasing and/or acquiring limited real rights other than ownership over the real properties by the foreign invested Companies, shall file an application with the “Province Planning and Coordination Directorate within the Governor Office” of the province where the real property is located. Such application shall be submitted to the relevant Governor Office with a petition along with the necessary information and documents to be provided by such company.

The relevant Governor Office subsequently consults in writing to:

- (a) the Ministry of Industry and Trade within 7 working days, to determine whether or not the purchase of real property falls within the field of activities of the foreign company,

¹ No minimum or maximum subscription percentages are foreseen by law.

² Article 137 of the Turkish Commercial Code provides that commercial companies have legal personality and, provided that they act remains within the limits of their stated operation activities, they may acquire all rights and debts; in other words, they shall not be deemed (entitled) to conduct activities that are not indicated in the articles of association of such company.

- (b) the Turkish General Staff or authorized military command headquarters within 30 days, to determine whether or not the immovable is located within the military exclusion zone, and
- (c) in the case of special security zones, the Security General Directorate within 20 days

If the real property subject to purchase does not fall within the military exclusion zone, special security zone and the purchase of the immovable falls within the field of activities of the foreign invested Turkish company, The relevant Governor Office informs the relevant Title Deed Registrar and the applicant company with the clearance to perfect the transfer of the real property to the Foreign Invested Company.

3. Are foreign investors required to invest with a local partner? If not, is investment with a local partner advisable?

Foreign investors are not required to invest with a local partner, however particularly in direct real estate development or construction activities partnership or collaboration at some point with a local is advisable.

4. What state taxes are levied solely on foreign individuals or entities acquiring or transferring real estate or interests in entities which acquire real estate?

There are no special taxes levied solely on foreign individuals or entities acquiring or transferring real property or interests thereon. Foreign investors are subject to the exact same taxes and levies of which Turkish citizens are subject to. In general real estate acquisition is subject to 3 % (1.5% to be paid by the Seller and 1.5% to be paid by the Purchaser calculated over the purchase price) Title Deed Charge, Circulating Capital Fee (fixed rate, currently around USD 200) and VAT of 18% (VAT is applicable subject to certain conditions such as the Seller being a legal entity and the real estate is not a residential house smaller than 150 square meters etc.)

5. Describe reporting requirements for reporting the acquisition, ownership or disposition of real estate which relate solely to foreign direct or indirect owners of real estate.

In addition to our responses to Question 2 hereinabove, if a company with Turkish shareholders becomes/transformed into a Foreign Invested Company by way of share transfer or subscription of additional capital, the company shall notify the Direct Foreign Investment General Directorate with the Prime Ministry Undersecretariat of Treasury and a notification shall be sent to the relevant Governor Office via General Directorate of Title Deed and Cadastre within the Treasury. Following the necessary evaluations, the application process will take place in the usual manner (if such company is holding a real property).

Whether the use of the real property and/or limited real rights other than ownerships or not, falls within the fields of activity of the transformed company, is evaluated over a period of time.

Where inappropriate use has been identified, the company or, if existing, the correspondent of the foreign invested company, will be notified. The Foreign Invested Company is then required to reply to such notification within 10 days. Failure to reply

will be deemed to be “Acceptance” of such inappropriate use. Following this, a period of time may be granted to the company for rectification purposes. However, if the evaluation is negative; mandatory transfer or sale of the immovable shall be necessary.

Following the transmission of the documents to the Ministry of Finance by the relevant Governor Office, mandatory transfer or sale starts within 6 months from when, the company receives the “Mandatory Sale or Transfer of the Immovable Notice”. Provided that, there is just cause, such period may be extended by up to 6 months. If the mandatory transfer or sale is not carried out by the company then it is carried out by the Ministry, in accordance with the general mandatory sale and transfer provisions.