



ISSUES RELATING TO FOREIGN INVESTMENT

BRAZIL Demarest e Almeida

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

Brazilian legislation does not provide for any type of restriction on the foreign ownership of real property in the urban area, except for the properties considered as coastal land, which are owned by the Federal Government.

As a general rule, the acquisition of real property in Brazil by foreign nationals is not permitted or has some restrictions in the following cases:

(i) With regard to rural land:

- Corporations or individuals which reside or are domiciled abroad are forbidden to acquire rural real estate (except, with regard to a foreign individual, in the event such individual intends to immigrate to Brazil, he will be allowed to execute, in his country, a private purchase and sale promise, provided that within 3 years as of the execution of such contract he fixes his domicile in Brazil and exploits the property);
- Foreign individuals living in the country and foreign corporations duly authorized to operate in Brazil may acquire rural land provided that they respect some limitations regarding the area, established by law;

- The acquisition described above is subject to the effective exploitation of the land, according to projects to be presented to the governmental authorities;
- The acquisition, by foreigners, of rural property located within the so called International Border Area (“Faixa de Fronteira”) which is “the internal strip of land with a width of 150 km “parallel” to the terrestrial border line of the Brazilian territory”, is subject to the obtaining of a prior consent granted by the National Defence Council (“Conselho de Defesa Nacional”).

(ii) With regard to real estate owned by the Federal Government:

- Foreign corporations and/or individuals are not allowed to acquire real estate owned by the Federal Government located in areas characterized as essential for the national security without prior approval of the President.

Additionally, the foreign companies that desire to own properties in Brazil shall be enrolled with the Brazilian Federal Revenue.

Regarding the Brazilian legal entities whose majority capital is owned by foreigners, whether individuals or legal entities, residing or with registered office abroad, the only limitation that it is subject is acquisition of real properties comprised within the International Border Area.

Within urban zones, there are no restrictions to own any kind of the assets described in the question.

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

Please refer to the answer above.

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

The Brazilian corporate law does not require a local partner. Brazilian companies must be formed with at least two partners, which can be legal entities or individuals, Brazilians or not. In the event the partners are not resident in Brazil, they must keep attorneys-in-fact in Brazil with powers to represent them in corporate matters in general.

At least one individual resident in Brazil must be appointed as the company's manager. The manager will be in charge of the company's management and representation. The manager will be entitled to validly bind the company and to perform the managing acts within the company's purposes, with due observation of the limits established in the articles of association.

In order to acquire interest in local companies, foreign entities must be previously enrolled with the Brazilian Taxpayers Registry (CNPJ).

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

None

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 March 3, 1998, Law n. 9613 was enacted to prevent, detect and punish money laundering activities in Brazil (the "AML Law").

The AML Law provided for the creation of the Financial Activities Control Council (Conselho de Controle de Atividades Financeiras - the "COAF"), responsible for monitoring the compliance with the AML Law, imposing administrative penalties and analyzing evidences of money laundering. The COAF is managed by a board, composed by a chairman, appointed by the Brazilian President, and eight counselors, appointed by the Ministry of Economy.

The rules governing anti-money laundering do not impose a specific duty to real estate investors, and thus AML Law is also applicable thereto. The COAF has recently enacted (October 23, 2006) Regulation n. 14 on real state-related transactions, imposing duties to legal entities and individuals participating thereto (whether foreigners or nationals), including the record of transactions involving R\$100,000.00 (approximately US\$ 47,000.00, or more).