

LEX MUNDI
PUBLICATION



ISSUES RELATING TO FOREIGN INVESTMENT

CZECH REPUBLIC PRK Partners s.r.o.

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

According to Section 17 of Act No. 219/1995 Coll., Foreign Exchange Act, as amended (the “**Foreign Exchange Act**”) there is a different regime for (i) lands within the Agriculture Land Fund, i.e. agriculture lands and land intended for the forest function, i.e. forest lands and (ii) other real estate not specified in letter (i).

After the accession of the Czech Republic to the European Union (with effect from 1 April 2004) the Czech Republic had a transitional period concerning acquisition of certain real estate by foreign persons.

As regards real estate other than the agriculture lands and forest lands the transitional period was five years and terminated as of 30 April 2009. The Czech Parliament has not yet amended the Foreign Exchange Act to reflect termination but Section 31 of that Foreign Exchange Act states that the provisions of the Foreign Exchange Act are applicable if an international treaty binding for the Czech Republic has not stated otherwise. The same general requirement is also included in the Czech Constitution. The international treaty which states otherwise is the Treaty of Accession of the Czech Republic to the European Union.

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Therefore the foreign investors are entitled to acquire real estate other than the agriculture lands and the forest lands without any restraints.

As regards the agriculture lands and the forest lands the transitional period was determined for seven years and therefore it is still in effect. It will end as of 30 April 2011. Until then the rules for acquisition of the agriculture lands and the forest lands are as follows:

The agriculture lands and the forest lands may be acquired by

1. Czech citizens;
2. foreigners with Czech citizenship;
3. foreigners with a residence permit for a citizen of a member state of the European Community if this foreigner is registered as an agriculture entrepreneur in the relevant municipality and if his/her permanent residence in the Czech Republic is at least three years; and
4. other foreigners only (i) by way of legacy, (ii) for diplomatic representation of a foreign state on condition of reciprocity, (iii) as the common property of the married couple if one of them is a Czech citizen, (iv) from a related person, sibling or the husband/wife, (v) by exchange for other agriculture land of the forest land in the Czech Republic, (vi) upon a preemptive right within co-ownership, (vii) if the agriculture land or forest land constitutes a functional unit with a building owned by a foreigner, and (viii) if expressly stated by special law.

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 no other state restrictions imposed on ownership of real estate by foreign investors or to acquisition of interests in entities which own real estate, except for those described in question 1.

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

The foreign investors are not required to invest with the Czech partner.

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 national taxes levied solely on foreign individuals or entities.

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.

Save for the situation described below, there are no requirements for reporting obligations for foreign investors in case of acquisition of real estate. There is a possibility, under the specified conditions in the Foreign Exchange Act and in specific cases, of a requirement to report investments in connection with acquisition of interest in Czech companies.

In this connection please be informed that it is necessary under the Czech real estate law to register the ownership of the real estate (except for small accessory buildings) into the Real Estate Cadastre.