



ISSUES IN OWNERSHIP OF REAL ESTATE

Jersey Channel Islands Mourant Ozannes

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- 1. Is perpetual fee simple ownership of real property permitted? If not, what are the principal forms of ownership, or other principal form of ownership, of real property?**

The most common estate or ownership of land in Jersey is that known as "à fin d'héritage" (i.e. in perpetuity). This is similar to the English fee simple absolute (freehold). The other principal estate in land in Jersey is a contract lease for longer than nine years. Apartments and flats are generally acquired by "flying freehold" or share transfer.

- 2. What instruments are used to convey fee simple ownership, or other principal form of ownership, of real estate?**

A contract must be passed before the Royal Court of Jersey in order to transfer ownership of property in Jersey (save for leasehold interests of less than nine years).

- 3. How in this jurisdiction is the ownership of real property recorded or searched? Who generally performs the search?**

Once contracts have been passed before the Royal Court of Jersey they are registered in the Public Registry of the Island of Jersey and entered on an electronic database, known as the Public Registry Index and Document Enrolment database ("PRIDE"). All contracts dealing with acquisition and transfers of title to property must be registered in the Public Registry (except for leases under nine years duration). If property is acquired by a share transfer, there are no requirements to register the transfer. The Public Registry

and the PRIDE database may be accessed and searched by anyone, however searches are generally carried out by the lawyers acting for a prospective purchaser/lessee.

4. What assurances of ownership are available to purchasers of real property (e.g., title insurance or title opinions)? What is the cost of obtaining such assurances?

There is no state guarantee of title in Jersey. Purchasers must instead rely on the researches and enquiries of their lawyers who provide evidence of title. Title researches will go back at least 40 years and often much further. Insurance may be obtained for certain defects in title.

5. What are the most common forms of investment vehicles? What are the most common entities employed to own investment real estate in a tax efficient manner?

Companies and individuals are the most common means of holding property in Jersey. However, due to restrictions on residential property ownership in Jersey, a valid reason will be required before consent is given to a transfer of residential property to a company (such as the property is to be developed). It is also common for investors to purchase units in a Jersey Property Unit Trust ("JPUT") which holds property in other European jurisdictions, such as the United Kingdom, as part of its trust assets.

6. Has this jurisdiction adopted, or is it considering, legislation permitting the creation of real estate investment trusts or similar entities?

There is legislation permitting the creation of JPUTs and such trusts are widely used for holding property in other European jurisdictions. A Jersey company or a Jersey Limited Partnership could be constituted to acquire assets in other jurisdictions.

7. What state or local transfer, stamp or similar taxes are levied generally on sellers or buyers upon the direct transfer of real estate?

Stamp duty is payable on all transfers of interests in real estate, save for leasehold interests of less than nine years. Such duty is calculated on a sliding scale depending on the value of the transaction.

In addition, Goods and Services Tax at a rate of 3% is imposed on the vendors of interests in commercial real estate.

8. What state or local transfer, stamp or similar taxes are levied generally on sellers or buyers upon the transfer of interests in entities which own real estate?

Stamp duty and transfer tax is not presently payable on the transfer of interests in entities which own real estate. However, this will change in the very near future, as a law introducing a land and transactions share transfer tax is in process of being introduced.

Depending on the circumstances of the individual landowning entity and nature of the transaction, Goods and Services Tax at a rate of 3% may be payable.

9. How significant is local regulation and taxation of real estate? How significant is the variation of real estate law among political subdivisions of this jurisdiction?

Goods and Services Tax at a rate of 3% is generally chargeable on transfers of interest in commercial real estate, save for leasehold interests of less than nine years.

Jersey is divided into twelve Parishes, each of which set rates that are payable by property owners and occupiers in the Parish. Such rates vary from Parish to Parish.

The application of real estate law is uniform across the entire jurisdiction.

10. Must ultimate beneficial owners of entities which own real estate be disclosed as a matter of public record?

This is not required.