



## **ISSUES IN OWNERSHIP OF REAL ESTATE**

### **NEW ZEALAND Simpson Grierson**

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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?**

Yes, fee simple property ownership is permitted in New Zealand.

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

A memorandum of transfer. However, as the land titles system is now fully electronically recorded (and transferred) unless the transfer records unusual or complex covenants the transfer is created in e-space and "released" once the lawyers on each side have checked it and the settlement moneys have changed hands.

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

New Zealand uses a Torrens based title register. Over the last few years it has been completely converted into an electronic register. It is fully searchable on-line in real time by registered users (such as pre-approved New Zealand lawyers).

**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?**

Title insurance is not common in New Zealand. The title system is Government guaranteed and it is possible to obtain a guaranteed search showing title interests that the Government will guarantee is able to be relied upon (it expires after 14 days). It is customary to obtain such a guaranteed search immediately before settlement of any transfer or mortgage. The cost of such searches is minimal.

**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?**

There is no simple answer to this. Companies, individuals and trusts are the most common means of holding property depending on the individual circumstances of the client.

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

Real estate investment trusts (some of which are listed on the New Zealand Stock Exchange) are permitted under New Zealand law.

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

There is no stamp duty or transfer tax payable in New Zealand on the transfer of real estate.

However, depending on the circumstances of the individual landowner, income tax (in the form of capital gains tax for land owners engaged in the business of property development or speculation) may be payable.

**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?**

There is no stamp duty or transfer tax payable on the transfer of interests in entities which own real estate.

However, depending on the circumstances of the individual landowning entity or its "shareholders", income tax (in the form of capital gains tax for entities/people engaged in the business of share trading or speculation) 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?**

Local authorities and regional councils set municipal rates that are payable by property owners (for both residential and commercial properties). The rates vary from council to council.

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

No.