

GUIDELINES ON FOREIGNERS PURCHASE AND OWNERSHIP OF REAL ESATE : MALAYSIA

(A) Snapshots of the Economy

- Per Capital Income : RM29,000 (US\$9500).
- GDP Growth Rate : 5% (2011)
- Gross Dev. Savings @ % of GDV : -
- Inflation Rate : 3.2%
- Bank Borrowing Rate : $\pm 2\%$ of BLR of 6.6%
- NPL to loan ration : 3%
- Unemployment Rate : 3.5%
- Major Exports : Petroleum, Manufactured Goods, Oil Palm, Rubber.
- Foreign Reserves : RM426.7 Billion

(B) Guidelines on Foreigners Purchase of Real Estate



- Name of Regulation : Guideline on the Acquisition of Properties.
- Name of Regulatory Body : Economic Planning Unit (EPU) Prime Minister's Department
- Definition of Foreign Interest : Under the above Guideline, Foreign Interest means:-
 - (i) An individual who is not a Malaysian citizen or Permanent Resident.
 - (ii) Foreign company as defined under the Companies Act 1965.
 - (iii) Local company whereby the above parties hold more than 50% of the voting rights of that company .



Types of Properties Foreign Interest can buy

- The foreign interest can buy all types of properties in Malaysia, except for:-
 - Properties valued less than RM500,000 per unit.
 - Residential units under low and low-medium cost categories.
 - Properties built on Malay reserved land.
 - Properties allocated to Bumiputra interest in any property development as determined by the State Authority.

Any Limit to the Value and Number of Properties that Foreigner



- No limit on the value and number of property units.

Approvals Required for Foreigners to Buy Properties

- Economic Planning Unit approval is required for all property acquisitions, except residential units, valued at RM20 million, if it involves in dilution of the ownership and/or shares of property held by Bumiputra interest.
- For such acquisition, they are subject to the following equity and paid up conditions:-

- Equity Condition

Companies to have at least 30% Bumiputra shareholding.

- Paid Up Capital Conditions

- Local company owned by local interest to have at least RM100,000 paid up capital.
- Local company owned by foreign interest to have at least RM250,000 paid up capital.
- It is implied that if the acquisition does not involve any bumiputra interest, the above equity condition and paid up conditions will not apply.

- In addition, no approval from the Economic Planning Unit is required but approval is required from the relevant Ministries or Government Departments for the acquisition of the following categories of properties:-

(a) Acquisition of commercial unit valued at RM500,000 and above.

(b) Acquisition of agricultural land valued at RM500,000 and above or at least 5 acres.

(c) Acquisition of industrial land valued at RM500,000 and above.



- In addition, acquisition of a residential unit valued at RM500,000 and above do not require the approval of the Economic Planning Unit but falls under the preview of the State Authorities.

Exemptions:-

There are certain transactions that are exempted from requiring the approval of the Economic Planning Department (EPU). This include an acquisition of a residential unit under the “Malaysia My Second Home” Programme. A list of transactions that are exempted from EPU approval are listed in Appendix 1.



APPENDIX I

EXEMPTIONS

1. The transactions listed below are exempted from requiring the approval of the Economic Planning Unit, Prime Minister's Department:
 - 1.1 Any acquisition of residential unit under the "Malaysia My Second Home" Programme;
 - 1.2 Multimedia Super Corridor (MSC) status companies are allowed to acquire any property in the MSC area provided that the property is only used for their operational activities including as residence for their employees;
 - 1.3 Acquisition of properties in the approved area in any regional development corridor by companies that have been granted the status by the local authority as determined by Government;
 - 1.4 Acquisition of properties by a company that has obtained the endorsement from the Secretariat of the Malaysian International Islamic Financial Centre (MIFC);
 - 1.5 Acquisition of residential units to be occupied as a hostel for company's employees. However, local companies owned by foreign interest are only allowed to acquire residential units valued at RM100,000 and above and this matter is under the jurisdiction of the relevant state authorities;
 - 1.6 Transfer of property to a foreign interest pursuant to a will and court order;
 - 1.7 Acquisition of industrial land by manufacturing company;
 - 1.8 Acquisition of properties by Ministries and Government Departments (Federal and State), Ministry of Finance Incorporated, Menteri Besar Incorporated or Chief Minister Incorporated, State Secretary Incorporated and listed Government Linked Companies;
 - 1.9 Acquisition of properties under the privatization projects, whether at the Federal or State level, provided that it involves the companies that are the original signatories in the contracts for the privatized projects; and
 - 1.10 Acquisition of properties by companies that have been granted the status of International Procurement Centres, Operational Headquarters, Representative Offices, Regional Offices, Labuan offshore companies and Bio-Nexus or other special status by the Ministry of Finance, Ministry of International Trade and Industry and other ministries

(C) Special Incentives to Attract Foreigners to purchase Real Estate in Malaysia



- A foreign Interest purchasing a residential unit of RM500,000 and above are exempted from approval from the Economic Planning Unit under the Malaysia My 2nd Home Programme (MM2H).
- The applicant is expected to be financially independent and have minimum liquid assets (age below 50 : RM500,000 and age 50 and above RM350,000) and also show proof of regular income.
- Part of the liquid asset (ie. RM150,000) can be utilize for the house purchase.



Other Benefits:-

- 10 year Visit Pass and Multiple-Entry Visa (also renewable every 10 years).
- You can import your car or purchase a new car, tax free.
- You can invest or own a business in Malaysia.
- You can work part-time on selected skill employment.

(D) Financing For Foreigner to Purchase Properties

- Any financing for foreigners to borrow from local banks to purchase properties?

Yes, financing is available.

- What are the requirements and conditions for approval?
 - Property value must be RM500,000 and above.
 - The usual requirements and conditions for locals will apply such as proof of funds and eligibility and ability to repay the loan, etc.

- **Any limit on foreigners borrowing?**
 - For purely overseas client, maximum loan of 70% of the property value.
 - For expatriates who are resident and working in Malaysia for minimum 1 year and subject to eligibility criteria, can qualify for loan up to 90%.
- **Lending rate for bank loan:-**
 - Same as for locals, which is $\pm 2\%$ of BLR currently at 6.6%.
 - Loan Tenure : Maximum 25 years.

(E) Foreign Exchange Regulations

- Whether foreigners can bring in their own money to purchase properties?

Yes, they can. No restrictions.

- What are the foreign exchange regulations for them to bring money into the country?

No restrictions.

Non residents may maintain any number of external accounts with any financial institution in Malaysia and there is no restriction on the amount of Ringgit funds to be retained in the external accounts.

- What are the regulations for repatriation of profits by foreigners after sale?

No restriction, provided the money is converted to any foreign currency (not Malaysian ringgit) and repatriate to the home country.

(F) Return on Property Investments by Foreigners



- What are the preferred types of properties purchased by foreigners in Malaysia?
 - Condominium apartments are the most preferred type of investments purchased by foreigners in Malaysia.
 - Office Suites
 - Foreign manufacturers also purchased vacant industrial lands to build factories and warehouses.

- Gross Rent on Prime Grade A Office: RM6.50 psf
in Kuala Lumpur (US\$2.13 psf)
- Gross Rent of Luxurious Residence : RM5.50
(Condominium) in Kuala Lumpur (US\$1.80 psf)
- Gross Yield of Prime Grade A Office : 6%
in Kuala Lumpur
- Gross Yield of Luxurious Residence : 6%
(Condominium) in Kuala Lumpur

(G) Ownership Structure of Properties

- Malaysia practice the Torrens system of land registration.
- Freehold property belongs to the owner in perpetuity. Transfer of interest in the property can proceed without any restrictions or approvals from the government.
- Leasehold title are land leased from the State Government for a specific term, normally 33 years, 60 years or 99 years. The land will automatically revert to the State Authority upon expiry of the leasehold term. However, the leasehold term may be renewed, subject to payment of an additional premium. Transfer of leasehold interest to another party may require the State Authority approval.

- Strata title are another form of ownership common for multi storey residential and commercial buildings, as well as landed properties in a gated community.
- Strata title are given to individual units and the owners share common property such as common stairwell, driveways, roof, recreation facilities.
- Foreigners are not allowed to purchase any property falling within a Malay Reserve area.
- Land Use Rights are not applicable in Malaysia.

(H) Properties Purchase : Fees and Taxes



- Fees and taxes involved when a foreigner purchase a property:-
 - (1) Legal fees for the Sale & Purchase Agreement.
 - (2) Loan Application processing fee.
 - (3) Registration of charge, at beginning of loan period.
 - (4) Valuer's fees, if applicable.
 - (5) Estate Agent fee, if applicable.
 - (6) Stamp Duty
 - Stamp Duty payable on Conveyance, Assignment or Transfer of Properties.

	Property Value	Rate	Duty Payable
On the first	RM100,000	RM1 per RM100 or part thereof	RM1,000
On the next	RM400,000	RM2 per RM100 or part thereof	RM8,000
	RM500,000		RM900,000
In Excess of RM500,000, RM3 per RM100 or part thereof			

- Upon occupation of the Property, the Foreigner are required to pay the following outgoings:-
 1. Annual Rent : To the Land Office, where property is located.
 2. Assessment/Property Tax : To the local authority, that provides local services in the area.
 3. Fire Insurance Premium : To insure the property against fire and other risks.
 4. Service Charge : For condominium apartments, strata units and houses within a gated residential community, for the maintenance of the common services.

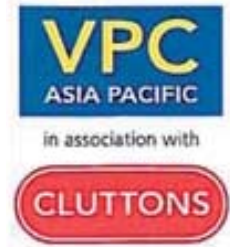
- Fees and taxes payable when a foreigner sell the property:-

1. Legal Fees.
2. Discharge of Charge.
3. Real Property Gains Tax (RPGT), payable only if there is a Chargeable Gain.

- Effective 1.1.2012, the RPGT rate is as follows:-

Holding Period	Real Property Gains Tax Rates		
	Companies	Individuals (Citizens & Permanent Residents)	Individuals (Non-Citizens)
Up to 2 years	10%	10%	5%
Exceeding 2 until 5 years	5%	5%	5%
Exceeding 5 years	0%	0%	0%

- Procedures for purchase of property in Malaysia:-
 - Foreigner can either buy the property “Off the Plan” from the Developer or a completed property in the secondary market. Generally, foreigners prefer to buy “Off the Plan” as the developer normally have pre-arranged loan.
 - The procedure will include checking on the title, check on the specifications and finishes of the property, appoint Lawyer to peruse the Sale and Purchase Agreement, appoint Valuer to determine the Market Value, arrange for bank loan and sign the Sale & Purchase Agreement.



- Procedures for the sale of the property is the same as the procedures for purchase of the property.
- Management fees upon renting the property. Equivalent to 1 month's rental.

(I) Taxation

- How are foreigner's income taxed?

Income tax is imposed on foreigners on income accruing in or derived from Malaysia. Rent is taxable income. Other sources of income of the Foreigner or non-resident that are taxable are:-

1. Gains or profits from any trade, business, profession or vocation.
2. Gains or profits from employment, including allowances and benefits in kind.

Accommodation provided by an employee is a benefits in kind.

(I) Taxation (con't)

3. Dividends, interest and discounts.
4. Royalties and premiums.
5. Pensions, annuities and other periodic payments.
6. Amounts received by the non-resident for provision of technical advice within Malaysia.

Tax Rate for Foreigners

Individuals

- Tax Rate for Non-Resident Person (Individuals) : 26%.
- Tax Rate for Resident : Sliding Scale from 0% - 26%.
- A foreigner is regarded as a tax resident if he is in Malaysia for at least 182 days of a calendar year.

Tax Rate for Companies

- Resident company with a paid up capital of RM2.5 million and below:-
 - On the 1st RM50,000 Chargeable Income : 20%
 - On the subsequent Chargeable Income : 25%
- Resident company with paid-up capital above RM2.5 million : 25%
- Non-resident company/branch : 25%

Income Exempt from Tax

- Interest derived from Malaysia by non-residents on any approved loan.
- Income from offshore companies or trusts.
- Interest received by non-resident depositors from certain Malaysian Islamic banks.
- Interest received by a non-resident expert for providing technical training.
- Interest income from bonds received by non-resident companies.

- Withholding Tax Payable by Foreigners

With respect to income such as royalties, interest or service fees, that is not attributable to a business carried on in Malaysia, the tax liability of the non-resident will be settled by way of withholding tax, deducted by the paying entity and payable to the Inland Revenue Board.

The withholding tax is normally 10%.