

Foreign Ownership of Real Property in Jordan

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Today, the global economic slowdown led many countries to revise their foreign ownership regulations in order to attract foreign investment and boost their economies. This article sheds light on Jordan's current legal framework in relation to foreign ownership of real property.

Generally, it is permissible for foreigners to own real property in Jordan, subject to the provisions set out in Leasing and Selling Immovable Assets to Non-Jordanians and Juristic Persons Law (Law No. 47 of 2006) (the 'Law'), the Economic Boycott Law (Law No. 11 of 1995) (the 'Economic Boycott Law'), and the Disposal of Immovable Assets by Juristic Persons Law (No. 61 of 1953) (the 'Disposal of Immovable Assets by Juristic Persons Law').

The Law sets out the requirements for foreign individuals and juristic persons to own real properties in Jordan.

- Non-Jordanian Individuals

The Law differentiates between ownership by foreign individuals for residential purposes and for business purposes. Each purpose has a different approval requirement, either from the General Manager of the Department of Lands and Survey ('DLS'), the Minister of Finance, or ultimately the Council of Ministers. The Law further sets limits on the number of properties and size of property that the foreign individual can own for each purpose.

Ownership by foreign individuals is also subject to a reciprocity condition. The Law, however, excludes fellow Arab nationals from this reciprocity condition. Having said that, individuals holding dual nationalities are obliged to disclose their nationalities and reciprocity then applies to both nationalities that they hold.

Foreign individuals may lease real property for residential or business purposes. There are also limits on the size and term of such lease, exceeding these limits requires certain local approvals.

- Juristic Persons

The Law defines 'Juristic Person' as the entity having legal personality in accordance with the legislation of its country of incorporation and registration, whether Jordanian or foreign.

There are no requirements as to the legal type of the Juristic Person (LLC, PSC, PLC, etc.). However, Juristic Persons shall only be permitted to own property subject to their constitutional documents and for purposes of conducting their business operations. In other words, the company's activities and objectives must allow for ownership and disposal of real property.

The Law further sets out approval mechanisms for Juristic Persons to own property based on the location (within or outside the zoning areas) and size of the property. These approvals are either issued by the Minister of Finance or the Council of Ministers.

Generally, an application is submitted to the DLS for the requisite approvals sought. The approvals set out in the Law are discretionary and are usually studied on a case-by-case basis.

Additionally, the Economic Boycott stipulates further conditions on foreign, non-Arab individuals and companies wishing to own or lease, directly or indirectly, any real property in Jordan. These conditions include reciprocity, timeline for completion of investments, and that the ownership, lease, or any related activity will not affect national security.

- Transfer of Companies' Shares

When a company owns property in Jordan, the transfer of such company's shares is not considered a sale of the property that it owns. As such, payment of what is sometimes hefty registration or transfer fees is not triggered upon the transfer of the company's shares. However, other matters relating to the evaluation of the company's assets in certain cases, including merger, should be considered.

- Timeline for Completing Projects

Whoever owns property pursuant to the provisions of the Law shall complete their project within three years, if the property was acquired for residential or business purposes, and within five years, if the property was acquired for any other reason. The Minister of Finance may renew such timeline for one time only. Failure to comply with the timeline exposes the owner of the property to payment of annual penalty fees to the DLS at the rate of five per cent of the market value of the property for a period of 10 years. After the lapse of these 10 years, the Minister of Finance may issue a decision to sell the property via public auction to the benefit of the owner, if not sold directly by the owner.

- Lock-in Period on Disposal of Property

The properties purchased by virtue of the provisions of the Law are subject to a lock-in period of three years, on properties purchased for residential purposes, and five years, on properties purchased for other purposes. During this lock-in period, the foreign individual or juristic person shall not transfer or dispose of the property for any reason whatsoever. This lock-in period is usually marked by the DLS as a form of encumbrance on the back of the title deed of the respective property.

- Other Considerations on Disposal of Property

The Disposal of Immovable Assets by Juristic Persons Law provides that the disposal of property owned by companies shall be subject to the laws and regulations of Jordan and that companies owning property by virtue of the provisions of said law shall be subject to the payment of taxes and fees imposed, or that will be imposed, in relation to the property. Further, such companies are subject to the jurisdiction of Jordanian courts in connection with all matters and disputes relating to the property.

Another consideration in this regard relates to powers of attorney issued for purposes of disposing of real property, whether by mortgage or sale. Unlike other types of powers of attorney, these need to be carefully drafted. These powers of attorney are generally only valid for one year, unless a shorter validity is provided and except for those issued amongst family members.

- Application to Free Zones

The Law does not apply to certain free zones including the Aqaba Special Economic Zone, which has specific requirements as to foreign ownership of property.

While the above issues may appear as substantive restrictions on foreign ownership of real property, Jordan has recently been adopting many investment friendly approaches. These approaches include revision of investment regulations and granting annual residency permits to foreign investors who purchase real property for residential purposes, subject, of course, to certain conditions and security

approvals.

The Council of Ministers, under the current applicable legislation, remains vastly entitled to waiving any of the foreign ownership restrictions or granting the required approvals to projects (particularly large projects) in order to waive any of the limits set out in the Law.