

# Foreign Ownership of Real Estate in Lebanon

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## INTRODUCTION

Lebanon's dynamic emerging market, its strategic location and free economy along with its legal framework have been a potential asset in attracting foreign investment.

The Lebanese economy is service-oriented and its main growth sectors include banking, tourism and foreign investment. To help strengthen the economy, the authorities have initiated a low income tax scheme to provide investment incentive, increase disposable income and expand the tax base.

The real estate market in Lebanon plays a key role in the Lebanese economy and is heavily affected by economic activity.

Also it is worth noting that the real estate activity has moved in correlation with Lebanon's post-war economic cycle. In addition, the general drivers for the real estate sector in Lebanon include reduced interest rates, favorable demographics, high liquidity in the banking sector, availability of long-term mortgages, external demand, favorable laws for real estate foreign ownership, low taxes, inflow of Arab and foreign capital and alternative sources of financing.

On another hand, the rising oil price has created an abundance of liquidity. This resulted in Arab capital looking for investment outlets and alternatives in the region, leading to a rise in such capital flows to Lebanon and a focus on investing in real estate. Property demand has increased significantly as Arab nationals have invested in various regions and in different products ranging from large tourism projects, to land and residences.

Since 1969, the legal framework governing real estate and foreign investments in Lebanon was amended on several occasions to encourage the acquisition of real estate by foreigners and the initiation of projects in Lebanon.

## FOREIGN ACQUISITION PROPERTY

1. The acquisition of real estate rights in Lebanon by foreigners, whether natural or moral persons, is regulated by Legislative Decree Number 11614 dated 4 January 1969 and its subsequent amendments (the "Law").
2. In accordance to the Law, any individual who does not hold the Lebanese nationality is treated as a foreigner.
3. Legal entities established outside Lebanon are considered as foreign entities. Also, and for the purpose of the Law, entities established in Lebanon are considered as foreign entities:
  - For *intuitu personae* companies (e.g., general partnerships) and limited liability companies, when the whole of the parts or the shares are not

held by Lebanese individuals or when its articles of association do not prohibit the transfer of said shares or parts to non-Lebanese individuals or companies that are not fully Lebanese-owned;

- Joint stock companies or partnerships limited by shares, when the whole nominative shares are not held by Lebanese individuals or fully (100%) Lebanese-owned companies or and when its articles of association do not prohibit the transfer of said shares to non-Lebanese individuals or companies that are not fully Lebanese-owned.

#### RESTRICTIONS ON FOREIGN OWNERSHIP; FORMALITIES

1. The Law expressly allows foreign ownership by any one individual or entity of up to 3,000 square meters of land in the aggregate (including built property) across the whole Lebanese territory. For the purposes of the Law, spouses and their minor descendants are considered as one individual.
2. Foreign acquisition of real property over and above 3,000 square meters requires the grant of a license issued by a decree of the Council of Ministers upon the proposal of the Ministry of Finance (the "License").
3. An application for a License shall include a brief description of the purpose of the acquisition (e.g., personal use, project).
4. The Council of Ministers enjoys full discretionary power to accept or refuse an application for a License and its decisions are not subject to any form of appeal. However, historically the Council of Ministers rarely has refused to grant a license whenever the applicant complied with the conditions of the applicable laws.
5. Following the issuance of the License, the applicant should complete the purchase of the real property no later one (1) year; otherwise the License shall become automatically cancelled. Moreover, a foreign individual who has been granted a License shall be required to erect a building on the acquired land no later than five (5) years, and a foreign entity which has been granted a License shall also be required to implement the project (in contemplation of which the License was granted) no later than five (5) years.
6. Pursuant to article 7 of the Law, no further License may be granted for foreign acquisition of real property from a Lebanese individual or company when:
  - 3% of the total surface of the Lebanese territory has become owned by non-Lebanese individuals or entities (as defined by the Law);

- Within the limits of a particular *Caza* (a territorial district), 3% of the total surface of the said *Caza* has become owned by non-Lebanese individuals or entities;
  - Within the limits of Beirut (the capital), 10% of its total surface has become owned by non-Lebanese individuals or entities.
7. The Law provides for specific formulas to calculate the above percentages, which formulas take into consideration the level of foreign shareholding in foreign companies owning real estate in Lebanon.
8. It is to be noted that each time a foreigner is willing to own real estate property in Lebanon; a real estate ownership declaration fee is to be paid amounting to USD 350. The purpose of such fee is to obtain a certificate showing that the foreigner investor does not own real estate property beyond the authorized land area (3,000 square meters) for each foreigner.

#### REGISTRATION REAL ESTATE FEES

On 3 April, 2001, the Parliament endorsed amendments to the legislation governing the Foreign Acquisition of Property. Law No. 296/2001 is meant to provide incentives for foreign investment in industry and tourism through reactivating the real estate sector by:

- easing the legal limits on foreign ownership of property;
- lowering the real estate registration fees to 5% for both Lebanese and foreign investors;
- an extra fee of 0.5% to be added to the real estate registration comprises:
  1. Stamp duty of 0.3%
  2. Lawyers' syndicate fee of 0.1%
  3. Additional 0.1% if the registration takes place through a notary's office rather than the real estate registry

#### THE INVESTMENT DEVELOPMENT AUTHORITY OF LEBANON (IDAL) - INCENTIVES FOR THE FOREIGNERS

The Investment Development Authority of Lebanon (IDAL) is a public institution enjoying independent legal personality with financial and managerial independence, under the direct administrative authority of the Prime Minister. IDAL was established in 1994 by virtue of decree Number 5778 dated 11 October 1994 to spearhead Lebanon's investment promotion efforts. On 16 August 2001, the role of IDAL was reinforced by the enactment of the Investment Development Law Number 360. Law Number 360 regulates the investment promotion of domestic and foreign entities and strives to stimulate Lebanon's economic and social development and enhance its competitiveness.

#### THE PACKAGE DEAL AND OTHER INCENTIVES FROM IDAL

IDAL has launched the package deal contract where by the Lebanese government, represented by IDAL, grants the investors willing to implement a project in Lebanon a combination of incentives, exemptions and tax reductions.

The maximum incentives proposed are as follows:

- For joint stock companies which purpose is to own and/or manage a project, an exemption from the obligation of having Lebanese moral or natural persons in their board of directors;
- Total exemption form income tax on profits and distribution of dividends arising out of the project up to a total of ten (10) years as of the initiative of the investment;
- Work permits of all categories provided that at least two (2) Lebanese nationals are employed against each foreign employee and that all employees are registered at the Social Security Fund;
- Up to 50% reduction of the fees of work and residency permits of foreign employees;
- A 50% reduction of the amount of the certificate required to be deposited at the Housing Bank;
- Up to 50% reduction on the fees of construction permits required for the building of facilities for the execution of the project;
- Full exemption form the fees related to registration at the Real Estate Register and from fees related to annexation, sub-division, mortgage, and registration of lease contracts provided that the investor undertakes to execute the projects within five years as of the date of registration at the Real Estate Register. Should the investor fail to implement the project within said delay, he shall be liable to pay a penalty equivalent to three times the fees which were to be originally due.

Law Number 771 dated November 2006 amended Law Number 360, whereby joint stock companies which purpose is to own and / or manage a project benefiting from the Package Deal are, irrespective of any provisions to the contrary, automatically exempted from the obligation of having Lebanese moral or natural persons sitting on the board. Before the amendment of Law Number 360, said exemption was a mere prerogative of the board of directors of IDAL, subject to the restrictions and limitations of the Package Deal agreement.

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