



Purchase of Real Estate as a Foreigner in Malaysia (2020)

(as of February 2020)

1. Introduction

Malaysia has developed into an attractive country for investors. The decisive factors for this are the economic growth, the advantageous location in South East Asia and an established legal reliability. Additionally, real estate prices are significantly lower compared to cities like Hong Kong or Singapore.

Generally, foreigners are able to acquire full ownership of real estate in Malaysia.

2. Definition

Foreign

The term "foreign" is attributed to natural as well as legal persons. With regard to legal persons, the term "foreign" comprises a large number of different partnerships and corporations, legal persons under public law as well as corporate forms that do not exist in the German legal system. Especially, legal persons should enquire how they are qualified in the Malaysian legal order before acquiring real estate in Malaysia.

In summary, foreign natural persons are those that do not hold Malaysian citizenship; whereas foreign companies or corporations are those that have their seat outside of Malaysia or are incorporated abroad.

Initially, potential buyers can use this as orientation.

3. Five Prerequisites

Compared to other Asian countries, acquiring real estate in Malaysia is relatively easy. As a foreigner you are even able to acquire full ownership of a property. The acquisition of full ownership of real estate is often not possible in other countries of the region.

Prospective buyers should have five prerequisites in mind.

a. Minimum purchase price

The minimum purchase price is the most important prerequisite a foreigner has to consider when purchasing real estate in Malaysia. There are different pricing thresholds applicable to different states that have to be met when purchasing real estate. Some states are divided into zones for which different thresholds exist. Aside from the location, thresholds also depend on the type of real estate. Across the country, the minimum purchase price for residential property is usual at 1,000,000 MYR.¹ The minimum purchase prices for commercial and industrial property as for example in Selangor (3,000,000 MYR) can be higher.

States	Minimum Purchase Prices of Residential Property ²
Terengganu, Pahang, WPKL, Putrajaya and Negeri Sembilan	1,000,000
Selangor	2,000,000 MYR (Zone 1: Petaling, Gombah, Hulu Langat, Sepang, Klang) (Zone 2: Kuala Selangor, Kuala Langat) 1,000,000 MYR (Zone 3: Hulu Selangor, Sabak Bernam)
Johor	2,000,000 MYR (Landed property in international zones) 1,000,000 MYR (Strata title and landed property in non-international zones, except for Medini)
Kelantan & Sabah	1,000,000 MYR
Perak	1,000,000 MYR
Kedah	600,000 MYR (Kedah) 1,000,000 MYR (Langkawi)
Perlis	500,000 MYR
Sarawak	500,000 MYR

¹ Malaysian Ringgit

² From 1st January 2020 until 31st December 2020, the minimum purchase price has been reduced to 600,000 MYR in the Federal Territories, i.e. Kuala Lumpur, Labuan and Putrajaya.

Penang	2,000,000 MYR (Islands)
	1,000,000 MYR (Mainland)
Malacca	1,000,000 MYR (Landed title)
	500,000 MYR (Strata title)

b. Excluded Real Estate

As long as those thresholds are met, foreigners are principally able to acquire real estate with the exception of four property types which cannot be acquired by foreigners:

No.	Type
1.	Real Estate worth less than MYR 1,000,000
2.	Real Estate that are labelled "Malay Reserved Land"
3.	Real Estate that are labelled "Bumiputera interest"
4.	So called low or low-medium cost houses

c. Real Property Gains Tax

Real Property Gains Tax (RPGT) is another important factor that should be considered. RPGT is a tax that real estate owners have to pay when selling their property. The tax rate is variable as it depends on different factors, e.g. the duration of the acquisition and disposal of the real estate. The tax is to be borne by the seller.

d. Foreigner Consent

Additionally, foreigners must obtain a "Foreigner Consent" from the relevant authorities in order to acquire real estate.³ The consent procedure differs from state to state. The same holds true for forms and fees. Fees are to be borne by the applicant.

Typically, consent is given as long as the requirements are met.

e. EPU Approval

At last, it should be inquired if an approval of the Economic Planning Unit (EPU) is required for the acquisition of real estate. The EPU is an office of the Ministry of Economic Affairs. EPU's responsibility is the preparation of development plans for the

³ NLC 1965, Art. 433B.



nation. Therefore, acquisition of real estate by a foreigner might require approval of the EPU.

Summary:

1	Minimum purchase price
2.	Excluded real estate
3.	Real property gains tax
4.	Foreigner Consent
5.	EPU Approval

4. Types and titles of ownership

In contrast to German law, Malaysian real estate law has titles of ownership, which shape the ownership of the property in different ways. A real estate will be given a title as soon as it is completed.

In regards to acquiring real estate, there are three types of title to consider:

a. Freehold

Freehold is comparable to full ownership according to German law. By obtaining the title, the recipient obtains full and unlimited ownership of the property.

b. Leasehold

On the other hand, leaseholders are granted ownership of real estate however limited in time. This right is often limited to 99 years. This period can be extended by paying a certain amount of money to the competent authority.

c. Strata

Apartments are issued strata titles. Newly erected apartment houses will receive their strata title within a certain time after completion.

5. Procedure

Before acquiring a property in Malaysia, it is recommended that to engage a local lawyer who is familiar with Malaysian real estate law. Apart from the legal advice, which is necessary due to the existing differences between German and Malaysian law, it is also recommended to hire a lawyer due to different processes and interactions with the Malaysian authorities and banks. Real estate agents can be engaged but are paid by the seller.

The following 10 steps are advised:

Step	Procedure
1	Seeking legal advice when choosing the real estate
2	Signing letters of offer
3	First down payment in the amount of 1% to 3% of the purchase price
4	Signing of the sales and purchase agreement (SPA) within 14 to 30 days



5	Second down payment in the amount of 7% to 9% of the purchase price The goal is to have a 10% down payment through two payments
6	Obtaining the required approvals by the authorities
7	Payment of the purchase price within 3 months
8	Stamping of the SPA by the Inland Revenue Board (LHDN) ⁴
9	Valuation of the real estate by the LHDN and payment of the stamp duty ⁵
10	Registering the title at the Land Office or Registry

6. Sales and Purchase Agreement

The agreement to obtain real estate is called sales and purchase agreement (SPA or S&P). This type of contract does not differ from ordinary Malaysian SPA's.

Additionally, a Memoranda of Transfer of Title has to be signed, in order for the buyer to obtain the real estate title.

7. Financing

In Malaysia, foreign prospective buyers have the possibility to obtain a financing loan from a Malaysian bank subject to the creditworthiness of the potential creditor and an existing residence or work permit.

Aside from this, foreign prospective buyers have the option of opening a Malaysian bank account. This makes it easier to buy property with funds from abroad. However, most banks will require a valid residence or work permit.

Disclaimer: This information is intended to provide a general overview on income tax in Malaysia and should not be regarded as a basis for ascertaining the liability to tax in specific circumstances. No responsibility for loss to any person acting or refraining from acting as a result of any information in this overview can be accepted by Malaysian-German Chamber of Commerce and Industry. Recipients should not act on the basis of this information without seeking professional advice of a Malaysian tax agent.

⁴ Without the stamp the SPA is invalid.

⁵ Stamp duty is borne by the buyer. The calculation is made on an ad valorem basis.