



# Thailand

Tilleke & Gibbins

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1.

## Restrictions

**Can anyone (including foreigners) own and occupy real estate in your jurisdiction (including shares in property owning companies)? Are there any restrictions?**

Foreigners (individuals or companies) are prohibited from owning land, unless they obtain permission from the relevant governmental authorities. A company registered in Thailand will be regarded as a Thai company, and may own land if the majority of its shares are held by Thai nationals and the majority ratio of shareholders are Thai nationals.

Foreigners are allowed to own condominium units, provided that foreign ownership in a given condominium project does not exceed 49% of the total area of all the condominium units in the project, and the foreign purchaser presents the requisite evidence specified by the Department of Land.

**Are there restrictions on lending for the purchase of real estate by foreign companies? If so briefly give an outline?**

No, there are no restrictions on lending money to a company to purchase immovable property.

However, as mentioned above, foreigners (individuals or companies) are prohibited from owning land, unless they have permission from the relevant governmental authorities.

2.

## Taxes

### Buying

**Please provide a short summary of the fees and costs (including tax) relating to buying real estate in your jurisdiction.**

If the seller is a juristic person/company, the purchase will incur the following when the transfer of ownership is registered:

1. Transfer Fee at 2% of the official appraised value, assessed by the relevant Land Office. Both parties are equally responsible for this fee, unless otherwise agreed.
2. Corporate Income Tax as a withholding tax at 1% of the sale price, or the official appraised value, whichever is greater.
3. Specific Business Tax (“SBT”) at 3.3% of the selling price, or the official appraisal price, whichever is greater.

Items 2 and 3 are borne by the seller unless otherwise agreed.

### Owning

#### **Are there taxes applicable to owning real estate and can the burden of the taxes be passed to someone else (e.g. a tenant or an occupier - not being the owner)?**

Real estate owners are generally subject to Local Development Tax at THB 0.50 - THB 400 per rai, based on the land's value as assessed by the competent officer. If the real estate is used commercially, House and Land Tax at 12.5% of the annual rental value, as assessed by the competent officer, is payable by the property owner (or tenant/occupier if agreed, with the property owner remaining liable in the event of non-payment).

The House and Land Tax will soon be replaced by a new Land and Building Tax, levied on all real property regardless of use.

### Tax Breaks

#### **Are there tax breaks or other incentives for foreigners to buy real estate in your jurisdiction? If so what are they?**

No.

## 3. Title of Real Estate

#### **How is the ownership of Real Estate evidenced in your jurisdiction?**

Land transactions must be registered at the Land Office in the province where the land is located. All land transactions should be recorded in a written document, have ownership or possession documentation, and be registered. Under Thai law, there are various documents pertaining to land title or claim. These documents vary in strength, ranging from a title deed (chanote) at the highest level representing full and complete ownership rights, to a Sor. Kor. 1 Form, which is a mere notice of possession of land.

#### **Is it possible to keep the identity of owners of real estate confidential in your jurisdiction?**

No. As mentioned above, any transaction over property must be recorded with the Land Office, and they are deemed as public records. Any interested party can therefore obtain the information pertaining to the property, including the name of the property owner, from the Land Office.

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# Vietnam

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1.

## Restrictions

**Can anyone (including foreigners) own and occupy real estate in your jurisdiction (including shares in property owning companies)? Are there any restrictions?**

- Foreign developers may own, sell, and lease houses/apartments to eligible purchasers in Vietnam.
- Other foreign companies (not developers) may own houses or apartments in commercial projects for their staff to reside in.
- Foreign individuals who are allowed to enter Vietnam may own houses or apartments in commercial projects for a period of up to 50 years (which is renewable).

**Are there restrictions on lending for the purchase of real estate by foreign companies? If so briefly give an outline?**

There is no restriction on an eligible foreign company, as defined in the previous box, taking out loans for the purchase of real estate in Vietnam.

2.

## Taxes

### Buying

**Please provide a short summary of the fees and costs (including tax) relating to buying real estate in your jurisdiction.**

The transfer of land use rights in Vietnam is currently not subject to value-added tax (VAT).

The transfer of property or assets attached to land is subject to 10% VAT except in the case where state-owned residential houses are sold by the state to existing tenants. The transfer of social houses is subject to 5% VAT only. The payer of VAT is the buyer.

The buyer is also required to pay the registration fee which is equivalent to 0.5% of the value of real property.

### Owning

**Are there taxes applicable to owning real estate and can the burden of the taxes be passed to someone else (e.g. a tenant or an occupier - not being the owner)?**

There is currently no tax applicable to mere ownership of real properties in Vietnam.

If a real property is leased out, the lessor is subject to corporate income tax or personal income tax (depending on whether the lessor is a company or an individual). The lessee is subject to VAT. However, in practice, the parties may agree upon who will pay relevant taxes.

## Tax Breaks

### **Are there tax breaks or other incentives for foreigners to buy real estate in your jurisdiction? If so what are they?**

Currently, there is no tax break or other incentives for foreigners to buy real estate in Vietnam.

## 3.

### **Title of Real Estate**

#### **How is the ownership of Real Estate evidenced in your jurisdiction?**

Property owners must be granted a “Certificate of Land Use Rights, Ownership of Residential Housing and Other Assets Attached to Land” which is the conclusive documentation of their ownership over the property.

#### **Is it possible to keep the identity of owners of real estate confidential in your jurisdiction?**

Theoretically no. Vietnamese laws allow a person to verify the status of a parcel of land (including the identity of the owner) at the land authority. However, as a matter of practice, if there is no power of attorney from the owner to the applicant (for the verification of the land), the land authority may refuse to disclose the details of the land parcel.

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# Cambodia

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## 1.

### Restrictions

**Can anyone (including foreigners) own and occupy real estate in your jurisdiction (including shares in property owning companies)? Are there any restrictions?**

Generally, only natural persons and legal entities with Cambodian nationality may own real estate in Cambodia. A legal entity has Cambodian nationality when at least 51% of its shares are owned, individually or collectively, by Cambodian natural or legal persons. However, subject to certain regulatory exceptions and requirements, foreigners may own up to 70% of the private units of a co-owned building, such as condominiums, detached or semi-detached buildings, and any other buildings with common structures, excluding the ground and underground floors.

Any person, regardless of their nationality, may occupy real estate through rental without any restriction.

**Are there restrictions on lending for the purchase of real estate by foreign companies? If so briefly give an outline?**

There are no restrictions on foreign companies borrowing or lending for the purchase of real estate in Cambodia. However, Cambodian law prohibits the practice of having a Cambodian national act as a nominee shareholder of foreigners for the purpose of avoiding legal restrictions on foreign ownership of real estate in Cambodia. Therefore, any loan for this purpose is also restricted.

## 2.

### Taxes

#### Buying

**Please provide a short summary of the fees and costs (including tax) relating to buying real estate in your jurisdiction.**

Transferring ownership or right of possession over an immovable property, including land and buildings, is subject to stamp duty tax at the rate of 4% of the market value of the property, as determined by the Ministry of Economy and Finance. Stamp duty is the liability of the buyer or any person who receives the ownership or right of possession over the immovable property.

#### Owning

**Are there taxes applicable to owning real estate and can the burden of the taxes be passed to someone else (e.g. a tenant or an occupier - not being the owner)?**

Owners, possessors or final beneficiaries of real estate worth more than KHR 100,000,000 must pay an annual tax on immovable property (TOIP) at the rate of approximately 1% of the property market value. Owners of unutilized real estate that is not subject to TOIP must pay an annual unused land tax at the rate of 2% of the property market value. Third parties may pay those taxes

on behalf of the obligated taxpayers, but in the case of default the tax administration may not consider the liability to pay as having been transferred.

## **Tax Breaks**

### **Are there tax breaks or other incentives for foreigners to buy real estate in your jurisdiction? If so what are they?**

There are no tax breaks or incentives for foreigners to buy real estate in Cambodia as only Cambodian nationals may buy real estate in Cambodia. However, foreigners may possess and utilize real estate in Cambodia through economic land concessions provided by Cambodian government. Transferring possession over such land is exempt from stamp duty.

Real estate in special economic zones is exempt from TOIP, as are properties used for agricultural, religious, or charitable purposes. Infrastructure, including airports and ports, and real estate of embassies, consulates, international organizations, and foreign governmental agents are also exempt from TOIP.

## **3.**

## **Title of Real Estate**

### **How is the ownership of Real Estate evidenced in your jurisdiction?**

Cambodia's land registration system is still developing, so evidence of real estate comes in various forms. In order to be enforceable against third parties, real estate must be registered with the Cadastral Office, which issues one of several types of certificates, commonly known as hard titles, depending on where the land is located and when it is registered. Soft titles, including land sale/transfer contracts, may also evidence ownership, but such ownership may be disputed. Strata title evidences ownership of private parts of co-owned buildings, e.g. condominiums.

### **Is it possible to keep the identity of owners of real estate confidential in your jurisdiction?**

It is not possible to keep the identity of owners of real estate confidential in Cambodia. The cadastral office has public services for providing cadastral information or copies of cadastral documents.

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# Laos

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## 1.

### Restrictions

**Can anyone (including foreigners) own and occupy real estate in your jurisdiction (including shares in property owning companies)? Are there any restrictions?**

Land in Laos is under the ownership of the national community, and centrally managed by the state. Lao nationals can be granted land use rights which include: (i) right to protect land; (ii) right to use land; (iii) right of usufruct; (iv) right to transfer land use rights; and (v) rights relating to inheritance of land use rights. Foreigners can lease land for a limited period and own buildings on that land. However, when the lease term expires, the building is usually returned to state ownership, along with the land.

**Are there restrictions on lending for the purchase of real estate by foreign companies? If so briefly give an outline?**

There are no restrictions. However, authorities may scrutinize such purchases to ascertain whether or not the lending is part of a scheme to have a Lao national acting as a nominee.

## 2.

### Taxes

#### Buying

**Please provide a short summary of the fees and costs (including tax) relating to buying real estate in your jurisdiction.**

In order to be granted a land use rights title in Laos, at the time of transferring title a tax of 1% of the total value of the land must be paid. Stamp duty tax will also have to be paid at a rate dependant on the total value of the contract. A tax will also be applied to the benefits made out of the sale of the land and any assets upon it. The tax that will be between 2% and 5% of the benefits made.

#### Owning

**Are there taxes applicable to owning real estate and can the burden of the taxes be passed to someone else (e.g. a tenant or an occupier - not being the owner)?**

There are annual taxes applicable to real estate and land, based on the size and location of the land, and also on the nature of building constructed on it (housing, factories, etc.). While the owner is usually liable for tax, terms of a lease agreement can be agreed on that the switch that tax burden to the occupier.

#### Tax Breaks

**Are there tax breaks or other incentives for foreigners to buy real estate in your jurisdiction? If so what are they?**

Land concessions and promoted sectors by the government may enjoy incentives such as tax holidays on real estate for a certain time period. These promoted sectors include, among others, agricultural and environmental protection; environmentally-friendly industrial processing of agricultural products; and ecotourism.

**3.**

### **Title of Real Estate**

#### **How is the ownership of Real Estate evidenced in your jurisdiction?**

A land title is the main evidence for permanent land use rights. It is filled out based on information in the land register, in one copy only, which is handed over to the land owner. The owner must keep it as long-term evidence until there is a change, in accordance with the legal conditions.

#### **Is it possible to keep the identity of owners of real estate confidential in your jurisdiction?**

There is no law that would prohibit the procurement of such information. However, in practice, a document substantiating the ownership of the land use rights cannot be provided by the land management authority to a third party without the owner's consent.

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# Myanmar

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## 1.

### Restrictions

#### **Can anyone (including foreigners) own and occupy real estate in your jurisdiction (including shares in property owning companies)? Are there any restrictions?**

Foreign individuals and companies are not currently allowed to own real estate in Myanmar, except for condominiums, of which foreigners may own up to 40% of the total units of a condominium building.

The law currently considers companies as “foreign” if one or more shares in the company are held by foreign companies or individuals. However, the new Myanmar Companies Law (2017), expected to come into force in August 2018, allows Myanmar companies to have up to 35% foreign shareholding before being considered “foreign” and not eligible to own land.

#### **Are there restrictions on lending for the purchase of real estate by foreign companies? If so briefly give an outline?**

Foreign companies and individuals are restricted from owning land and other immovable properties by the Transfer of Immovable Property Restriction Law (1987). Therefore, there is no lending to foreigners for the purchase of real estate.

## 2.

### Taxes

#### **Buying**

#### **Please provide a short summary of the fees and costs (including tax) relating to buying real estate in your jurisdiction.**

A real estate buyer will not be taxed if their source of income for the purchase has already been taxed. Property purchases incur tax of 30% of the total value of the property if the buyer cannot purchase using income already taxed, or of the remaining value if the property is partially purchased using taxed income. The buyer must pay stamp duty at the rate of 3% of the purchase amount when registering the transfer of ownership agreement, plus an additional 2% if the land is located in a designated urban area. The registration fee for sales agreements is 0.2% of the total property purchase amount.

#### **Owning**

#### **Are there taxes applicable to owning real estate and can the burden of the taxes be passed to someone else (e.g. a tenant or an occupier - not being the owner)?**

No property taxes are currently chargeable to real estate owners, although real estate lessors must pay 10% income tax on their lease income. Lease income cannot be combined with other income for tax purposes, and the tax on lease income must be paid separately.

The government is currently drafting property tax regulations and planning to tax property ownership in the future. It is unclear whether the government will tax only owners of multiple immovable properties or all types of owners. Owners cannot share or pass any of their tax burden to someone else.

### **Tax Breaks**

#### **Are there tax breaks or other incentives for foreigners to buy real estate in your jurisdiction? If so what are they?**

Foreign companies and foreign individuals are only entitled to own condominiums under Myanmar law. At present, there is no clear guidance by tax authorities on how to assess taxes for condominiums owned by foreign entities. Foreign nationals who want to buy condominiums must bring foreign currency into Myanmar officially by way of bank transfer from their respective country for the purchase, in order to comply with money laundering laws. The buyer must pay stamp duty fees of about 5% of the total property purchase amount when registering a condominium ownership agreement.

### **3.**

### **Title of Real Estate**

#### **How is the ownership of Real Estate evidenced in your jurisdiction?**

The state is the “ultimate owner” of land in Myanmar; citizens do not hold absolute property rights. Land ownership and land use in Myanmar are regulated under various laws depending on whether the land is designated grant land, freehold land, permit land, urban area land, forest land, farmland, or fallow land. Private individuals may hold land in the form of grants from the government, which are granted for a specific time period of time, and are transferrable and leasable, subject to registration at the local land authority. Most land authorities issue grants of lease for 30, 60, or 90 years.

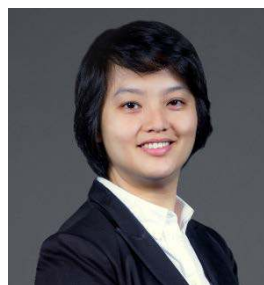
#### **Is it possible to keep the identity of owners of real estate confidential in your jurisdiction?**

The identity of real estate owners is officially kept confidential by the government. Only the owner or their authorized representative(s) or the relevant government official can access details on land records. The identity of land owners is also not available online. Land authorities can only issue land maps, history, details of land area, demarcation, and land related documents pursuant to the request of a land owner or their authorized representative(s), or certain officials, such as a court official.

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