



2022 Asia Pacific Real Estate


REPORT
Savills Research

Investment Country Guide



Asia Pacific Network



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China

China is the world's second-largest economy after the US. It is also the world's fastest-growing major economy, with average growth rates of 9% per annum over the past 20 years. The country is also the largest trading nation in the world, being the largest exporter and the second-largest importer of goods.

TYPES OF PROPERTY OWNERSHIP

Under Chinese legislation, all land within urban areas is owned by the state, while land within rural areas is owned by collectives for the exclusive purpose of agriculture. According to a landmark property law passed in 2007, all land, whether urban or rural or containing existing privately-owned structures can be acquired by the state for public purposes provided fair compensation has been paid.

While the land itself cannot be owned by private individuals, the use of the land can be granted based on usufruct land rights. This essentially involves private entities or individuals being granted the use of land for a given period. The time for which land-use rights are given varies depending on the specific use of the site and the local government.

While land cannot be owned, property that is constructed on the land can, and private owners of that property are legally allowed to transfer ownership of that property to other private entities. The legal recognition of this right to transfer

property, in the aforementioned legislation released in 2007, was a major milestone towards a more transparent property-ownership system.

OVERSEAS OWNERSHIP RESTRICTIONS

In China, property ownership by overseas nationals is restricted to those who have been resident in the country for more than one year, and buyers are restricted to the purchase of one property for self-use. In addition to individuals, there are several restrictions on ownership by overseas companies, of which the major legislative directives are detailed in the later section on key legislation.

MEASUREMENT OF AREAS

Measurements are typically quoted as gross floor area (GFA), except for the retail market which quotes on a usable floor area basis and is generally quoted in sq m by practitioners in the real estate industry.

TRANSACTION COSTS

Brokerage/agency fees

Where a real estate broker has been used in a property transaction, either the buyer or seller is usually liable for the payment of a commission. Generally speaking, the commission is around 1%, although this may vary according to the nature of the property. Major considerations for agreeing on the amount payable are the total value of the asset, the asset type and respective market conditions.

The party responsible for payment usually depends on who the broker is working on behalf of. For example, if the broker transacts the property on behalf of the seller, then the seller will usually be liable for payment and likewise for property transacted on behalf of the buyer. This can also vary according to prevailing market conditions. For example, when demand for an asset is low, the seller may need to pay the commission as an incentive for brokers to pitch their project, and conversely where competition is fierce and buyers are lining up, the buyer may pay the commission as an incentive for the broker to push with negotiations.

Leasing fees are typically one to two month's rent paid by the landlord.

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TABLE 1 Land Use Lease Periods

LAND-USE TYPE	LEASE PERIOD (YEARS)
Residential	70
Education, science, culture, public health and physical education	50
Industrial	20/50 (case-by-case)
Commercial, tourism and recreation	40
Mixed-use or other	50

Source Savills Research, State Land Administration

KEY STATISTICS

Official name	People's Republic of China
Currency	Renminbi US\$1 = RMB6.4536 (February 2022)
Population	1.41 billion (2021)
Land area	9.6 million sq km
GDP per capita	RMB80,976; US\$12,551 (2021)
GDP growth	8.1% per annum (2021)
Principal business centres	Shanghai, Beijing, Guangzhou, Shenzhen, Chengdu

Source Savills Research, FocusEconomics

TABLE 2 Office Lease Terms

LEASE PERIOD	Typically three years (often with a renewal option for a further three years), occasionally up to five years.
RENT REVIEW	Only for longer-term leases and lease renewals.
SUB-LETTING/ ASSIGNMENT	Usually only allowed to affiliated companies and only if allowed in the lease agreement.
TERMINATION	Sometimes allowed after the second year as long as three months' prior notice is given.
REPAIRS	Carried out by the property manager, who bears the cost, dependent on the circumstances/fault.
SECURITY OF TENURE	Protected by law.
DILAPIDATION	Tenants may be required to reinstate a property to its original handover condition at the expiry of the term.

Source Savills Research

TAX LEGISLATION

Stamp duty (payable by buyer and seller)

A stamp duty of 0.05% is levied on the contracted value of the property and is payable by both the buyer and seller of property in China. Stamp duty is charged at 0.1% of the property lease contract.

Value added tax (VAT)

From 1 May 2016, all industries, including the real estate and construction industry, have started to use Value Added Tax (VAT) having fully transitioned from a Business Tax (BT) regime. Detailed summaries are shown in Table 3 to 5.

TABLE 3 Sales Of Properties For Real Estate Developers And Non-real Estate Developers

		METHOD	TAX RATE	NOTE
GENERAL TAXPAYER	OLD PROJECTS	General or simplified	5% for simplified method/ 9% for general method	Land price deductible for general method
	NEW PROJECTS	General	9%	Land price deductible
SMALL-SCALE TAXPAYER		Simplified	5%	

Source Savills Research, State Taxation Administration

TABLE 4 Sale Of Properties by Individuals

HOLDING PERIOD (TWO OR FIVE YEARS, BASED ON THE CITY)	OWNERSHIP STATUS	TAX TREATMENT
LESS THAN THE SPECIFIED HOLDING PERIOD	-	5% VAT on the entire income
MORE THAN THE SPECIFIED HOLDING PERIOD	Non-primary residential property	5% VAT on the entire income minus the original purchase price
	Primary residential property	No VAT applicable

Source Savills Research, State Taxation Administration

TABLE 5 Lease Of Properties

		METHOD	TAX RATE		NOTE
			NON-RESIDENTIAL	RESIDENTIAL	
GENERAL TAXPAYER	OLD PROJECTS	General or simplified	5% for simplified method/ 9% for general method	1.5% (simplified method)	
	NEW PROJECTS	General	9%	1.5% (simplified method)	
SMALL-SCALE TAXPAYER	ALL PROJECTS	Simplified	5%	1.5% (simplified method)	
INDIVIDUAL	ALL PROJECTS	Simplified	5%	1.5%	For lump-sum collection, monthly equal-shared rental income less than RMB100,000 deductible

Source Savills Research, State Taxation Administration

Note: Old projects refer to projects that include properties that landlords acquired on or before 30 April 2016. New projects include properties that landlords acquired after 30 April 2016. Small-scale taxpayers have taxable income of no more than RMB5 million per year, and general taxpayers have more than RMB5 million of taxable income per year.

Real estate tax

Real estate tax can be levied in one of two ways which can be negotiated with local authorities:

- 12% of the rental income. (From 1 October 2021, residential developments leased to an individual or rental company, will be taxed at 4% of the rental income)
- 1.2% of the adjusted cost – set at 70% to 80% of the book value of the property. The book value of a property is set at the time of the asset’s construction completion and will not be reset unless the asset is sold through a direct asset transaction.

Enterprise income tax (EIT) (payable by the seller, also part of operating costs)

EIT is levied at 25% on the profits of rental income and gains from the Chinese real estate.

Land value appreciation tax (LVAT) (payable by the seller)

LVAT, as set out by the central government, applies to the taxable gain based on the sales of proceeds after several deductions, including but not limited to, the cost of land-use rights, construction costs and taxes incurred during the transfer of land and property. A detailed summary is shown in Table 6.

Deed tax (payable by buyer)

Deed tax is shouldered by the buyer and ranges from 3% to 5% of the total value of the land-use rights or real property transferred depending on the location.

According to Circular 137 issued by the State Administration of Taxation, for an individual buying their first residence smaller than 90 sq m, the deed tax is 1% of the total value of the property, effective from 1 November 2008.

On 11 August 2020, the Standing Committee of the National People’s Congress promulgated the Deed Tax Law of the People’s Republic of China (the “Deed Law”). The Deed Law elevates deed tax regulations from an administrative regulation level to national law. The Deed Law came into force on 1 September 2021, and the Interim Regulations of the People’s Republic of China on Deed Taxes were repealed at the same time.

For qualifying restructuring and reorganization of enterprises and public institutions, China granted deed tax exemptions. The exemption policies, previously extended to 31 December 2020, were further extended until 31 December 2023.

Land-use tax (operating costs)

The land use tax is applied to actual area of the land occupied by the tax payer. A detailed summary is shown in Table 7.

TABLE 6 LVAT

PROFITS (%)	TAX RATE (%)
Below 50	30
50-100	40
100-200	50
Above 200	60

Source Savills Research, State Taxation Administration

TABLE 7 Land-use Tax

CITY SIZE	TAX RATE (RMB PER SQ M)
Large city	1.5-30
Medium city	1.2-24
Small city	0.9-18
Towns and mining area	0.6-12

Source Savills Research, State Taxation Administration

Property tax

Chongqing and Shanghai announced, with the State Council’s approval, details of the trial property tax which became effective on 28 January 2011.

Shanghai trial property tax details

Tax target

- Newly-acquired second or above home units for local households.

- Newly-acquired first or above home units for non-local households.

Valuation basis

- 70% of the transaction price (eventually to be based on regular appraisal price).

Applicable tax rate (per annum)

- 0.4% for units with prices equal to or lower than double the previous year’s average first-hand price.

- 0.6% for all other units.

Exemptions

Local residents

- 60 sq m GFA exemptions will be granted on a per head basis.

- For newly acquired first homes resold within one year, the paid tax amount will be refunded.

- For independent children who acquire the first home for marriage, no tax will be levied.

Non-local residents

- First homes of qualified experts/talent working in the city will be exempt.

- First homes of those residing and working in Shanghai for more than three years will be exempt.

Chongqing trial property tax details

Reference price

- The average transaction price in Chongqing’s nine major districts (Yuzhong, Jiangbei, Shapingba, Jiulongpo, Dadukou, Nan’an, Beibei, Yubei and Ba’nan) in the previous two years.

Tax target

- Only applicable for the nine major districts:
- All villas, both existing and newly acquired.

- Newly-acquired high-end residential units that are priced more than double the reference price.

- Newly-acquired second and above, ordinary units for non-local residents.

Valuation basis

- Transaction price (eventually to be based on regular appraisal price).

Applicable tax rate (per annum) – please refer to Table 8.

Exemptions (for locals)

- For existing villa units, 180 sq m GFA will be exempt per household.
- For newly acquired villas or high-end residential units, 100 sq m GFA will be exempt per household.
- For two or more newly acquired villas or high-end residential units, the tax-exempt area shall be deducted by chronological order of the acquired dates.

Real Estate tax summary

Tables 9 to 14 provide a breakdown of the tax considerations related to different real estate activities (acquisition, disposal, leasing and development) of companies/organisations and individuals.

TABLE 8 Applicable Tax Rate (Per Annum)

TAX RATE (%)	LOCAL/ NON-LOCAL	PRICING	PROPERTY TYPE
0.5	All	<3 times reference price	Villa and high-end residential units
1.0	All	<3-4 times reference price	Villa and high-end residential units
1.2	All	>4 times reference price	Villa and high-end residential units

Source Savills Research, State Taxation Administration

Individual income tax (IIT)

IIT is based on monthly income. As of 1 January 2019, the amount of the standard basic deduction is RMB60,000 per annum (i.e. RMB5,000 for monthly tax withholding purpose). Individual expenses from six sectors will be able to be deducted from the taxable individual income including children's education, continuing education, severe

diseases, mortgage interest, house rent and care for the elderly. Foreign individuals can also package up to 40% of their salary as housing budgets, education costs, etc., which is tax-free as long as receipts to that value can be produced.

Foreign individuals who reside in China for less than 183 days will be taxed only on their China-source income. Foreign individuals

TABLE 9 Institutional Buyers - Acquisition Taxes And Fees

TYPES OF TAXES	TAX RATE
Key costs	
Deed tax (契税)	3-5% of total value
Ancillary costs	
Stamp duty (印花税)	0.05% of contract price
Notary fee (公证费)	Selective, 0.01-0.3% of contract price

Source Savills Research, State Taxation Administration
Note: There are several other smaller fees and taxes involved in the acquisition of properties or development sites. They include but are not limited to: Legal fees (法律费用), title deed registration fees (转移登记费), land registration fees (土地登记费), survey fees (调查费), handling fees for property ownership certificate (房产证转移费), real estate ownership certificate (房产证收费), and stamp duty for real estate ownership certificate (权证印花税).

TABLE 10 Institutional Sellers - Disposal Taxes And Fees

TYPES OF TAXES	TAX RATE
Key costs	
LVAT (土地增值税)*	30-60% of value appreciation on the transfer of land or/and property
Value-added tax (增值税)	Either 5% VAT by Simplified Method or 9% by General Method subject to the acquired date of the project
Enterprise income tax (企业所得税)	≤10% of taxable income if FIE has no establishments in China 25% of taxable income for others
Ancillary costs	
City construction and maintenance tax (城市建设税)	7% of VAT for taxpayers located in a city 5% of VAT for taxpayers located in a county or township area 1% of VAT for taxpayers located in other urban regions
Education surcharge (教育费附加)	3% of VAT
Stamp duty (印花税)	0.05% of contract price

Source Savills Research, State Taxation Administration
*LVAT applies to the taxable gain (i.e., value appreciation) based on sales proceeds after a number of deductions.

TABLE 11 Institutional Landlords - Leasing Taxes And Fees

TYPES OF TAXES	TAX RATE
Key costs	
Real estate tax (房产税)	12% of rental income or 4% in the case of residential properties
Value-added tax (增值税)	Either 5% VAT by Simplified Method or 9% by General Method subject to the acquired date of the project. From 1 October 2021, residential rental companies can use 1.5% tax rate with the simplified method.
Income tax (所得税)	25% of taxable income, taxed quarterly
Ancillary costs	
Urban and township land-use tax (城镇土地使用税)	RMB0.9-RMB30 per sq m at total site area
City construction and maintenance tax (城市建设税)	7% of VAT for taxpayers located in a city 5% of VAT for taxpayers located in a county or township area 1% of VAT for taxpayers located in other urban regions
Education surcharge (教育费附加)	3% of VAT
Stamp duty (印花税)	0.1% of total aggregate rental

Source Savills Research, State Taxation Administration

TABLE 12 Individual Buyers - Acquisition Taxes And Fees

TYPES OF TAXES	TAX BASE	TAX RATE		
SCENARIO		PRIMARY NORMAL RESIDENCE SMALLER THAN 90 SQ M	PRIMARY NORMAL RESIDENCE LARGER THAN 90 SQ M	NON-PRIMARY RESIDENTIAL PROPERTY
Key costs				
Deed tax (契税)	Contract price	1%	1.5-2.5%	3-5%
Ancillary costs				
Stamp duty (印花税)	Contract price		0-0.05%	

Source Savills Research, State Taxation Administration

Note: Other fees potentially include, but are not limited to, title deed registration fees (转移登记费), real estate ownership certificate (房产证收费), stamp duty for real estate ownership certificate (权证印花税), handling fees for property ownership certificate (房产证转移费), transaction charges (交易手续费).

TABLE 13 Individual Sellers - Disposal Taxes And Fees

TYPES OF TAXES	TAX BASE	TAX RATE	
SCENARIO		NORMAL RESIDENTIAL PROPERTY	COMMERCIAL PROPERTY
Key costs			
Value-added tax (增值税)	-	5% OR NOT APPLICABLE depending on the cities and how long the property was held	5%
PIT (个人所得税)	Profit after deductions	20% (exempt for households with only one apartment and those held for five or more than five years) OR	-
	Contract price**	1%-3% (exempt for households with only one apartment and held for five or more than five years)	-
LVAT (土地增值税)#	Profit after deductions	0%	30-60%
Stamp duty (印花税)	Contract price	0%	0.05%
Ancillary costs			
City construction and maintenance tax (城市建设税)	VAT	7% for tax payers located in a city 5% for tax payers located in a county or township area 1% for tax payers located in other urban regions	
Education surcharge (教育费附加)	VAT		3%

Source Savills Research, State Taxation Administration

#LVAT is applicable to the taxable gain based on the proceeds of sales after a number of deductions.
**Only applicable if purchase documents indicating the value at the time of purchase are unavailable. Other fees potentially include, but are not limited to, local education surcharges (地方教育附加费) and transaction charges (交易手续费). Channel maintenance fees levy (河道工程维护费) stopped as of April 2017.

TABLE 14 Individual Landlords - Leasing Taxes And Fees

TYPES OF TAXES	TAX BASE	TAX RATE	
		RESIDENTIAL	COMMERCIAL
	SCENARIO		
Key costs			
Value-added tax (增值税)	Rental income	1.5%	5%
Real estate tax (房产税)	Rental income	4%	12%
PIT (个人所得税)	Taxable income	10%	20%
Stamp duty (印花稅)	Contract price	Null	0.1%
Ancillary costs			
City construction and maintenance tax (城市建设稅)	VAT	7% for taxpayers located in a city 5% taxpayers located in a county or township area 1% taxpayers located in other urban regions	
Education surcharge (教育費附加)	VAT	3%	

Source Savills Research, State Taxation Administration

Note: Other fees potentially include, but are not limited to, local education surcharges (地方教育附加費). Channel maintenance fees levy (河道工程維護費) stopped as of April 2017. In practice, individual landlords will pay a comprehensive tax which covers business, income and real estate tax for the leasing of a residential and non-residential property. This tax rate will vary depending upon the tax authority and total monthly rental income.

who reside in China for 183 days or more in a tax year but not more than six consecutive years will be subject to tax on both their China-source income and their foreign-source income. However, as a concession, foreign-source income is taxed only to the extent of income paid and/or borne by a China entity or individual. Foreign individuals who reside in China for 183 days or more per year for over six consecutive years will be subject to IIT on their worldwide income from the seventh consecutive year onward if they reside in China for 183 days or more during the year. The 'six-year' count is reset if the foreign individual spends more than 30 consecutive days outside of China during any tax year.

Withholding tax and tax treaties

International enterprises without establishments or places in China shall be subject to a unilateral concessionary rate of withholding tax at 10% on gross income from dividends, interest, lease of property, royalties and other China-sourced passive income unless reduced under a tax treaty.

The State Administration of Taxation released new tax regulations on indirect equity transfers by non-resident enterprises (Bulletin [2015] No. 7), providing a broader scope of indirect transfers, stricter provisions on scrutinising indirect transfers of China's taxable assets and new reporting obligations.

Foreign owners were previously required to report offshore equity transfers and pay a 10% withholding tax; however, many times, these rules were not enforced. As a result, investors were able to avoid paying capital gains taxes on offshore holding structures, leading to higher

returns. This new regulation is expected to result in a noteworthy tax obligation increase for foreign sellers, together with an important impact on the investment market.

China is a signatory to a treaty for the prevention of double taxation with many countries all over the world. Draft agreements with additional countries are also in discussion. A Double Taxation Agreement (DTA), in principle, enables the offsetting of tax paid in one of two countries against the tax payable in the other, preventing double taxation.

Another important factor is the grant of an exemption or tax at a reduced rate on certain receipts such as interest, royalties, dividends, capital gains and others that are connected with a transaction carried out between parties associated with the DTA. When certain income is taxable under the Chinese Income Tax

Ordinance but there is an exemption (reduced tax) under any taxation treaty, the income may be taxed, but only according to the provisions of the taxation treaty.

Countries include:

Albania, Algeria, Armenia, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Brazil, Brunei, Bulgaria, Canada, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, India, Indonesia, Iran, Ireland, Israel, Italy, Jamaica, Japan, Kazakhstan, Korea, Kuwait, Kyrgyzstan, Laos, Latvia, Lithuania, Luxembourg, Macedonia, Malaysia, Malta, Mauritius, Mexico, Moldova, Mongolia, Morocco, Netherlands, New

TABLE 15 Detailed Tax Bands For IIT

MONTHLY TAXABLE INCOME (RMB)	TAX RATE (%)
0-3,000	3
3,001-12,000	10
12,001-25,000	20
25,001-35,000	25
35,001-55,000	30
55,001-80,000	35
More than 80,000	45

Source Savills Research, State Taxation Administration

Zealand, Norway, Oman, Pakistan, Papua New Guinea, Philippines, Poland, Portugal, Romania, Russia, Saudi Arabia, Seychelles, Singapore, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Sweden, Switzerland, Thailand, Trinidad and Tobago, Tunis, Turkey, UAE, UK, Ukraine, US, Uzbekistan, Venezuela, Vietnam and Yugoslavia.

LEGAL ISSUES

The legal landscape pertaining to real estate in China has changed rapidly and continues to do so, with the regulatory environment considered to be significantly complex. Detailed below is recent (previous 24 months) key legislation pertaining to real estate.

Calling on banks to support merge and acquisitions (December 2021)

The People's Bank of China (PBOC) and China Banking and Insurance Regulatory Commission (CBIRC) called on banks to support high-quality real estate enterprises in mergers and acquisitions. At the same time, they asked banks to strengthen the risk control and post loan management of M&A loans and monitor the use of funds.

Regulations on the management of industrial-titled land sales (September 2021)

New regulations allow some owners of unused warehouses to sell the property strata title. The government also set higher tax and investment requirements for land acquisitions. For example, minimum plot ratios for industrial land were raised from 1.2 to 2.0.

Batch release of residential land plots (February 2021)

22 key cities including Shanghai, Beijing, Guangzhou and Shenzhen will have their residential land auctions concentrated in three batches per year. This regulation is designed to cool the land sales market.

Banks restricted from loaning to developers and individual mortgages (January 2021)

PBOC and CBIRC set restrictions on how much could lend to real estate developers and individuals' mortgages. Larger banks including Industrial and Commercial Bank of China (ICBC), China Construction Bank Corporation (CCBC), Agricultural Bank of China (ABC), Bank of China (BOC), China Development Bank (CDB), Bank of Communications (BCM) and Postal Savings Bank of China (PSBC), were allowed to lend up to 40% of their loan book to real estate developers while individual mortgages were capped at 32.5% of their loan books.





Multiple cities released policies to further control the residential sales market (January 2021)

Many cities, including Beijing, Shenzhen, Shanghai, Hangzhou and Chengdu, released policies to cool down the residential sales market in 2H/2020. Policies include, but are not limited to, raising the qualifications for house purchasing, raising the holding period before VAT exemption and controlling bank mortgage loan issuance.

Tightening on housing-related loans (December 2020)

Ceilings on property loans by banks were announced by the People's Bank of China and the China Banking and Insurance Regulatory Commission on the last day of 2020. Banks, along with other financial institutions, are categorised into five tiers by their institution type, assets under management and other characteristics. New policy will be effective from 1 January 2021.

Forbidding insurance capital from direct real estate construction and development (November 2020)

CBIRC issued documents to further regulate the usage of insurance capital by forbidding insurance capital from directly investing in real estate construction and development. This includes residential project development and sales.

The "345" rule to control the scale of interest-bearing liabilities by developers (August 2020)

The People's Bank of China and the Ministry of Housing and Urban-Rural Development issued the "345" rule to control the scale of interest-bearing liabilities by developers. The rules are set against three "red lines", and developers will be divided into four categories accordingly. Their future interest-bearing liabilities growth will be capped by 0%, 5%, 10% and 15%.

CSRC published official pilot policy document for I-REIT (August 2020)

The China Securities Regulatory Commission (CSRC) published an official pilot policy document for the establishment of the China I-REIT market on August 14 after releasing the draft document for public comment in late April. This represents a significant milestone for the China REIT market as previously only privately-sold quasi-REITs were permitted, and these were essentially debt products.

Shenzhen Stock Exchange published three documents to accommodate I-REIT (August 2020)

Shenzhen Stock Exchange released three documents to accommodate I-REIT. The three documents included details about how the Stock Exchange will facilitate the launch of I-REIT in each process and the key points.

Revised "Land Management Law" (March 2020)

The revised "Land Management Law" was issued by the central government in March. The law allows all provinces to use farmland not already classified as "permanent arable land" for development purposes without first obtaining approval from the central government. Eight administrations, including Shanghai, will also be allowed to use "permanent arable land" for development in a one-year pilot program.

Land and property registration

The Property Law proposes that China's real property registration system be unified nationwide and property rights holders and interested parties may apply to retrieve the information filed with the registry. Currently, information on land-use rights, building ownership and mortgage rights may be separately filed with different local real estate or construction administration authorities. That information is usually not accessible except with the registrant's written consent. The new law, therefore, ought to facilitate searches on the title and related property rights. However, it remains unclear whether just anybody will be entitled to search the registry or whether applicants must establish some relationship to the property at issue. Implementation of these provisions of the Property Law will need to be monitored closely.

Foreign exchange controls

In China, companies, banks, and individuals must comply with a “closed” capital account policy. This means that money cannot be freely moved into or out of the country unless it abides by strict foreign exchange rules. The Chinese government introduced new capital controls through a number of announcements by government agencies at the end of 2016. The announcements indicated that certain outbound transactions would not be approved unless given specific approval.

OTHER REAL ESTATE ISSUES

Sales approval

In contrast to many markets overseas, where developers will achieve a certain sales target before being able to gain funding and start construction, developers in China usually constructs a property on a speculative basis, which brings an added risk to the development of real estate in China.

Prior to the commencement of onshore strata-title sales for units within a project, the developer must first acquire sales approval from the Municipal Bureau of Land Resources and Real Estate. For onshore sales of residential, office or retail units, the following criteria must be met to be eligible for attaining sales approval:

- The full amount of the land-use rights transfer fee must have been paid and the land-use rights certificate must have been formally obtained.
- The project must have a project planning licence, construction licence, real estate development licence and land-use rights certificate.
- 25% of the project must have been completed, assessed based on 25% of the total project cost having been invested, and construction progress, as well as completion and handover dates, must have been determined. For low-rise projects, properties must be topped out.

Building completion

For newly developed projects, developers must apply to the local government for the issue of a building completion certificate. Depending on the scale and significance of a project, the pre-completion assessment may be delegated to one or more higher levels of government authority, such as in the case of projects involving public interest, national security or state funding. This certificate should be obtained prior to the formal handover and occupation of the building. The following tasks are generally involved in attaining a building completion certificate:

- Assessment of compliance with all planning requirements, including zoning, GFA restrictions, height restrictions, etc.
- Assessment of compliance with health, fire, safety, labour and environmental protection requirements.
- Settlement of contracts for building materials and services carried out by contractors.
- Formal acceptance by the project owner that they are satisfied with the work carried out by contractors.

Key cities overview - Beijing

Beijing is the capital city of China and is recognised as the nation's centre for a wide variety of functions, including politics, economics and cultural heritage, and as a transportation hub. As one of the four municipalities directly under the central government, Beijing leads economic and political reform and has 21.89 million residents and the country's second-largest GDP.

Multinational companies and large State Owned Enterprises (SOEs) have established their regional and national headquarters in Beijing to benefit from preferential policies, supported by the government, and to have closer ties to the decision-making centre.

Beijing's GDP experienced consecutive double-digit growth from 1998 to 2007 but started to slow in 2012, echoing the economic slowdown of the country. The tertiary industry remained the largest contributor to the city's GDP, accounting for 81.7% of the total in 2021.

BEIJING-SPECIFIC LEGISLATION

Detailed below are a number of recent (previous 24 months) property-related legislations that are unique to Beijing.

Stricter management of school district housing (April 2021)

Beijing Municipal Commission of Housing and Urban-Rural Development released a document to better manage the real estate market including stricter management of school district housing. Haidian, Xicheng, and Dongcheng districts have taken the lead in issuing a new policy for mandatory education enrolment, further clarifying the multi-school zoning policy.

For-lease housing size requirement (January 2021)

Beijing Housing and City Construction Committee issued guidance regarding for-lease housing in Beijing, saying that the unit size per person for dorm-style for-leasing housing should be no less than four sq m.

Speed-up the development of elderly care (May 2020)

In May, the Beijing Municipal government released guidelines to speed up the development of elderly care with the goal to build at least one district-level facility in each district by 2022 and forbid real estate development on land designated for elderly care facilities.

KEY STATISTICS - BEIJING

Permanent population

21.89 million (2020)

Land area

16,410.5 sq km (municipality)
1,401 sq km (urban area)

GDP

RMB4,027 billion (2021)

GDP per capita

RMB183,963; US\$29,103 (2021)

GDP growth

8.5% per annum (2021)

Principal business centres

CBD and its vicinity, Beijing Financial Street, Lufthansa, East Second Ring Road, East Chang'an Avenue, Zhongguancun, Wangjing, Asia-Olympic, Lize Financial Business District (FBD)

Source Savills Research; National Bureau of statistics of China

Key cities overview - Shanghai

As one of the cities pioneering China's economic reforms, Shanghai is the powerhouse of the Chinese economy, and one of the largest cities in the country with more than 24 million residents and the country's largest GDP. Shanghai has benefited greatly from its strategic location on the East China Sea, acting as the window to the world for much of the Yangtze River Delta, one of China's largest production regions. Shanghai has also had immense support from the central government, with preferential policies and a greater degree of openness, allowing the city to lead the way in the country's economic reforms.

Manufacturing had traditionally been the core of Shanghai's economy; however, in 1999 the services industry overtook manufacturing as the largest contributor to GDP and, at the end of 2020, the service sector accounted for 73.1% of the city's economy.

SHANGHAI-SPECIFIC LEGISLATION

Detailed below are a number of recent (previous 24 months) property related legislations that are unique to Shanghai.

Second-hand residential price guidance (July 2021)

Second-hand homes must go through a price check by the transaction management department before listing on the sales market. This policy is designed to reduce erroneous pricing in the second-hand market.

Eligible first-hand buyers are only allowed to sell apartments after five years (March 2021)

Home sales price caps will be set on new residential land sale documents. First-hand homes bought through a point-based selection process will have to be held for a minimum of five years before being resold.

Points-based selection process applied to oversubscribed first-hand property sales (February 2021)

A new points-based selection process was instituted for oversubscribed first-hand property sales in order to ensure a fairer selection process. Applicants are graded based on several criteria including but not limited to their hukou (residency permit) status, current housing situation, number of years of local social security contributions and previous housing purchase records. People owning no homes will be prioritised for the first-round lucky draw while those already owning a home will be allowed in the second round.

Home purchase restrictions apply to court-auctioned houses (January 2021)

House purchase restrictions will apply to court-auctioned houses, which means buyers will also need to be qualified to purchase court-auctioned houses given their current housing situation. The buyer will need to shoulder legal consequence if the buyer fails to purchase the house because they have more houses than is currently allowed.

New policies to further control residential house purchasing market (January 2021)

To cool down the residential house purchasing market, Shanghai government released several new policies. Divorced homebuyers will no longer be considered first-time buyers for a period of three years if they had owned a property during their marriage. In addition, a capital gains tax on the total sales price of the property will be imposed if the house is sold within five years of purchase, up from the previous two-year barrier.

Non-Shanghai-hukou families are qualified to purchase security housing (January 2020)

Shanghai municipal government issued new regulations allowing non-Shanghai-hukou families that meet the qualifications to purchase security houses to purchase security housing with common property right. The rule will be effective from February 2020.

KEY STATISTICS - SHANGHAI

Permanent population	24.87 million (2021)
Land area	6,340.5 sq km (municipality) 3,248.7 sq km (urban area)
GDP	RMB4,320 billion (2021)
GDP per capita	RMB173,703; US\$26,930 (2021)
GDP growth	8.1% per annum (2021)
Principal business centres	Huaihai Road (M), Nanjing Road (W) and 'Little' Lujiazui

Source Savills Research; National Bureau of statistics of China



Hong Kong

Hong Kong, a small city of seven million people, is conveniently located in a time zone between the US and Europe and has the fifth largest stock market in the world. The city is rated as the world's second freest economy by the Heritage Foundation. The Hong Kong economy is highly influenced by the services industry, which dominates over 90% of its GDP. Finance, insurance, real estate, professional and business services are the main foundations of the economy, with 22% of the working population employed in these sectors.

TYPES OF PROPERTY OWNERSHIP

All land in Hong Kong, with one exception, is held by the HKSAR Government. The government grants companies or individuals the right to occupy or develop land in return for the payment of government rent. Leases are often granted for a period of 50 years. Subject to government's sole discretion, leases due for renewal after July 1997 will be renewed for 50 years.

Strata-title ownership is commonly practiced in Hong Kong. Owners are required to sign a deed of mutual covenant guaranteeing collective up-keep and maintenance of the building.

OVERSEAS OWNERSHIP RESTRICTIONS

Under the Basic Law there are no restrictions on overseas ownership of property.

MEASUREMENT OF AREAS

All areas are quoted in square feet. Various area measurements which are often quoted in agreements are stated as follows:

- Net area: net usable area including columns up to the external window face. Most commonly used in office and retail premises.
- Lettable area: net area plus washrooms and lobbies. Most commonly used in office premises.
- Gross area: all area contained within the external walls and the whole thickness of the external walls. Most commonly used in office, retail and industrial premises.

- Net usable area: carpetable area excluding columns and service core. Not very widely used and only applicable to office spaces.

Estate agents are required to provide information on the saleable area of a second-hand residential property to their clients in advertisements and in provision of the floor area information of the property effective from 1 January 2013.

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TABLE 16 Lease Terms

LEASE PERIOD	In most cases for commercial and industrial premises 2- to 3-year leases are common although longer leases are available. For residential premises 1- to 2- year leases are more common.
RENT REVIEWS	Usually rent reviews are conducted every three years, while a price ceiling and price floor are typically set when the contract is signed to protect both parties.
SUB-LETTING/ ASSIGNMENT	Not an accepted market practice.
TERMINATION	Usually prohibited, though break clauses can be included in a lease for early termination of the tenancy provided that a written notice is given to the landlord two months in advance.
REPAIRS	The exterior and structural repairs and maintenance of the building are the landlord's responsibility. Tenants are usually expected to be responsible for internal repairs and maintenance.
SECURITY OF TENURE	Security of tenure is not guaranteed beyond the term of a lease. A contractual option to renew can be included in the lease if required.
DILAPIDATION	Tenants are expected to reinstate a property to its original condition although allowances are made for fair wear and tear.

Source Savills Research & Consultancy

KEY STATISTICS

Official name	Hong Kong Special Administration Region (HKSAR)*
Currency	Hong Kong dollar (100 cents), Pegged to the US dollar (US\$1 = HK\$7.8)
Population	7.4 million (Mid-year 2021)*
Land area	1,110 sq km*
GDP per capita	HK\$357,076; US\$45,780 (2020)*
Real GDP growth	-6.1%* per annum (2020) 6.4%* per annum (2021E) 3.5%* per annum (2022E)
Principal business centres	Central, Wanchai, Causeway Bay, Tsim Sha Tsui and Island East*

Source Census and Statistics Department, HKSAR Government*, IMF*

- Saleable area: a domestic (residential) unit is measured on the basis of ‘saleable area’ which is defined as the floor area exclusively allocated to the unit including balconies and verandahs but excluding common areas such as stairs, lift shafts, pipe ducts, lobbies and communal toilets. It is measured from the outside of the exterior enclosing walls of the unit and the middle of the party walls between two units. Bay windows, yards, gardens, terraces, flat roofs, carports and the like are excluded from the area .

TRANSACTION COSTS

Brokerage/agency fees

Leasing fees are typically one month’s rent paid by the landlord, while purchase fees are usually 1% of the agreed price .

Security deposit

Commonly a non-interest-bearing returnable deposit of two or three months’ gross rent plus service charges and rates.

Legal costs

Legal costs are based on guidelines issued by the Law Society of Hong Kong. Notably, due to increasing competition among solicitors, most fees are now subject to negotiation , with each party typically carries their own costs.

TAX LEGISLATION

Stamp duty

With effect from 1 April 2010, stamp duty on the sale of immovable property in Hong Kong is charged at rates which vary with the amount or value of the consideration. For a property transaction taking place after 5 November 2016, the rates are shown in Table 17.

After 23 February 2013, stamp duty on a non-residential transaction is charged on a sale and purchase agreement instead of charging when a conveyance on the sale of the property is executed.

The Government announced that the Stamp Duty Ordinance would be amended to revert the AVD rates on certain instruments dealing with non-residential property from the rates under Scale B to the rates under Scale A in Table 17. Subject to the enactment of the relevant amendment bill by the Legislative Council, unless otherwise provided, any instrument executed on or after 26 November 2020 for the sale and purchase or transfer of non-residential property will be subject to AVD at the rates under Scale A.

Special stamp duty (SSD)

Any residential property acquired on or after 20 November 2010, either by an individual or a company (regardless of where it is incorporated), and resold within 24 months (if the property was acquired between 20 November 2010 and 26 October 2012) or 36 months (if the property was acquired on or after 27 October 2012) will be subject to SSD.

TABLE 17 Ad Valorem Stamp Duty On Sales And Purchases

AMOUNT OR VALUE OF THE CONSIDERATION		HKPR RESIDENTIAL PROPERTY BUYER WHO DOES NOT OWN ANY OTHER RESIDENTIAL PROPERTY IN HONG KONG	ALL NON-RESIDENTIAL PROPERTY BUYERS WITH INSTRUMENT EXECUTED BEFORE 26 NOVEMBER 2020 (SCALE B)	ALL HKPR WHO OWN OTHER RESIDENTIAL PROPERTY IN HONG KONG, CORPORATE AND, NON-HKPR RESIDENTIAL PROPERTY BUYERS
EXCEEDS (HK\$)	DOES NOT EXCEED (HK\$)	ALL NON-RESIDENTIAL PROPERTY BUYERS WITH INSTRUMENT EXECUTED ON OR AFTER 26 NOVEMBER 2020 (SCALE A)		
	2,000,000	HK\$100	1.5%	
2,000,000	2,351,760	HK\$100 + 10% of excess over HK\$2,000,000	HK\$30,000 + 20% of excess over HK\$2,000,000	
2,351,760	3,000,000	1.5%	3%	
3,000,000	3,290,320	HK\$45,000 + 10% of excess over HK\$3,000,000	HK\$90,000 + 20% of excess over HK\$3,000,000	
3,290,320	4,000,000	2.25%	4.5%	
4,000,000	4,428,570	HK\$90,000 + 10% of excess over HK\$4,000,000	HK\$180,000 + 20% of excess over HK\$4,000,000	15%
4,428,570	6,000,000	3%	6%	
6,000,000	6,720,000	HK\$180,000 + 10% of excess over HK\$6,000,000	HK\$360,000 + 20% of excess over HK\$6,000,000	
6,720,000	20,000,000	3.75%	7.5%	
20,000,000	21,739,120	HK\$750,000 + 10% of excess over HK\$20,000,000	HK\$1,500,000 + 20% of excess over HK\$20,000,000	
21,739,120		4.25%	8.5%	

Source Savills Research & Consultancy

TABLE 18 Stamp Duty On Leases

TERM		RATE
EXCEEDS	DOES NOT EXCEED	
	1 year	0.25% × the total rent payable over the term of the lease*
1 year	3 years	0.5% × the yearly or average yearly rent*
3 years		1% × the yearly or average yearly rent*
Not defined or is uncertain		0.25% × the yearly or average yearly rent*
Key money, construction fees, etc mentioned in the lease		4.25% of the consideration if rent is also payable under the lease. Otherwise, same duty as for a sale of immovable property.
Duplicate or counterpart		HK\$5 each

Source Savills Research & Consultancy

Note: 1) *The yearly rent/average yearly rent total has to be rounded-up to the nearest HK\$100;
2) Any deposit which may be mentioned in the lease will not be taken into account in assessing the stamp duty.

SSD rate:

The SSD is calculated based on the stated consideration for the transaction or the market value of the property, whichever is higher, at the following rates for different holding periods by the seller before the transaction if the property was acquired between 20 November 2010 and 26 October 2012:

- 1) 15% if the vendor has held the property for six months or less;
- 2) 10% if the vendor has held the property for more than six months but for 12 months or less; and

- 3) 5% if the vendor has held the property for more than 12 months but for 24 months or less.

For property acquired on or after 27 October 2012, the SSD will be calculated at the following rates:

- 1) 20% if the vendor has held the property for six months or less;
- 2) 15% if the vendor has held the property for more than six months but for 12 months or less; and
- 3) 10% if the vendor has held the property for more than 12 months but for 36 months or less.

Buyers' stamp duty (BSD)

Any residential property acquired on or after 27 October 2012, either by an individual who is not a permanent Hong Kong resident or a company will be subject to the proposed BSD:

BSD rate:

The BSD is calculated as 15% on the stated consideration for the transaction or the market value of the property, whichever is higher.

Property tax

Government rent is payable quarterly in advance, namely in January, April, July and October. It is calculated as 3% of the rateable value of the property. Subject to lease condition, the landlord is liable for Government rent.

Government rates are also payable quarterly in advance. They are currently calculated as 5% of the rateable value, payable by the tenant.

The owners of land and/or buildings are generally taxed at 15% on actual rents received, less a maximum of 20% statutory allowance for repairs and maintenance.

Properties owned by enterprises doing business in Hong Kong are exempt from property tax, but the income derived from ownership is chargeable to profits tax.

Limitation on mortgages

Banks have to comply with a 30% to 60% loan-to-value (LTV) guideline on residential mortgage lending. Banks can only approve mortgage loans for over 60% of the value of the property without incurring additional credit risk by joining a mortgage insurance plan. As long as an application meets the relevant eligibility criteria, the bank can approve a mortgage loan of up to an 80% LTV ratio under the mortgage insurance programme for property valued below HK\$10 million. After the amendments to the Mortgage Insurance Programme in October 2019, property valued below HK\$8 million is eligible for up to 90% LTV ratio, and property valued above HK\$8 million and below HK\$9 million is eligible for up to 90%, subject to a loan cap of HK\$7.2 million. The 90% LTV ratio is only applicable to application with (i) all mortgagors not holding any residential properties in Hong Kong at the time of application and (ii) all applicants being regular salaried persons.

The mortgage insurance programme is not available to applicants whose income is mainly derived from outside Hong Kong unless they can demonstrate that they have a close connection with Hong Kong.

- The maximum debt servicing ratio (DSR) of mortgage loans assessed based on the debt servicing ability of a mortgage applicant who has more than one property is 30% to 50%.
- The maximum LTV ratio for mortgage loans assessed based on the net worth of a mortgage





applicant who has more than one property is limited to 30%.

- The maximum LTV ratio for mortgage applicants whose principal income is derived from outside Hong Kong is 10 percentage points lower than local buyers.
- The maximum loan tenor of all new property mortgage loans is 30 years.

The following are new requirements released by the Hong Kong Monetary Authority on mortgage lending for properties transacted after 23 February 2013:

- The assumed increase in mortgage rates when stress-testing mortgage applicants is raised from 200 basis points to 300 basis points.
- The maximum LTV ratio of mortgage loans for all commercial and industrial properties is further lowered by 10 percentage points (local buyers: 40%; others: 20%).
- The maximum LTV ratio of mortgage loans for standalone car park spaces and the maximum loan tenor will remain at 40% and 15 years respectively.
- Other requirements on maximum LTV ratios and DSR which apply to commercial and industrial property mortgage loans are applicable to standalone car park space mortgage loans.

The following are new requirements released by the Hong Kong Monetary Authority on mortgage

lending for properties transacted after 27 February 2015:

- The maximum loan-to-value (LTV) ratio for self-use residential properties with a value below HK\$7 million will be lowered by a maximum of 10 percentage points. For example, the maximum LTV ratio applicable to properties with a value of HK\$6 million or below and subject to the LTV cap of 70% will be lowered to 60%.
- The maximum debt-servicing ratio (DSR) for borrowers who buy a second residential property for self-use will be lowered to 40% from 50%, and the stressed-DSR cap will be lowered to 50% from 60%.
- The maximum DSR of mortgage loans for all non-self-use properties, including residential properties, commercial and industrial properties and car park spaces, will be lowered to 40% from 50%, and the stressed-DSR cap will be lowered to 50% from 60%.

The following are new requirements released by the Hong Kong Monetary Authority on mortgage loans for properties transacted after 19 May 2017:

- The risk-weight floor has been raised from 15% to 25% for new residential mortgage loans approved.
- The applicable LTV cap will be lowered by 10% for property mortgage loans involving borrowers and/or guarantors with one or more pre-existing mortgage loans, in addition to the existing

requirement of lowering the applicable debt servicing ratio (DSR) limit by 10 percentage points for these loans.

- The applicable DSR limit will be lowered by 10% for property mortgage loans extended to borrowers whose income is mainly derived from outside of Hong Kong, on top of the existing requirement of lowering the applicable LTV cap by 10% for these loans.

The following is a relaxation of countercyclical macroprudential measures released by the Hong Kong Monetary Authority on mortgage loans for non-residential properties transacted from 20 August 2020:

- The applicable loan-to-value ratio caps for mortgage loans on non-residential properties are adjusted upward by 10 percentage points, from 40% to 50% for general cases.

Capital allowances

Tax depreciation allowances are given for capital expenditure incurred in the construction of industrial buildings and structures, the construction of commercial buildings, and the provision of plant and machinery for trade and business purposes.

- Industrial buildings: an initial allowance of 20% is available in relation to the cost (excluding the cost of land) of an industrial building or structure occupied for the purposes of a qualifying trade. An annual allowance of 4% of the original capital expenditure is also given.

- Commercial buildings: these are buildings or structures used for business purposes other than industrial buildings. An annual allowance of 4% of the capital expenditure incurred on construction has applied since 1 April 1998.

- Refurbishment concession: capital expenditure on the renovation or refurbishment of a building or structure, other than a domestic building or structure, is deductible at the rate of 20% a year over a five-year period.

Corporation tax

Detailed below is the normal rate of corporate tax and the concessionary rate:

- Normal rate: Effective from the year of assessment 2018/19, there is a two-tiered profits tax rates regime in Hong Kong SAR. It is applicable to any year of assessment commencing on or after 1 April 2018. For corporations, the first HK\$2 million of profits will be taxed at 8.25% and the remaining profits will continue to be taxed at 16.5% tax rate. For unincorporated businesses, the first HK\$2 million of profits will be taxed at 7.5% and the remaining profits will be taxed at 15% tax rate.

- Concessionary rate: a tax rate of 50% of the normal profits tax rate will be applied to trading profits and interest income received or derived from qualifying debt instruments issued in Hong Kong, to the offshore businesses of professional reinsurance companies, to qualifying profits of a qualifying corporate treasury centre, and to qualifying profits of a qualifying aircraft lessor or a qualifying aircraft leasing manager.

All taxpayers are subject to the same corporation or unincorporated business tax rate irrespective of their residential status.

Personal income tax (PIT)

Individuals are taxed on income arising in or derived from Hong Kong, deducting any allowances applicable (the most common one being the basic allowance, which is HK\$100,000 for the time being), on a rising scale subject to a limit of 15%. The actual calculation is shown in Table 19.

Withholding tax and tax treaties

There is no withholding tax on dividends, interest or royalties. However, the tax on royalties received by non-residents is in effect similar to a withholding tax. It requires resident consignees to provide quarterly returns to the Hong Kong Inland Revenue Department (HKIRD) showing the gross proceeds from sales on behalf of their non-resident consignors and to pay to the HKIRD Commissioner a sum equal to 0.5% of such proceeds.

Hong Kong has reached an understanding with the relevant tax authorities in the PRC government for avoidance of double taxation between the mainland and Hong Kong. The arrangement covers airline and shipping operations as well as other business activities.

TABLE 19 Calculation of Personal Income Tax

INCOME - SLIDING SCALE (HK\$)	TAX RATE (%)
First 50,000 (after deductions)	2
Next 50,000	6
Next 50,000	10
Next 50,000	14
Remaining income	17

Source HKSAR*, Savills Research & Consultancy

* <https://www.gov.hk/en/residents/taxes/taxfiling/taxrates/salariesrates.htm>

In addition, Hong Kong has concluded double taxation agreement for shipping and airline incomes with other countries.

To date, Hong Kong has concluded comprehensive double taxation agreements with 40 jurisdictions including Austria, Belarus, Belgium, Brunei, Cambodia, Canada, Czech Republic, Estonia, Finland, France, Georgia, Guernsey, Hungary, India, Indonesia, Ireland, Italy, Japan, Jersey, Korea, Kuwait, Latvia, Liechtenstein, Luxembourg, Malaysia, Malta, Mexico, Netherlands, New Zealand, Pakistan, People's Republic of China, Portugal, Qatar, Romania, Russia, Saudi Arabia, Serbia, South Africa, Spain, Switzerland, Thailand, United Arab Emirates ('UAE'), United Kingdom, and Vietnam.

LEGAL ISSUES

Land registration

The Land Registry maintains a public land register for recording interests in land and real property. This public register provides the means whereby the title to real and immovable property may be easily traced and ascertained, and secret or fraudulent conveyancing can be detected. The assurance that it gives about the ownership of property encourages investment and supports economic development.

The present land registration system has been in operation since 1844. It is a deeds registration system governed by the Land Registration Ordinance. Under the deeds registration system, instruments affecting real properties are lodged with the Land Registry for registration.

Town planning

The Town Planning Board is responsible for guiding and controlling the development and use of land in order to promote the health, safety, convenience and general welfare of the community.

In accordance with town planning regulations, the Board may also require the Director of Planning to prepare plans or sketches for carrying out its functions as laid down in the Ordinance. Headed by the Director of Planning, the Planning Department is the executive arm of the Board which is responsible for formulating, monitoring and reviewing town plans, planning policies

and associated programmes for the physical development of Hong Kong. It deals with all types of planning at the territorial and district/local levels and provides services to the Board.

Under the Town Planning (Amendment) (No. 2) Ordinance which came into operation in November 1991, the Town Planning Appeal Board has also been set up to hear appeals against the Board's decisions to reject planning applications upon review.

MAJOR PROPERTY LEGISLATION

There are a number of key pieces of legislation pertaining to real estate, which are detailed below:

- Building Ordinance
- Building Management Ordinance
- Companies Ordinance
- Conveyancing & Property Ordinance
- Government Leases Ordinance
- Inland Revenue Ordinance
- Land Registration Ordinance
- Landlord and Tenant Ordinance
- Landlord and Tenant (Consolidation) Ordinance
- Stamp Duty Ordinance
- Town Planning Ordinance



India

India, the sixth largest economy by Nominal GDP and third by purchasing power parity¹ has battled a long economic downside caused by COVID-19, but its prospects remain strong and positive in the post-pandemic world.

This is so, mainly on account of favourable demographics and effective counter-COVID measures taken by the government. Moreover, with an estimated 500 million workforce, it has the world's second largest labour pool at its disposal². The service sector constitutes nearly 54% of GDP and remains its fastest growing component. Manufacturing, infrastructure as well as agriculture have been in focus on the policy-front of late.

Foreign Direct Investment (FDI) has been on the rise owing to a steadily improving business environment. As per the data released by the Department for Promotion of Industry and Internal Trade (DPIIT), fiscal year 2021³ witnessed FDI inflows to the tune of US\$82 billion. This, in turn, meant a compounded annual growth rate of 9% for the period between 2011 and 2021. Services, IT and telecoms witnessed the bulk of foreign investment in 2020 and 2021.

TYPES OF PROPERTY OWNERSHIP

In India, property ownership can be categorized into two broad types, namely, freehold and leasehold. The main difference between freehold and leasehold properties is about title and control.

Freehold property

Such properties are free from the hold of any entity, besides the owner. So, the owner enjoys complete ownership and can use the land for developing, renovating, selling, or transferring, according to local regulations. The owner is in charge of the building and is responsible for its upkeep and maintenance, for paying taxes and local levies, incurring operational costs, as well as claiming depreciation or other benefits, as applicable.

Leasehold property

In such properties, one has the right to occupy and use for a stipulated period of time as per the conditions of the agreement. The buyer or the lessee is not the owner of the property or the land it is situated upon. One has to pay ground rent to the owner or the lessor. Once the set period in the lease expires, the ownership of the property reverts to the landowner. The responsibility for major maintenance of the property lies typically with the lessor. Also, major modifications or alterations to the property by the lessee are not allowed, unless it is specifically mentioned in the lease agreement. Leasehold tenures (and rights) vary in a vast spectrum, ranging from a few years to hundreds of years.

Private ownership can also be categorized into individual, joint, co-ownership and nomination based on the number of individuals owning the property. While in an individual ownership a single person has all the rights, more than one individual is associated in joint and co-ownerships. Joint ownerships typically have evenly distributed rights between the shareholders. However, in case of co-ownership, the share of property depends upon the magnitude of the initial investment by a shareholder. In case of nominee ship, the nominated person can become only a member of the concerned society and a nominal owner after the death of the original owner, but to be a legal beneficial owner, it is necessary for the person to be named in the will.

With respect to renting out a property, one of the most common agreements between the landlord and tenant is the "Leave and License Agreement". In a Leave and License Agreement, which comes under the purview of the Indian Easement Act, the tenant cannot claim any ownership of the property. Under such agreements, the owner leaves the property with various facilities; the same is given to the licensee for use, while the owner is on a leave for a specific period of time. Once the leave is over, and the owner returns, the licensee leaves. Moreover, it is the duty of the licensee to vacate the rented property in the same condition it was leased by the owner. The tenant cannot make any major changes

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¹ Source: World Economic Outlook, IMF
² Source: International Labour Organisation
³ Fiscal Year: April-March

KEY STATISTICS

Official name	Republic of India
Currency	Indian Rupee (INR)
Population	1.38 million (2020)
Land area	3.28 million sq km
GDP per capita	Nominal - US\$1,900 (2020); PPP - US\$6,454 (2020)
Real GDP growth	-7.96% (2020)
Principal business centres	Mumbai, Delhi NCR*, Kolkata, Chennai, Bengaluru, Hyderabad and Pune

and everything that the property was given with needs to be there as the agreement is temporary.

In case of commercial real estate, the leasehold model is quite popular amongst occupiers including large multi-national companies. Table 20 provides a quick snapshot of typical lease agreements in the office market of the country.

An important aspect of the market, which has brought increased transparency to the real estate industry, is the digitization of records and processes, whether for land, residential or commercial buildings. It has significantly streamlined the process of approvals, payments and money transfers, disputes or redressal mechanisms.

OVERSEAS OWNERSHIP AND FOREIGN DIRECT INVESTMENTS

A citizen of India who resides overseas (NRI), a Person of Indian Origin (PIO) or an Overseas Citizen of India (OCI) can acquire immovable property in India. Three important points with respect to NRI/PIO/OCI ownership have been enumerated below

- **Type of assets:** The immovable property can be residential or commercial. Although investment is not allowed in agricultural land/ plantation property/farmhouse, such properties can be inherited or gifted to the NRI/PIO/OCI.
- **Size of assets:** There is no limitation on the quantum of investment. Moreover, like Indian citizens, NRIs/PIOs/OCIs too can avail themselves of home loans in Indian rupees for their property purchases, up to 80% of the property value, depending upon individual eligibility.
- **Repatriation of funds:** Any flow of funds from non-resident investors to India needs to be in compliance with the applicable Foreign Exchange Regulation Act/ Foreign Exchange Management Act (FERA/FEMA) regulations. The funds should be remitted to India through normal banking channels. Also, no payment can be made outside India, by traveller's cheque or by foreign currency notes.

A foreign national of non-Indian origin, resident outside India cannot purchase any immovable property in India but can take residential accommodation on lease. For business purposes, a foreign company which has established a branch office or a lawful presence in India, in accordance with the regulations of FERA/FEMA, can acquire an immovable property, which is necessary for or incidental to carrying on such activity. The payment for acquiring such a property should be made by way of foreign inward remittance through proper banking channels.

TABLE 20 Typical Lease Terms for the Office Market

LEASE PERIOD	Typical Lease Terms	3-5 years; renewable with pre-agreed rent escalations for a total of up to 10 years.
	Break Options	No break allowed during the lock in period which is typically 3-5 years. Post the lock in, the notice period is usually 6 months.
RENTAL PAYMENTS	Rent Free Period	1-3 months. Usually fit outs are carried out in the initial few months and rent is waived during that period.
	Tenants Pays	Monthly in advance.
	Frequency of Rent Indexation	N/A
	Security Deposit	6-12 months' rent (interest free)
	Rents Quoted in	INR / sq ft / month
RENT REVIEWS		Most leases have a fixed escalation at the end of every year (typically 5-6%) or every three years (typically 15-18%). Escalation is usually applicable on the rent, car parking rent and security deposit.
TENANT FIT OUT	Fit-out works	Usually to the tenant's account.
OPERATING EXPENSES & ADDITIONAL COSTS PAYABLE BY THE TENANT	Service charge / Management Fee	Tenant's responsibility; in addition to the rent. Payable monthly in advance.
	Responsibilities for Utilities	Tenant's responsibility; payable as per consumption.
	Car Parking	Allocation is city and micro-market specific; usually in the range of 1 slot per 1,000 sq ft of area leased.
SUB-LETTING/ ASSIGNMENT		Subletting is only permitted with the consent of the landlord. In certain cases, the landlord provides his consent in the lease agreement itself.
TERMINATION		Options for the early termination of leases are non-negotiable. For longer leases, there is often a tenant option to break but only post the lock in period.
REPAIRS		The landlord is generally responsible for structural and major repairs while the tenant carries out internal repairs and decoration.
SECURITY OF TENURE		The lease agreement is a binding agreement and is enforceable by law. It is valid till the tenure of the agreement unless there is a violation of the conditions set therein.
DELAPIDATION		The lease agreement usually mandates the tenants to reinstate a property to its original handover condition at the expiry of the term.

Source Savills Research & Consultancy

TABLE 21 Key Features of FDI in the Construction Sector

PERMITTED	100%
ROUTE	Automatic
MINIMUM AREA	None
MINIMUM INVESTMENT	None
EXIT	After 3 years, from the date of each tranche of foreign investment, on the completion of the project; or on the completion of roads, water supply, lighting, etc.

Source Savills Research & Consultancy



Offshore private equity players, investment firms, institutional investors including sovereign, insurance and pension funds have also shown interest in the Indian real estate market. In order to make investments in the Indian construction and development sector more attractive, the Government allows 100% FDI through the automatic route and eased the rules for investment in the construction (townships, housing, built-up infrastructure) sector in 2019. Earlier, the basis of minimum area and quantum of investment was applied. However, no such stipulation exists now. The External Commercial Borrowing (ECB) framework was liberalised and end use restrictions were lifted in 2019. FDI in Limited Liability Partnerships (LLPs) engaged in development of Special Economic Zone (SEZ) is also permitted.

Additionally, 100% FDI under the automatic route is permitted in completed projects for operation and management of townships, malls, shopping complexes and business centres. Details are shown in Table 21.

It is important to note that the government does provide relief on dual taxation with an intent to make the country an attractive investment destination, and to minimize the instances of tax evasion. India has signed Double Taxation Avoidance Agreement (DTAA) with more than 80 countries. Besides lower tax deduction at source, investors are eligible for tax credits under the DTAA agreements.

MEASUREMENT OF AREAS

While India follows the metric system officially, various measurement units are used at local level, including the imperial system, which remains quite popular. Some common terms with respect to area measurement, especially in residential real estate, are:

- **Carpet area:** It is the area enclosed within the walls and does not include the thickness of the walls. It is the actual usable area within the property.
- **Built-up area:** It is the carpet area plus the thickness of the outer walls and the balcony.
- **Super built-up area or Saleable area:** It is the built-up area plus a proportionate share area of common areas such as the lobby, lift shaft, stairs, etc. Sometimes it may also include common areas such as a swimming pool, garden, club house, etc.

It is worth mentioning that the Real Estate Regulatory Authority (RERA) has made it compulsory to mention carpet area in property transactions, filing and approval documents. Therefore, all price related calculations are based solely on carpet area.

With respect to commercial real estate, some of the commonly used terms are mentioned below:

- **Gross Leasable Area (GLA):** GLA, is the amount of space in a commercial building that can actually be rented by a tenant. In most cases, this includes basements, mezzanines, or upper floors which a tenant can potentially utilize. GLA is used to calculate the gross potential rent of the property.

- **Gross Floor Area (GFA):** The floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of interior walls, columns or other features.

- **Net Floor Area (NFA):** The actual occupied area not including unoccupied areas such as corridors, stairways, toilet rooms, mechanical rooms and closets.

TRANSACTION COSTS

Brokerage/agency fees

Real estate agents' fees for commercial property transactions are usually between 1.0% and 2.0% of the purchase price plus applicable taxes.

LEGAL COSTS

Stamp duty and registration fee

A registration document, with a stamp duty paid seal on it, acts as a legal document to

prove ownership of the property. Stamp duty and registration fees vary across states. Stamp duty charges vary between 3% and 10% of the property value. For example, home buyers in Delhi pay 6% stamp duty on registration value, while it is 3% in Mumbai at present. To boost housing sales, some states have implemented temporary stamp duty cuts and waivers. Such measures have translated into increased end user demand, particularly in the affordable housing segment.

A due diligence exercise is probably the most important aspect of a real estate transaction following the broad understanding of commercials between the involved parties. This process has the potential to determine the feasibility of the transaction itself. It is critical to the interests of the players to provide adequate time and attention to a detailed due diligence of the property involved. Issues such as title, permitted use, legality and technicality of construction, encumbrances, compliance to local and central laws, commercial feasibility etc. fall within the purview of the due diligence process.

TAX LEGISLATION

Goods and services tax (GST)

A comprehensive, multi-stage, destination-based tax that is levied on every value addition along the supply chain. It is now the single largest indirect tax levied within India on the supply of goods and services. With an intent to stimulate demand amidst a prolonged slowdown, the government has reduced the GST rate on property transactions significantly in recent years.

Property tax

Property tax, sometimes known as House Tax, is the tax imposed on real estate owners by the local authorities such as village-panchayats or municipal corporations. It is used for the maintenance and upkeep of the local civic amenities of the area, like roads, sewage systems, lighting, parks, and other infrastructure facilities. It is usually levied on all real estate, including buildings (residential or commercial), attached land, and improvements made to the land, but usually not on vacant land with no adjoining building.

Corporate tax

Corporate tax is applicable on entities which have a separate legal entity from its founders. Currently companies with an annual turnover up to INR2.5 billion must pay a corporate tax of 25%, whereas companies with an annual turnover above INR2.5 billion must pay corporate tax of 30%. However, the effective tax rate for certain companies not availing the usual tax exemptions and benefits is 25%. Similarly,



for manufacturing companies, it is even lower at about 17% under stipulated provisions. The Taxation Amendment Bill, 2019 has also brought down the Minimum Alternate Tax Rate (MAT) from 18.5% to 15%.

Another major development in recent years, was the removal of Dividend Distribution Tax (DDT) in early 2020. Making dividend payment taxable at the hand of the recipient and not the corporates was one of the most important actions of the 2020 Union Budget. The decision was aimed at mitigating the adverse impact of cashflow mismatches in companies, particularly in a year hit by the COVID-19 pandemic.

MAJOR PROPERTY LEGISLATION

The government has been quite motivated in the implementation of legislation with respect to the real estate industry in the country over the last decade. A long pending critical legislation namely the Real Estate Regulatory Authority (RERA) Act was implemented in 2016. RERA addresses the concerns of homebuyers, builders, brokers, and other stakeholders of the real estate industry.

RERA has been sub-divided into smaller regulatory bodies, each of which look after the real estate development in a single state or union territory. Some of the key positive changes brought by the act are enumerated below:

- Right to complete information about the property
- Reduction in project delays and project fund misutilisation
- Standardisation and protection of the interests of buyers and developers alike
- Smoother and more efficient grievance redressal mechanism
- Greater accountability and transparency within the real estate industry
- Greater investor confidence especially in the residential segment

Apart from RERA, some other important acts and regulations to have shaped the real estate market of the country are listed below.

Affordable Rental Housing Complex, 2020

One of the major bottlenecks in the affordable housing sector was access to institutional credit at comparatively lower interest rates. After a wait of several years, in 2017, infrastructure status was awarded to the segment, encouraging developers and reducing the cost of borrowing for affordable projects. Infrastructure status further simplified the approval process for affordable projects, creating clear guidelines and increasing transparency. The segment was made more accountable through RERA and increased the attractiveness of debt and pension funds to invest in the affordable housing market. Moreover, affordable housing also comes under priority sector lending, which mandates domestic banks to provide a specified portion of the bank lending to sectors highly dependent on timely and adequate credit provision.

Even after awarding infrastructure status and priority sector lending to affordable housing, the government realised that the full potential of rental housing in the country is yet to be tapped. Thus, specific guidelines targeted at the segment were promulgated under the Affordable Rental Housing Complexes (ARHCs) scheme in 2020. Under the scheme, existing vacant government-funded housing complexes across major cities will be converted into ARHCs and offered to concessionaires for 25 years to rent out the units to urban poor and migrant workers. The government will incentivise private and public entities to develop such housing complexes on their own available vacant land also. Incentives include viability gap funding, technology innovation grant, additional FSI, lending at concessional rates and tax relief. The guidelines under the scheme have clearly spelt out the specification of houses, implementation methodology, funding mechanism, roles and responsibilities of nodal authorities, monitoring and evaluation procedures as well. Such provisions in the ARHC scheme have made it an all-inclusive programme with far reaching implications for affordable housing.

The guidelines provided a much-needed shot in the arm for residential real estate in the country, especially the Economically Weaker Group (EWG) and Lower Income Group (LIG) segments⁹, which have been worst hit in the ongoing pandemic. Effective implementation of the policy is expected to bring back investor interest in this housing segment. ARHCs are expected to appeal to investors with a low-risk appetite and long-term horizon in mind. Given

9 EWG households are defined as households having an annual income up to INR3,00,000. LIG households are defined as households having an annual income between INR.3,00,001 and INR6,00,000

the demand and scope of rental housing in urban centres of the country, consistent returns spread across a longer tenure will be a pivotal aspect capable of roping greater private participation into the affordable housing segment.

Model Tenancy Act

To standardize the entire process of renting, and to address a host of complications arising from historic precedents, the government released a set of guidelines under the draft Model Tenancy Act (MTA) in 2019. The act was eventually passed by the legislature in 2021. The Act aims to enforce a transparent ecosystem for renting premises, minimize litigation and reduce tenant-landlord disputes. It will not only strengthen tenant rights but also empower the landlord with robust laws to govern the terms of tenancy. In the act, issues such as subletting, transfer of rent agreement and property damages are dealt with efficiently. It also underscores that the landlord must inform the tenant at least three months before the revision of the rent. There cannot be arbitrary rent revisions without mutual agreement of both the tenant and the landlord.

The Model Tenancy Act makes it compulsory to have a written agreement, duly signed by both the parties, that too within two months of the final deal. The contract must enumerate clearly the rent amount, details of revision of rent and its schedule, and the agreed-upon tenancy tenure. To have a smooth tenancy period, the act encourages the parties to clearly mention issues such as conditions regarding maintenance and repair of the property during the tenancy and related technicalities. A mandatory written agreement makes it seamless for both parties to adhere to the decided conditions. Essentially, the Model Tenancy Act has spelt out a comprehensive rental framework between landlords and tenants, encouraging the new investors to foray into the rental housing domain.

Real Estate Investment Trust (REIT) Regulations

Based on global experience, the Securities and Exchange Board of India (SEBI) introduced the concept of REITs into the Indian market in 2000s. Initial REIT guidelines were proposed in 2014. Amendments to the initial regulations and multiple tax reworkings continued from 2015 onwards and finally culminated in the listing of the first office REIT in 2019. Two more REITs were subsequently listed in 2020 and 2021.

Special Economic Zone Act

With the SEZ Act in 2005, direct and indirect tax exemptions and waivers from the central government were passed on to promoters of commercial spaces in these zones. Unlike other commercial complexes outside these zones,

SEZ-based companies are not affected by compulsions such as fixed percentages of employment generation and revenue collections. SEZs also enjoy added benefits such as longer maturity periods for borrowed loans, enhanced funding limits and unlimited investment from External Commercial Borrowings (ECB).

However, it is important to note that the SEZ Act will be replaced with new legislation which will enable the states to become partners in 'Development of Enterprise and Service Hubs. The new legislation will cover all large existing and new industrial enclaves to optimally utilize available infrastructure which will enhance the competitiveness of exports by getting more foreign investments to set up manufacturing plants.

Land Acquisition, Rehabilitation and Resettlement (LARR) Act

The act came into effect in 2013 and pertains to the regulations with respect to land acquisitions. It also enumerates the procedures and rules for granting compensation, rehabilitation and resettlement to the affected persons in case of displacement from their original land.

Prohibition of Benami Property Transactions Act

The act which originally came into effect in 1988, underwent major amendments in 2016. It prohibits "Benami" transactions and arms the government with a right to confiscate such "Benami" (loose interpretation-illegal) property and recover proceeds from property confiscation as well.



Indonesia

Indonesia is the world's largest archipelagic country. With a total population of around 272 million in 2021, Indonesia is the fourth largest nation in the world after China, India and the United States.

For centuries, Indonesia has been famous for its abundance of natural resources, including agricultural commodities (such as rubber, coconut, coffee and spices), mining reserves (such as oil and gas) and maritime resources, including flora and fauna. In the energy sector, around 40% of the earth's geothermal energy is located underneath Indonesia's archipelago.

Indonesia is a young nation, with a large working-age population. Around 71% of Indonesia's total population is between 15 and 64 years of age, of which the majority are between 20 and 54 years old. This particular group is very important as they provide a vital contribution to the economy due to their above average incomes and strong expenditure.

The country's demography and abundant natural resources are two key factors which provide a strong boost for economic growth. Statistics show that over the past few decades, Indonesian economic growth has been consistently driven by domestic consumption growth as well as new investment.

Indonesia is the largest economy in Southeast Asia, and the only member of both ASEAN and the G20. International Monetary Fund (IMF) data shows that the size of the Indonesian economy in 2021, measured by GDP, was approximately US\$1.150 trillion. Based on that figure, the IMF ranked Indonesia as the world's 16th largest economy, measured by nominal GDP.

LAND AND PROPERTY OWNERSHIP

In Indonesia, types of land rights are basically divided into two categories:

Adat land (customary land)

Indonesian law recognises customary land, defined as land that is not registered with the national land agency (Badan Pertanahan Nasional)

- Rights are generally transmitted by inheritance and these rights can be converted to a certified title issued by the national land agency.
- Usually held through a (hereditary) traditional joint community ownership structure.
- A (joint) community may temporarily 'release' valid customary land to be used for agricultural purposes by granting another person a Right of Cultivation (Hak Guna Usaha) and/or a Right of Use (Hak Pakai) over the customary land, for a limited tenure.
- Customary land is generally not a consideration for developers.

Certified land

Certified land is land that is registered at the national land office. There are five forms of title recognised under UU No.5 Tahun 1960 (Basic Agrarian Law) that forms the foundation of modern day title law in Indonesia.

A. Right of Ownership (Hak Milik or HM)

This is an absolute or freehold form of ownership in common law jurisdictions. This form of title can only be held by Indonesian individuals and can be sold, transferred, bequeathed or hypothecated.

B. Right of Exploitation (Hak Guna Usaha or HGU)

This is a right to cultivate or exploit state-owned land for agricultural, fishery, or husbandry purposes. This form of title is valid for an initial period of 35 years but can be extended for an additional 25 years with an option for further renewal.

This land right can be mortgaged and can be held by Indonesian citizens or entities as well as foreign joint-venture companies.

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KEY STATISTICS

Official name	Republic of Indonesia
Currency	Indonesia Rupiah (IDR) US\$1 = IDR14,400 (January 2022)
Population	272.2 million (2021)
Land area	1,904,569 sq km
GDP per capita	US\$3,917 (2020)
Real GDP growth	-2.1% (2020) 3.3%* (2021)
Principal business centres	Jakarta CBD (Golden Triangle Zone)

Source World Bank, BPS (Indonesia's Central Statistics Bureau)
* Forecast

C. Right to Build (Hak Guna Bangunan or HGB)

This is by far the most common form of title used by developers and this grants the holder the right to build on the land. This title is granted for an initial period of 30 years and may be extended for 20 years, with the possibility of further extension.

This title is not held by private individuals but may be held by both Indonesian organisations and foreign joint-venture entities. Land developed with such a title can be sold, exchanged, transferred, bequeathed or mortgaged.

D. Right of Use (Hak Pakai or HP)

This form of title provides the right to use land, or a structure that sits upon the land, for a specific period of time for a specific purpose, such as habitation, social activities or work activities. This form of title is valid for a maximum of 25 years but extendable for another period of 20 years, or occasionally for an indefinite period as may be stated in the grant or agreement.

This form of title is the most accommodating in terms of who may hold it: Indonesian citizens, foreign citizens resident in Indonesia, foreign embassies, and representative offices of foreign entities. The Hak Pakai rights generally cannot be sold, exchanged, or transferred unless explicitly provided for in the grant or agreement.

E. Right to Operate (Hak Pengelolaan or HPL)

This form of title allows the holder the right to operate state-owned land for a specific purpose as approved by the authorities. This title is only granted to government institutions or state-owned companies for an unspecified period and can be transferred to a third party in the form of HGB or HP.

OVERSEAS PROPERTY RESTRICTIONS

Generally, foreign individuals or foreign institutions residing in Indonesia enjoy only the Right of Use (Hak Pakai).

Under the Agrarian Law No. 5/1960, which is stipulated by Government Regulation No. 41/1996, individual foreigners are allowed to own a residential property. Foreigners who provide benefits to national development, reside permanently or temporarily in Indonesia, and have immigration documents or a visa may purchase:

- Non-subsidised houses on land with Right of Use title;
- Strata-titled apartment units on land with Right of Use title; and
- Vacant land with Right of Use title or other land use agreements with the land title holder, and build a house on it.

MEASUREMENT OF AREAS

In the Jakarta office market, the standard unit of measurement is square metres (sq m); the type of measurement adopted by landlords for calculating the rentable space (in the agreement) is semi gross area (SGA).

A semi gross measure includes a pro-rata apportionment of service areas and common passages in the lettable area. The precise definition of semi gross area varies from building to building, but one such definition is that semi gross is defined as being measured from the internal face of the dominant portion of the exterior wall of the building, from the centre line of any partition walls dividing adjoining lettable areas, and from the external face of any walls enclosing adjoining non-lettable areas.

Measurements shall be made at a height of 1.50 m above floor level and the lettable area shall include all structural columns either freestanding or protruding into the premises, together with a pro-rata apportionment of the total lettable common or service area of the floor, calculated in the same proportion that the net area of the premises represents as a part of the total net area contained on the floor concerned.

The common area shall include the lift lobby, common corridor, service corridor, toilet, pantry, wudhu, fire hose reel and other similar facilities, together with any stairwells, utility cupboards, lift shafts and other facilities intended for the exclusive use of a particular lessee and not provided as standard facilities in the building.

The non-lettable common area shall include the fire escape stairwells, lift shafts, other vertical service risers and plant rooms, including their enclosing walls where provided as standard facilities in the building.

LEASE TERMS

The lease terms typical to commercial (office) property in Indonesia are detailed in Table 22. However, there are a number of other terms and practices that are also worth highlighting, as detailed below:

- Office rent: rents are quoted as gross figures per sq m SGA per month. The gross rent is made up of base rent per sq m SGA per month, plus an amount for service charges and other outgoings per sq m SGA per month.
- Rent-free period: Usually intended as an allowance to cover the period required for fitting-out. Also used as an incentive to bring down the effective rent.
- Security deposits: The equivalent of three months' gross rent is required as a security deposit. Deposits may also be required for mailbox keys, car parking passes and employee security passes.

TRANSACTION COSTS

Brokerage/agency fees

The typical agency fee for leasing transactions is around 3-5% of total gross rent for the initial lease. Agency fee is payable by the landlord.

Standard brokerage fee for sales transactions is mostly between 2%-3% of total deal price and is payable by the seller.

Legal costs

Each party (buyer and seller) bears their own legal costs.

Tax legislation

Taxation in the property sector can be broadly divided into:

- (1) taxes on acquisitions and transfer of real estate; and

TABLE 22 Typical Lease Terms

LEASE PERIOD	A typical tenancy is 3 years (5-10 years for larger tenants).
RENT REVIEWS	Rent reviews are typically conducted at the expiry of the tenancy or every 3 years during a lease term.
SUB-LETTING/ ASSIGNMENT	The landlord's consent to sub-let should not be unreasonably withheld.
TERMINATION	Not an accepted market practice but it can be agreed provided a tenant secures a new tenant that is acceptable to the landlord and that the tenant pays for any estate agency services. Early termination is only allowed under the existence of a valid break clause (negotiable, subject to penalty). Typical penalty imposed is security deposit being forfeited.
REPAIRS	The exterior and common areas of the building are the landlord's responsibility.
SECURITY OF TENURE	Security of tenure is not guaranteed beyond the tenancy/lease term. An option for a further term should be agreed in the first term.
DILAPIDATION	Tenants are required to reinstate a property to its original handover condition at the expiry of the term.

Source Savills Research & Consultancy



(2) taxes on the possession and operation of real estate.

Taxes on acquisition and transfer of real estate

A. Building Transfer Duty

Individuals or companies obtaining rights to land or buildings are required to pay a Land and Building Transfer Duty (BPHTB) of 5%. In Jakarta, this only applies to property transactions above IDR2 billion since 2016.

The 5% duty is computed based on the transaction value or the assessed value, whichever is higher.

The non-taxable threshold amount for BPHTB varies by region, and the maximum threshold currently is IDR60 million. For acquisitions by inheritance, the non-taxable property value is stipulated by the regional authorities, but may not exceed IDR300 million.

B. Value Added Tax

A Value Added Tax (VAT or PPN) of 10% applies to the delivery of most goods and services at import, manufacturing, wholesale and retail levels.

The sale of raw land is not subject to VAT, but the sale of land already prepared for development is subject to a VAT of 10%. VAT on rental payments and service charges is 10%.

Sales, leasing and construction services rendered for low-cost housing, modest flats and student accommodation may be exempted from VAT.

VAT can generally be passed on to customers,

such as from contractors, architects, engineers and consultants, to developers, from developers to purchasers, and from owners to tenants.

In addition to VAT, there is a sales tax on luxury goods (PPNBM). This is a one-time tax imposed on a wide range of luxury goods at import or manufacturing levels at rates of 10% to 75% (but potentially up to 200%).

A 20% sales tax on luxury goods is applicable to luxury residential properties. 'Luxury residential properties' are defined as condominiums with unit prices of more than IDR10 billion and landed houses with unit prices of above IDR20 billion.

Taxes on possession and operation of real estate

A. Property and Building Tax

The Property and Building Tax (PBB) rate on land and buildings is 0.5%, with the actual tax calculated against the taxable sale value (NJKP) of the property. The NJKP is a fixed proportion of the sale value of the property (NJOP), which is determined by the Directorate General of Tax (DGT) on behalf of the Ministry of Finance on average every one to three years.

NJKP is currently 20% for NJOP of up to IDR1 billion or 40% for NJOP above IDR1 billion. As a result, the effective PBB rates are 0.1% of the assessed value for land and buildings worth up to IDR1 billion, and 0.2% of the assessed value for land and buildings worth more than IDR1 billion.

The non-taxable thresholds of property are stipulated by each regional government. For example, in Jakarta, it is IDR80 million. A 50% reduction in the property tax rate is given to land and buildings used for non-profit activities, including social and educational activities and healthcare services.

Land and buildings used for religious worship, nature reserves, parks, diplomatic offices and designated international organisations are exempted.

PBB is payable annually following assessment by the DGT.

B. Withholding Tax on Property Income

Income derived from rental payments and service charges are subject to a final withholding tax (PPH) of 10% of the transaction value. The party from which the payment is due is responsible for the deduction and payment of the withholding tax to the tax authorities. If not, the lessor must pay the 10% themselves.

Corporate taxation

The income of resident and non-resident corporate entities is taxed at a flat rate of 25%. Small enterprises with a turnover of no more than IDR50 billion are entitled to a 50% discount off the standard rate, imposed proportionally on the taxable income of the part of gross turnover up to IDR4.8 billion. Public companies that have at least 40% of

their shares listed are entitled to a tax discount of 5%, essentially giving them an effective tax rate of 20%.

Resident corporations are taxed on their worldwide income, with an allowable credit for taxes paid to foreign countries. Non-resident corporations are taxed only on income derived in Indonesia, as regulated under Article 26 of the Income Tax Law or Tax Treaties.

Personal taxation

Residents (i.e., staying in Indonesia for at least 183 days per annum) are taxed on their worldwide income, subject to certain allowances and deductions, on a graduated scale ranging from 5% to 30%. Non-residents are taxed at 20% of gross income derived in Indonesia.

Employing entities are responsible for collecting and paying the tax due on employee remuneration (be it cash or benefits-in-kind 'BIK'). Cash income is taxed on a monthly basis. BIKs, e.g., cars, housing, etc. provided by the company to the employee, are not taxable in the hands of the employee, but the full cost of BIKs is non-deductible to the company (except for employees of companies under final tax regime and representative offices, where cost of the BIKs must be taxed in the hands of employees the same as cash remuneration).

LEGAL ISSUES

Foreign exchange controls

In general, there is very limited foreign exchange control in Indonesia. A person may freely hold, use and transfer funds in foreign currencies. However, the transfer of funds in foreign currencies to and from abroad is subject to a reporting obligation to Indonesia's central bank (Bank Indonesia).

Recently, Bank Indonesia introduced new measures to stabilise the value of the Rupiah and implement Indonesia's Currency Law. All companies operating in Indonesia need to be aware that this new regulatory obligation includes:

- A prohibition on the use of foreign currency for pricing goods and/or services.
- A requirement to use Indonesian Rupiah for a broad range of non-cash transactions, including transactions using electronic payments or bank transfers.

This has been done through a new regulation issued by Bank Indonesia (BI) on 31 March 2015 that imposes more stringent restrictions on the use of foreign currency than those currently provided under Indonesia's Currency Law.

MAJOR PROPERTY LEGISLATION

The following are major key legislations in the property sector that apply in Indonesia.

Basic Agrarian Law (UU Pertanahan) - UU No. 5 Tahun 1960

Agrarian law in Indonesia is regulated under Law (or UU, short for 'Undang-Undang') Number 5 Year 1960, concerning Agrarian Subjects ("UUPA") and its implementing regulations. The Law governs the rights over ownership of land in Indonesia, and this law covers land rights that apply to Indonesian citizens and foreigners.

The specific land title for foreigners is the hak pakai title. After the enactment of the Agrarian Law in 1960, there were several developments in the real estate sector in this regard; for example, in the late 1990s, a new government regulation was enacted allowing foreigners to purchase apartments and office space in Indonesia if the underlying land is hak pakai title.

The Government Regulation on Housing Ownership by Foreigners Domiciled in Indonesia, issued in 1996, states that foreigners who reside in Indonesia can purchase a home, apartment or condominium as long as it is not a part of a government-subsidised housing development; however, there are restrictions.

Foreigners can only hold land with hak pakai title and hak pakai title may only be granted for a maximum of 25 years, although it can be extended for a further maximum of 20 years. In certain special cases (i.e. religious organisations etc.), such title may be granted for an indefinite period as long as the land is utilised for certain specified purposes.

While the government has hinted repeatedly that it will relax all restrictions on foreign ownership of land and property, we do not anticipate such regulatory changes in the near future.

Residential Development Policy (Kebijakan Rumah Berimbang) Peraturan Menteri Perumahan No 10/2012

According to this regulation from the housing ministry, developers are obliged to apply a "proportionate residential" concept to developments, which provides for lower, middle and luxury segments within the same land plot. In the case of insufficient land bank, then it can be built on another land plot somewhere in the same city/region.

Based on the regulation, the proportionate ratio of lower, middle and luxury housing is 3:2:1, and the definition of each housing segment is as follows.

- Luxury housing: selling price of more than four times lower-segment housing.

- Middle segment: housing: between two to three times lower-segment housing.

- Lower segment housing: max. building size of 36 sq m and land size of 60-200 sq m.

For apartment projects, 20% of the total units must be allocated for public housing. These allocated units can be developed in a different building structure yet still be at the same project site.

Industrial Estate Regulation (Peraturan Kawasan Industri) Peraturan Pemerintah No 24/2009

As Indonesia has an abundant labor market, the growth of factory buildings is increasing significantly. However, there is still limited concentration of industrial activities – they are somewhat scattered and may impact surrounding residential areas. Therefore, in 2009, the government issued a regulation compelling manufacturing and industrial companies to relocate their activities to designated industrial zones and expand therein.

Regional Autonomy Law (UU Otonomi Daerah) UU No. 22 Tahun 1999

The law on regional autonomy (subsequently substituted by Law No. 32 of 2004 and its amendments) and Law No. 25 of 1999, as substituted by Law No. 33 of 2004 on financial balancing between central and local government, was issued to implement the decentralisation of autonomy for all Indonesian provinces and regencies, effective from 1 January 2001.

This package of laws allows each regional government to issue new government regulations on taxes and retributions for their regions. These laws, together with other government regulations, also give the regional government the authority to issue permits for investment in forestry, fishery, mining (except oil and gas), etc.

MODES OF ENTRY

Many international developers and investment groups interested in pursuing opportunities in the Indonesian market are aware of specific opportunities, but at the outset often lack the requisite local knowledge in terms of the basic foundations of the regulatory environment and the common deal structures.

Foreign companies wishing to enter the property development market in Indonesia must first register their business entity under Indonesian law.

In terms of setting up a local corporate entity in Indonesia, there are generally two options:

- Representative office

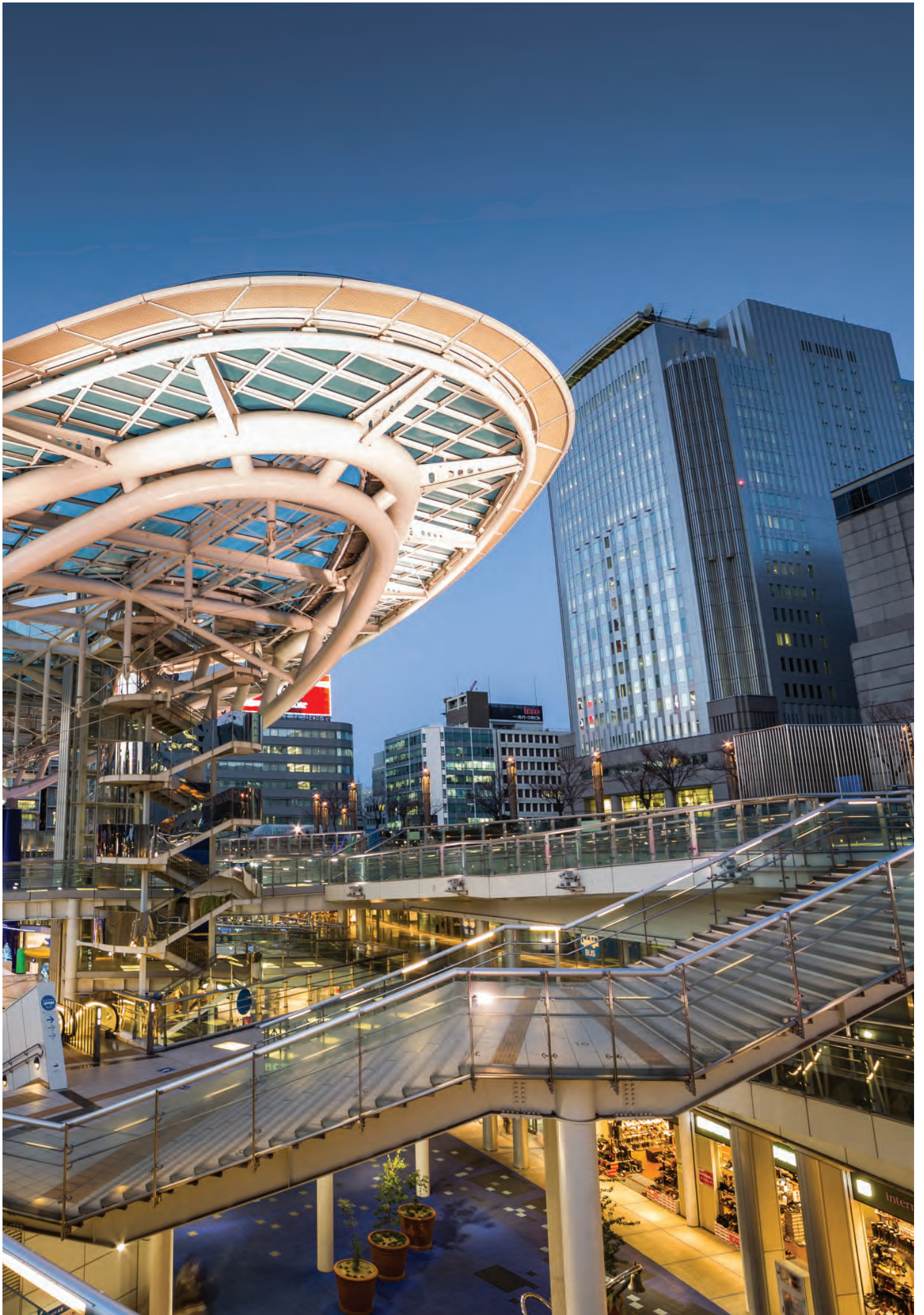
A representative office can be created to conduct marketing, market research, or function as buying and/or selling agents. However, these offices are not allowed to conduct direct sales and cannot issue commercial invoices. Regional representative offices, which are classified as those offices serving two or more other ASEAN nations, can also be established in Indonesia. The regional representative office is limited to more of a liaison role and is restricted from participating in many business transactions.

- Limited liability company

Legally known as Perusahaan Terbatas (PT), this can be 100% foreign-owned or jointly-owned by foreign and local shareholders. Under Indonesian law, foreign-owned companies registered in Indonesia has the same treatment as local companies licensed to conduct the same business.

Foreign investors or companies registered in Indonesia as a PT (a limited company) have the same rights and ability to conduct business like any other local companies. A foreign-owned PT (company) is allowed to operate and execute various business transactions and activities, which are protected by the law.

According to the law, a foreign-owned company in the real estate business is allowed to do asset transactions (i.e. buying and selling), own or hold assets, develop and manage their own properties.



Japan

The size of Japan's economy is approximately US\$5.1 trillion in terms of nominal GDP in 2020. Banking, insurance, real estate, retailing, transportation, telecommunications and construction are all major industries. Japan has a large industrial capacity and is home to some of the most technologically advanced corporations in the world.

TYPES OF PROPERTY OWNERSHIP

All land and buildings in Japan can be privately held. Since land and buildings are regarded as independent real estate, there are two types of real estate ownership: 'land ownership' and 'building ownership'. Ownership structure is commonly divided into the following categories: 1) fee simple; 2) strata title; 3) joint ownership; and 4) land lease.

OVERSEAS OWNERSHIP RESTRICTIONS

There are no restrictions on overseas ownership of land and buildings.

MEASUREMENT OF AREAS

All areas are quoted in either sq m or tsubo (1 tsubo = 3,306 sq m). There are various area measurements which are often quoted in agreements:

- Net Rentable Area (NRA): net useable area including columns.
- Gross Floor Area (GFA): total area contained within the outer surface of the external walls.

NRA is often used for real estate investment purposes.

TRANSACTION COSTS

Brokerage/agency fees

Leasing fees typically aggregate to the value of one-month rent and are paid by the landlord and/or the tenant.

Purchasing fees have the following structure: 1) up to 3%

TABLE 23 Typical Lease Term

LEASE PERIOD	Traditional standard leases are 2-year rolling contracts, automatically renewed upon expiry unless termination notice is given in advance. Fixed-term leases are also available, typically of 3- to 5-year tenors for offices and up to 20 years for retail and logistics facilities, depending on the agreement.
RENT REVIEWS	Typically conducted at the end of the lease period. For standard leases, rent levels may be reviewed during the lease period if: 1) market conditions drastically change; or 2) tax amounts increase. Lease renewal rates are negotiable and usually fall somewhere between the contract and market rent with limited recourse in dispute. Fixed-term leases do not include rent reviews unless pre-agreed.
SUB-LETTING/ ASSIGNMENT	Not an accepted market practice, but is practiced at times.
TERMINATION	Standard lease structures allow the tenant to terminate unilaterally on the provision that at least 6 months' notice is given. Fixed-term leases are subject to a break-up fee, although a termination provision can be pre-agreed, usually after an initial 3-year lock-in period.
REPAIRS	The exterior and common areas of the building are the landlord's responsibility. Tenants will be expected to be responsible for internal repairs.
SECURITY OF TENURE	Security of tenure is protected by Japan's House and Land Lease Law, which makes it practically impossible for landlords to initiate lease termination. Fixed-term leases provide no statutory right to renewal and re-contracting terms are by negotiation.
DILAPIDATION	Tenants are expected to reinstate a building to its original condition; although allowances are made for fair wear and tear.

Source Savills Research & Consultancy

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KEY STATISTICS

Official name	Japan
Currency	Yen US\$1 = JPY114 (December 2021)
Population	125.5 million (December 2021)
Land area	377,962 sq km
GDP per capita	JPY4.3 million; US\$40,048
Real GDP growth	-4.6% per annum (2020) 2.4% per annum (2021F)* 3.2% per annum (2022F)*
Principal business centres	Tokyo: Marunouchi/Otemachi, Akasaka/Roppongi/Toranomon, Shinjuku Osaka: Umeda Nagoya: Meieki Fukuoka: Hakata

Source Bank of Japan, Ministry of Internal Affairs and Communications, Ministry of Land, Infrastructure, Transport and Trade, Cabinet Office, IMF, World Bank, Mitsubishi UFJ Financial Group
*GDP growth forecast from IMF World Economic Outlook October 2021.

of the purchase price plus JPY60,000 if the purchase price is more than JPY4 million; 2) up to 4% of the purchase price plus JPY20,000 if the purchase price is between JPY2 million and JPY4 million; or 3) up to 5% of the purchase price if the purchase price is less than JPY2 million.

Security deposit

Typically, a non-interest-bearing, returnable deposit of one or two months' net rent for residential properties. For office and retail properties, typically a non-interest-bearing, returnable deposit of ten to 12 months net rent.

Legal costs

Legal cost is based on guidelines issued by the Nihon Bengoshi Rengokai (Japan Federation of Bar Associations). Each party typically carries their own costs.

TAX LEGISLATION

Stamp duty

Stamp duty is payable on purchase and sale agreements (PSA), conveyance agreements (CA) and land-lease agreements. For PSA and CA transactions, stamp duty costs up to JPY600,000 depending on the agreed transaction price. The stamp duty of sales and purchases is detailed in Table 24.

Property tax

A registered owner of real estate is subject to payment of a fixed-asset tax and city planning tax. The tax rate for fixed-asset tax is 1.4% of the tax assessed value while the tax rate for city planning tax is 0.3%. Payments are due quarterly, and dates vary depending on the location of the property.

A purchaser of real estate is subject to payment of real estate acquisition tax of 4%. However, a tax relief policy is in place, reducing the applicable rate to 3% for land and residential buildings until the end of March 2024.

A purchaser of real estate is also subject to

payment of real estate registration tax. Tax rates are based on the property value but vary widely depending on asset type and registration type (i.e., registration of ownership is different from that of a lien). For example, initial registration of ownership after construction is 0.4% of the asset value, while registration of a transfer of ownership is 2% (1.5% until March 2023).

Consumption tax

A 10% consumption tax is charged for purchases and sales of buildings. Consumption tax is not applied to the land portion of the purchase price.

It is usual for the seller to pass on the cost of the consumption tax to the buyer by adding it to the purchase price. For commercial properties, it is generally possible for the buyer to obtain a refund of consumption tax paid on the sale.

For lease agreements other than residential, a 10% consumption tax is charged.

Tax depreciation

In principle, the fixed amount method is applied to newly acquired buildings.

The Fixed Amount Method

Depreciation Amount = Purchase Price x Depreciation Rate

From a tax depreciation perspective, the 'useful life' of a building differs depending on the composition and use of the property. For example, useful lives of condominium buildings constructed with reinforced concrete and with heavyweight steel are 47 years and 34 years, respectively, whereas a wooden detached house would have a useful life of 22 years for tax purposes.

Capital gains tax (CGT)

When a capital gain is generated on the disposal of a fixed asset, the following capital gains tax is applied:

a) Short-term capital gains (for real estate held for five years or less): 39.63% (comprised of income tax and special reconstruction tax rates totalling 30.63%, and a resident's tax of 9.0% if the seller is domiciled in Japan).

b) Long-term capital gains (for real estate held more than five years): 20.315% (comprised of income tax and special reconstruction tax rates totalling 15.315%, and a resident's tax rate of 5.0% if the seller is domiciled in Japan).

Certain tax advantages are available in the case of the sale of the seller's primary residence, including special deductions, a loss carry-forward and a lower tax rate.

The holding period is calculated from the acquisition date through 1 January of the year in which disposition of the property takes place.

Withholding Tax And Tax Treaties

Non-residents pay Gensen-kazei (withholding tax) at 10.21% of transaction value per transaction. Then, they declare Kakutei-shinkoku-shotoku (taxable income) at the aforementioned tax rate (but without resident's tax).

For non-residents, withholding taxes are applicable if they have accrued capital gains in Japan from selling assets, or income from any business activities including rental revenues, dividends, deposit interests and loan interests.

Japan has extensive tax treaties with many countries, typically following the OECD model, with rates typically varying between 0% and 20.42% depending on the type of dividend, country and other specific considerations.

Corporate Taxation

Detailed below are the normal and concessionary corporate tax rates:

- Normal Rate: Corporations are subject to a 23.2% corporate tax rate. Business tax and prefectural/municipal inhabitant tax are also charged, typically increasing the effective tax rate to nearly 30%.

- Concessionary Rate: Small- to medium-sized corporations with a capital of JPY100 million or less receive a concessionary rate of 15% on the first JPY8 million of annual income (the concessionary rate is 19% for corporations whose average annual income for the past three years exceeds JPY1.5 billion).

Overseas corporations without a permanent establishment in Japan are exempt from payment of normal corporate tax.

However, income gained from interest and dividends is generally subject to withholding tax at a rate between 15.315% and 20.42%.

Net losses equivalent to 50% of income may be carried forward for ten years.

TABLE 24 Stamp Duty on Sales and Purchases

SELLING PRICE (JPY)	STAMP DUTY (JPY)	DEDUCTION UNTIL 31 MARCH 2022 (JPY)
10,000,001 - 50,000,000	20,000	10,000
50,000,001 - 100,000,000	60,000	30,000
100,000,001 - 500,000,000	100,000	60,000
500,000,001 - 1,000,000,000	200,000	160,000
1,000,000,001 - 5,000,000,000	400,000	320,000
Higher than 5,000,000,000	600,000	480,000

Source National Taxation Agency, Savills Research & Consultancy

Personal income tax (PIT)

Income is calculated using methods established for each of a number of income classifications. The tax is calculated by subtracting the various income deductions from the total amount of income and then multiplying the difference, which is the amount of taxable income, by the progressive tax rates below. Any withholding income tax levied on the income beforehand will be deducted from the calculated tax. The bands are shown in Table 25.

From 1 January 2013 to 31 December 2037, Special Reconstruction Tax is applicable at the tax rate of 2.1%.

$$\text{Total Tax Rate (\%)} = \text{Personal Income Tax Rate (\%)} \times 102.1\%$$

LEGAL ISSUES

Planning areas are divided into urban promotion areas (UPA) and urban control areas (UCA). UPA are areas in which the local government is to promote urbanisation, and include existing urbanised areas and areas to be developed within ten years. UCA are areas where urbanisation/development is essentially prohibited except for special cases such as agriculture and forestry. There are also a number of areas, depending on their location, where zoning is not carried out. Development within such areas requires permission from the government. However, the demarcation of urbanised areas and UCA is occasionally reviewed.

Japan has 12 different types of zones for commercial, industrial and residential uses, which are designated on the basis of existing land-use patterns and future orientation.

There are regulations on the types of facilities that can be built in specific areas or specific zones. Regulations also exist in relation to floor



ratio and building-to-land ratio.

Any development that requires a change of building/land form or use is required to obtain development permission.

MAJOR PROPERTY LEGISLATION

There are a number of key pieces of legislation pertaining to real estate, all of which are detailed below:

- Civil Law
- City Planning Law
- Building Regulation Law

- Land and Building Lease Law
- Apartment Law
- Real Estate Registration Law
- Real Estate Brokerage Law
- Strata-title Ownership Law
- Land Use Planning Law
- Land and Building Development Restriction Law
- Agricultural Land Law
- Land Readjustment Law
- Land Price Law

TABLE 25 Personal Income Tax Rates

TAXABLE INCOME (JPY)	TAX RATE (%)	TOTAL TAX RATE, INCLUDING SPECIAL RECONSTRUCTION TAX RATE (%)
1,950,000 or under	5	5.105
Over 1,950,000 - up to 3,300,000	10	10.21
Over 3,300,000 - up to 6,950,000	20	20.42
Over 6,950,000 - up to 9,000,000	23	23.483
Over 9,000,000 - up to 18,000,000	33	33.693
Over 18,000,000 - up to 40,000,000	40	40.84
Over 40,000,000	45	45.945

Source National Taxation Agency, Savills Research & Consultancy



Malaysia

Malaysia is rich in natural resources such as fossil fuels and tin and is also a big producer of agricultural products such as palm oil, rubber and timber. Being a tropical country, there is also potential to exploit sunlight and other sustainable resources, and in 2011 the Renewable Energy Act was passed establishing a Feed-In Tariff for producers of sustainable energy. Malaysia is a federal parliamentary democracy with a constitutional monarch.

Following the economic downturn during COVID-19, the slump in crude oil prices and GDP contraction of -5.6% in 2020, GDP in 2021 has been on an upward trend. Despite the re-imposition of movement restrictions, a significant economic decline was mitigated due to greater adaptability to restrictions, the implementation of stimulus and assistance packages worth RM530 billion, complemented by on-going measures under Budget 2021 worth RM322.5 billion. On the expenditure side, growth was driven by better private sector spending and strong growth in trade activity at the beginning of the year. Moving forward, progressive lifting of containment measures and continued improvements in the labour market will be key to support the recovery going forward.

As per the Bank Negara Malaysia, the domestic economy is likely to expand by 3.0% - 4.0% supported by the increase in economic activity as containment measures are relaxed.

TYPES OF PROPERTY OWNERSHIP

The land registration system in all states of Malaysia is the Torrens system, administered by the State Land Offices and coordinated by the Department of Land and Mines. The Torrens system is a registration system for titles of land. Properties can be either:

- Freehold (held in perpetuity); or
- Leasehold (land owned by the state and leased for a term of usually 30, 60 or 99 years).

Freehold or leasehold properties are either issued with:

- Individual title (issued under the National Land Code 1965) for land, houses and commercial properties which are commonly not multi-storey; or
- Strata title (issued under the Strata Titles Act 1985).

Property ownership is governed by the National Land Code and Strata Titles Act.

Strata-title ownership is common for apartments, condominiums and office suites. The land a building is situated on may be freehold or leasehold. Owners of strata-title property are required to sign a deed of mutual covenant governing the maintenance of the common areas and use of the units and common facilities.

Many houses (landed property) rest on freehold land, which grants the owner absolute possession of the land.

OVERSEAS PROPERTY RESTRICTIONS

In general, the threshold for overseas purchasers is set at RM500,000 and above (this varies according to state rules and guidelines are detailed in Table 26 overleaf). Overseas purchasers are required to obtain state government approval by applying to the relevant land office for consent to purchase a property and be allowed to acquire freehold property in Malaysia.

MEASUREMENT OF AREAS

All areas are quoted in square feet. There are various area measurements which are often quoted in agreements, including:

- Gross area: the total area of an office floor from the outside of the exterior walls including the columns, stairwells, lift lobby, service areas, common areas and toilets.

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KEY STATISTICS

Official name	Malaysia
Currency	Ringgit Malaysia (RM1 = 100 sen) US\$1 = RM4.2260 (20 December 2021)
Population	32.7 million (2021e)
Land area	330,621 sq km
GDP per capita	US\$11,414.21 (2019)
GDP growth	-5.6% (2020)
Principal business centres	Greater Kuala Lumpur, Penang, Iskandar Malaysia

Source Department of Statistics Malaysia (DOSM); Ministry of Finance (MOF), Central Bank of Malaysia (BNM), The World Bank

- Lettable area: the total area of an office floor measured from the inside face of external walls including lift lobbies, toilets and structural columns.

- Net lettable area: the carpet area used exclusively by the tenant measured from the inside face of the external walls excluding toilets, common areas and service areas, but inclusive of any column not attached to the inside face of the external wall.

Typically for retail and office sector, nett lettable area is used. Whereas for industrial sectors, gross area is used.

LEASE TERMS

The lease terms typical to commercial property in Malaysia are detailed in Table 26. However, there are a number of other terms/practices which are also worth highlighting, as detailed below:

- Local incorporation: most landlords will only enter into a tenancy or lease agreement with a locally incorporated company with adequate paid-up capital. In addition, a board resolution may be required noting the decision to enter a tenancy or lease and authorising one director to sign the agreement on the company's behalf.
- Incentives: typically range from three to 12 months, depending on the size and length of the tenancy or lease, additionally a separate fit-out period of one to three months is typically granted to most occupiers.
- Rent: prices are quoted as gross figures per sq ft per month on NLA. The gross rent is made up of net rent per sq ft per month, plus an amount for service charge / outgoings per sq ft per month.

- Deposits: the equivalent of one month's gross rent is required to secure premises and this becomes the first month's rent due after the execution of a tenancy or lease. A minimum of two to three months' gross rent is required as a security deposit against the premises and utility bills. Deposits may also be required for mailbox keys, car parking passes and employee security passes.

TRANSACTION COSTS

Brokerage/agency fees

The Board of Valuers, Appraisers and Estate Agents Malaysia – Malaysian Estate Agency Standards defines the various types of estate agency instructions. It dictates a set scale of fees chargeable by registered estate agents as shown in Table 28.

TABLE 26 Foreign Property Ownership Threshold By State

STATE	THRESHOLD		
Federal Territory of Kuala Lumpur Federal Territory of Putrajaya Federal Territory of Labuan	RM1 million		
Selangor*	RM2 million (Zone 1&2) RM1 million (Zone 3)	Special programme (for 2021-22) RM2 million (Landed) RM1 million (All strata properties)	
	Limited to strata properties (high-rise strata/landed strata)	Valid from 1 Jan 2021 to 31 Dec 2022 Leasehold up to 60 years Unsold inventory in projects completed before 2021	
Johor	RM1 million		
Penang		Island	Mainland
	High-rise	RM1 million	RM500,000
	Landed	RM3 million	RM1 million
Melacca	RM1 million (landed title) RM500,000 (high-rise title)		
Pahang, Terengganu	RM1 million		
Negeri Sembilan	RM1 million (landed property) RM600,000 (high-rise property)		
Kedah	RM1 million (Langkawi) RM600,000 (Kedah)		
Kelantan	RM1 million		
Perak	RM1 million		
Perlis	RM500,000		
Sabah	RM750,000		
Sarawak	RM500,000		

Source State Land and Mines Office, Malaysia

*Zones in Selangor – Zone 1 (Petaling, Gombak, Hulu Langat, Sepang, Klang), Zone 2 (Kuala Selangor, Kuala Langat), Zone 3 (Hulu Selangor, Sabak Bernam)

Note : As Malaysia is facing the issue of higher unsold inventory, government has been announcing special programmes to reduce the foreign purchase threshold for overhang properties in certain regions.

TABLE 27 Typical Lease Term

LEASE PERIOD	A typical tenancy tenure is 3 years for office, retail and industrial properties and 1 to 2 years for residential properties. A lease is for a single tenancy tenure exceeding 3 years.
RENT REVIEWS	Rent reviews are typically conducted at the expiry of the tenancy or every 3 years during a lease term but can usually be predetermined in advance.
SUB-LETTING/ ASSIGNMENT	The landlord's consent to sub-let should not be unreasonably withheld subject to the quality of the sub-tenant.
TERMINATION	Not an accepted market practice but it can be agreed provided a tenant secures a new tenant that is acceptable to the landlord and that the tenant pays for any estate agency services.
REPAIRS	The structure's exterior and common areas of the building are the landlord's responsibility.
SECURITY OF TENURE	Security of tenure is not guaranteed beyond the tenancy/lease term. An option for a further term should be agreed upon in the first term.
DILAPIDATION	Tenants may be required to reinstate a property to its original handover condition at the expiry of the term.

Source Savills Research & Consultancy

Legal fees

This is governed by the Solicitors Remuneration Order 2005, and the scale of fees for preparing a tenancy or lease agreement is shown in Table 29.

TAX LEGISLATION

Stamp duty on tenancy or lease agreements

$((\text{Gross rent} \times 12) - 2,400) \div 250$ (round-up to the nearest figure) $\times 1$ (for a tenancy of two years or more $\times 2$).

Stamp duty on property conveyance, assignment or transfer

Details are shown in Table 30. There is a Stamp duty exemption for the purchase of a first residential home since a Budget 2019 announcement.

The Malaysian government's Budget 2022 is in line with the policies and strategies outlined in the 12th Malaysia Plan. Budget 2022 focuses on recovery, rebuilding national resilience and catalysing reform, to drive socio-economic recovery and the national development agenda. Although it didn't include any additional provisions to stimulate the property market, some of the announcements from earlier budgets are still active and remain valid.

To stimulate home ownership, the Government had announced in the Budget 2021 that a full stamp duty exemption for residential properties valued up to RM500,000 will be given to first time residential home buyers (Malaysian citizens) during the period from 1 January 2021 to 31 December 2025.

Additionally, under Budget 2020, the Government has introduced a Rent To Own (RTO) financing scheme for the purchase of a first home up to RM500,000 property prices, which will be 100% exempt from stamp duty. The exemption is valid for the executed agreements during the period from 1 January 2020 to 31 December 2022.

Investment tax allowance (ITA)

Companies may benefit from an income tax exemption package of 60% allowance on the qualifying capital expenditure incurred within a period of 5 years where the allowance can be used to offset against 70% of the statutory income for each year of assessment of its business operations.

Real property gains tax (RPGT)

RPGT is a tax imposed on gains derived from the disposal of real properties and shares in real property companies in Malaysia. The RPGT rates are shown in Table 31.

For each disposal, the purchaser is required to withhold 3% of the total purchased value (7% where the seller is not a Malaysian citizen /

TABLE 28 Scale Of Fees Chargeable By A Registered Estate Agent

PERIOD	SCALE OF FEES
Up to 3-year tenancy	1.25 months' gross rent
3-4-year lease	1.50 months' gross rent
4-5-year lease	1.75 months' gross rent
Exceeding 5 years	1.75 months' gross rent
Exceeding 5-year lease (without an option for renewal)	1.75 months' gross rent
Exceeding 5-year lease (with an option for renewal)	1.75 months' gross rent + 0.25 months' rent for every additional year
Rent reviews	50% of the fees chargeable above
Sales of land or buildings	Maximum fee of 3%

Source Valuers, Appraisers & Estate Agents (Amendment) Rules 2000 & 2009

TABLE 29 Scale Of Legal Fees For Preparing A Tenancy Or Lease Agreement

MONTHLY RENT (RM)	SCALE OF FEES	
	TENANCY AGREEMENT	LEASE AGREEMENT
The first 10,000	25% (subject to a minimum fee of RM300)	50% (subject to a minimum fee of RM600)
The next 90,000	10%	20%
Where the rent is in excess of 100,000	Negotiable on the excess (but shall not exceed 10% of such excess)	Negotiable on the excess (but shall not exceed 20% of such excess)

Source Solicitors Remuneration Order 2005

TABLE 30 Stamp Duty On Property Conveyance, Assignment Or Transfer

	VALUE (RM)	RATE	MAXIMUM DUTY PAYABLE (RM)
On the first	100,000	RM1 per RM100 or part thereof (1% of property price)	1,000
On the next	400,000	RM2 per RM100 or part thereof (2% of property price)	8,000
On the next	500,000	RM3 per RM100 or part thereof (3% of property price)	15,000
in excess of	1,000,000	*RM4 per RM100 or part thereof (4% of property price)	

Source Savills Research & Consultancy
*Effective 1st July 2019, the rate of duty for value in excess of RM1,000,000 shall be RM4 per RM100 or part thereof.

TABLE 31 RPGT Rates[†]

YEAR OF PROPERTY DISPOSAL	PERSONAL (CITIZEN AND PR)	TAX RATE (%)	
		COMPANY	INDIVIDUALS (NON-CITIZENS & FOREIGNERS)
Disposed within 3 years	30	30	30
Disposed in 4th year	20	20	30
Disposed in 5th year	15	15	30
Disposed after 5 years* (effective from 1st January 2022)	0	0	0

Source Savills Research & Consultancy
* The base year for asset acquisition has been revised to 1st January 2013 for asset acquired before 2013 as compared to the previous base year of 1st January 2000.
† RPGT exemption is given for Malaysian citizens for the disposal of low-cost, low-medium cost and affordable houses at a price of RM200,000 and below.

permanent resident), which is to be remitted to the Inland Revenue Board within 60 days from the date of disposal for the purposes of RPGT.

Corporate tax

For companies with paid-up capital of not more than RM2.5 million, and with annual sales of not more than RM50 million (with effect from YA 2020) are taxed at the following scale rates:

- On the first RM600,000: 17%
- In excess of RM600,000: 24%

The corporate income tax for companies with paid-ups capital of more than RM2.5 million remain at 24%.

For year 2022 only, a special one-off tax (Cukai Makmur) will be imposed on companies, excluding companies which enjoy the 17% reduced tax rate above, which have generated high levels of income during the COVID-19 pandemic, as follows:

- On the first RM100 million : 24%
- In excess of RM100 million : 33%

Effective 1 January 2022 to 30 June 2022, foreign-sourced income of resident companies remitted to Malaysia will be taxed at 3% on gross income.

Non-resident companies are taxed at the following rates:

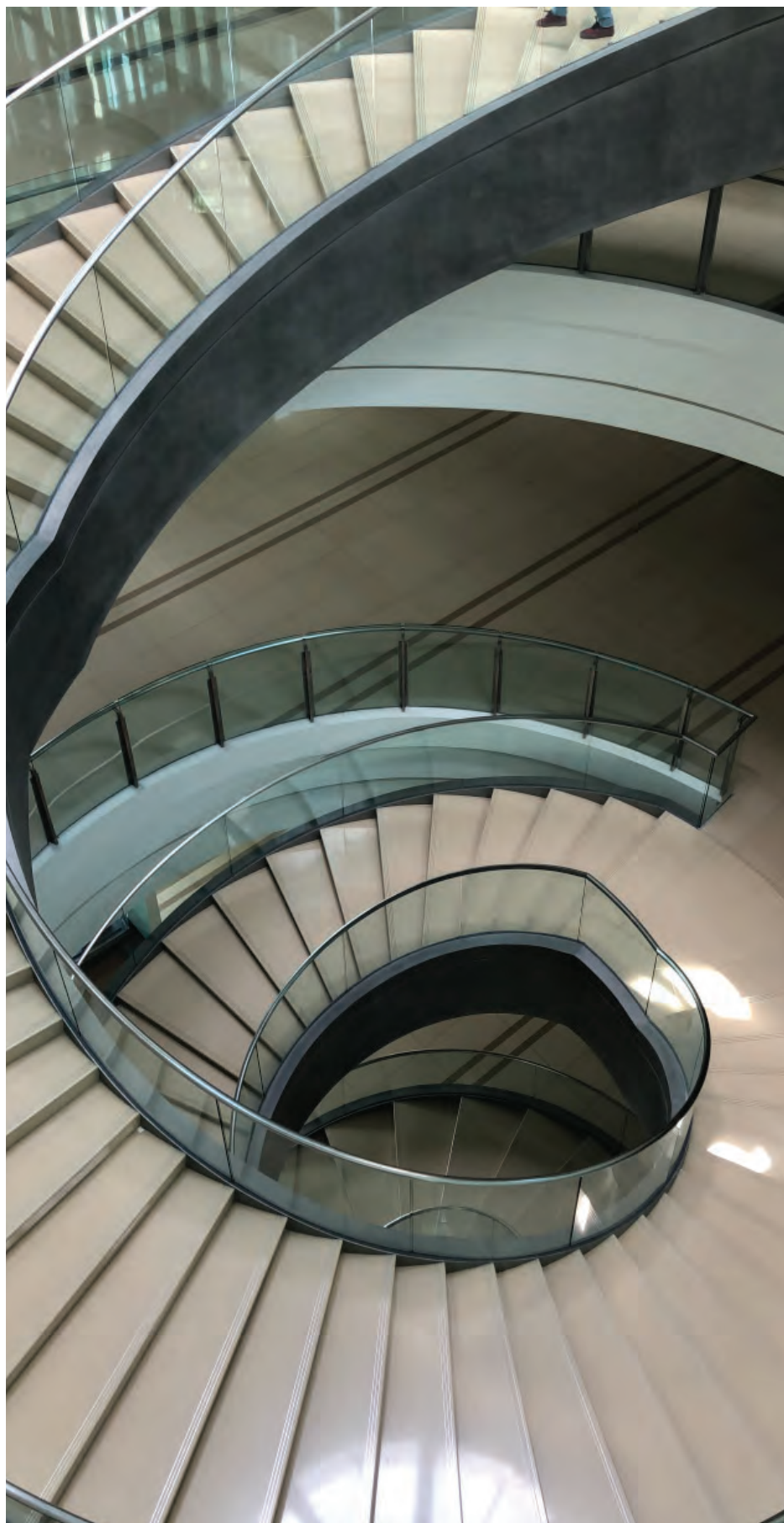
- Business Income : 24%
- Royalties : 10%
- Rental of moveable properties : 10%
- Advice, assistance or services rendered in Malaysia : 10%
- Interest : 15% *
- Dividends : Exempt
- Other income : 10%

*Interest paid to a non-resident by a bank or a finance company in Malaysia is exempt from tax.

Note: Where the recipient is resident in a country which has a double tax treaty with Malaysia, the tax rates for the specific sources of income may be reduced.

Personal income tax

A new chargeable income band for resident individuals earning in excess of RM2 million has been introduced, with a tax rate of 30%. An Increased of 2 percentage point from 28% rate for YA 2019.



Effective 1 January 2022 foreign-sourced income of tax residents will no longer be exempted when remitted to Malaysia. During the transitional period from 1 January 2022 to 30 June 2022, foreign-sourced income of tax residents remitted to Malaysia will be taxed at 3% on gross income.

Withholding tax and tax treaties

Corporations making payments in relation to interest, royalties and certain rents to non-residents and corporations are required to withhold tax. The rate of withholding tax is dependent on the country in which the corporation/individual is based but ranges between 5% and 25%. Dividends are not subject to withholding tax.

LEGAL ISSUES

Foreign exchange controls

Malaysia continues to maintain liberal Foreign Exchange Administration rules, which are mainly prudential measures to support the overall macroeconomic objective of maintaining monetary and financial stability. These rules are applicable for residents and non-residents.

MAJOR PROPERTY LEGISLATION

There are a number of key pieces of legislation pertaining to real estate as detailed below:

- National Land Code 1965
- State Land Rules
- Act 318: Strata Titles Act 1985
- Act 169: Real Property Gains Tax Act 1976
- Solicitors Remuneration Order 2005
- Act 118: Housing Development (Control & Licensing) Act 1966
- Act 474: Land Development Act 1956
- Act 486: Land Acquisition Act 1960
- Act 171: Local Government Act 1976
- Act 172: Town & Country Planning Act 1976
- Act 757: Strata Management Act 2013
- Act 133: Street, Drainage and Building Act 1974
- Uniform Building By-laws 1984



Singapore

As a developed and successful free-market economy, Singapore enjoys an open and corruption-free environment. The city-state's economy depends heavily on exports, particularly of consumer electronics and information technology products. As a result of the government's reform policies aimed at sharpening economic competitiveness, the economy has grown robustly since 2004. Singapore now serves as regional headquarters for thousands of multinational companies, has world-class financial and service sectors and above all, a highly efficient physical infrastructure.

TYPES OF PROPERTY OWNERSHIP

There are two types of property ownership in existence in Singapore:

- Freehold Estate Ownership which includes fee simple (grant in fee simple) and estate in perpetuity (statutory land grant).
- Leasehold Estate Ownership which may be for a period of 15, 30, 60, 99 or 999 years.

OVERSEAS OWNERSHIP RESTRICTIONS

The only restrictions on ownership apply to residential properties, covering:

Landed Properties Or Non-strata-titled Properties

Non-Singaporeans are not allowed to buy detached, semi-detached, terraced and cluster houses. They can, however, apply to the Minister of Law through the Land Dealings Unit (LDU) for approval to purchase such properties. The criteria for approval are generally based on the likely economic contribution the expatriate can make to the country. If the expatriate is allowed to purchase the property, he/she must use the house strictly for owner occupation.

Overseas ownership of landed properties in Sentosa Cove is permitted under a special arrangement. Overseas individuals or companies, as stipulated under the Residential Property

Act, have to obtain in-principle approval from the LDU prior to tendering and submission, and upon success in their tender bids must seek formal approval from the LDU. Under the special arrangement, housing developers need not obtain in-principle approval from the LDU. They are only required to obtain formal approval, or a Qualifying Certificate (QC), from the Controller of Residential Property (CRP) upon successful tender.

En-bloc Apartments And Condominiums

An expatriate is not allowed to acquire all units in a residential development without the Minister of Law's approval.

Vacant Land Zoned 'Residential'

Overseas developers are required to obtain a QC from the CRP before they are allowed to purchase residential land. A banker's guarantee in the amount equivalent to 10% of the land price is needed to obtain the QC.

The developer is prohibited from reselling land, and with effect on or after 6 July 2018, for residential sites released under the Government Land Sales Programme, the developer will be levied an extra 25% stamp duty on the land portion of the unsold units five years after the award of the land.

MEASUREMENT OF AREAS

Measurements are typically quoted as GFA, strata floor area or lettable floor area and are generally given in square feet by practitioners in the industry. However, the government has adopted the metric system and official government statistics, including those for real estate, are given in square metre. For real estate transactions in Singapore, the measurement is often either Strata Area or Net Lettable Area. These are a percentage of the GFA.

TRANSACTION COSTS

Brokerage/agency Fees

Typical agency fees are equivalent to one month's gross effective rent and are payable by the landlord. Brokerage fees

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KEY STATISTICS

Official name	Republic of Singapore
Currency	Singapore dollar (100 cents) US\$1 = S\$1.3564 (27 December 2021)
Population	5.45 million (June 2021)
Land area	728.6 sq km (2019)
GDP per capita	S\$82,503 (2020)
Real GDP growth	0.7% (2019) -5.4% (2020)
Principal business centres	Marina Bay, Raffles Place, Shenton Way, Tanjong Pagar, City Hall/Marina and Orchard Road

Source Singapore Department of Statistics, Monetary Authority of Singapore

TABLE 32 Lease Term

LEASE PERIOD	Typically 3/5 years for commercial properties, with an option to renew for a further term of 3/5 years, to be mutually agreed by landlord and tenant.
RENT REVIEWS	Upon lease renewal.
SUB-LETTING/ ASSIGNMENT	Most leases do not allow the tenant to sub-let or assign the lease.
TERMINATION	Early termination of the lease is prohibited. In practice, the landlord may allow the outgoing tenant to source a replacement tenant at terms and conditions to be agreed by the landlord.
REPAIRS	The tenant will usually be directly responsible for all repairs within the demised premises. General building repairs and maintenance of building services will be carried out by the landlord, or management corporation, and recovered through the service charge.
SECURITY OF TENURE	Protected by law.
DILAPIDATION	Fair wear and tear is acceptable by the landlord but additional fixtures added by the tenant will have to be reinstated upon lease termination.

Source Savills Research & Consultancy

TABLE 33 BSD/ABSD

TRANSACTION	BSD RATES ON THE TOTAL PURCHASE PRICE OR MARKET VALUE (WHICHEVER IS HIGHER) ON OR AFTER 20 FEBRUARY 2018	ABSD RATES ON THE TOTAL PURCHASE PRICE OR MARKET VALUE (WHICHEVER IS HIGHER) ON AND AFTER 16 DECEMBER 2021
Singapore Citizens (SCs) buying second residential property	1% on first S\$180,000 2% on next S\$180,000 3% on next S\$640,000 4% for the remainder	17%
SCs buying third and subsequent residential property		25%
SPRs buying the first residential property		5%
SPRs buying the second residential property		25%
SPRs buying the third and subsequent residential property		30%
Foreigners buying any residential property		30%
Entities buying any residential property		35% plus additional 5% for housing developer (non-remittable)
Loan-to-Value		New mortgages cannot cause borrowers' total monthly loan repayments to exceed 55% of monthly income.

Source Inland Revenue Authority of Singapore (IRAS), Singapore government

on investment transactions are normally 1% of the transaction price and are payable by the vendor.

Legal Costs

Conveyancing fees for all types of property transactions, including leases and reassignment of mortgage properties, are negotiable.

TAX LEGISLATION**Stamp duty: sales**

There are two stamp duties payable on private residential real estate transactions. These are the buyer's stamp duty (BSD) and the seller's stamp duty (SSD).

Buyer's stamp duty

Effective from 8 December 2011, an additional buyer's stamp duty (ABSD) on private residential purchases is payable by overseas nationals, companies and Singapore Permanent Residents (SPRs). This is over and above the usual BSD payable.

With effect from 20 February 2018, the top marginal BSD rate for residential properties was raised from 3% to 4%, applying to the portion of residential property value in excess of S\$1 million. The details of the BSD/ABSD are shown in Table 33.

Stamp duty is payable by the buyer within 14 days of agreeing to buy if the sales and purchase agreement is signed in Singapore.

Stamp duty: Additional Conveyance Duties (ACD)

Effective from 11 March 2017, an ACD will apply on qualifying acquisition and disposal of equity interest in residential property-holding entities (PHEs) that hold at least 50% of the total tangible assets (owned directly/indirectly) in Singapore residential properties. Under the ACD provision, a qualifying acquisition/disposal of equity interest in a residential PHE will be treated as a transfer of interest in the underlying properties. Therefore, this will attract ACD, in addition to share transfer duty, which may apply on the acquisition/disposal of equity interest in a company.

ACD for buyers (ACDB) and ACD for sellers (ACDS) are payable on qualifying acquisitions and disposals based on the market value of the residential property of the PHE. For buyers, on top of the 0.2% share duty tax, they must pay ACD comprising 1% to 4% on the value of the underlying residential properties and a flat 30% on the entire value of those assets bought on or after 6 July 2018. Sellers, who are significant owners, disposing of their equity stake within three years of acquisition will have to pay a flat 12% levy.

Seller's stamp duty

Effective from 11 March 2017, an SSD will be imposed if residential properties are sold within three years of purchase. The SSD levied on residential properties bought on or after 11 March 2017 will be as follows:

- Sold within the first year of purchase, ie, where the property is held for one year or less from its purchase date, the SSD is 12% of the full consideration.
- Sold within the second year of purchase, ie, where the property is held for more than one year and up to two years, the SSD is 8% of the full consideration.
- Sold within the third year of purchase, ie, where the property is held for more than two years and up to three years, the SSD is 4% of the full consideration.

No SSD will be payable by the seller if the property is sold more than three years after it was bought.

Stamp duty: mortgages

Stamp duty payable is S\$4 for every S\$1,000 of the loan or part thereof, subject to a maximum of S\$500.

Stamp duty: leases

Stamp duty on leases is payable based on the average annual rent (AAR) at the Lease Duty rates. AAR refers to the higher of the average annual contractual or annualised market

TABLE 34 Partial Tax Exemption For Companies

FROM YA 2020	
CHARGEABLE INCOME	% EXEMPTED FROM TAX
First S\$10,000	@75%
Next S\$190,000	@50%

Source Inland Revenue Authority of Singapore (IRAS)

TABLE 35 Tax Exemption Scheme For New Start-Up Companies

WHERE ANY OF THE FIRST THREE YAS FALLS IN OR AFTER YA 2020	
CHARGEABLE INCOME	% EXEMPTED FROM TAX
First S\$100,000	@75%
Next S\$100,000	@50%

Source Inland Revenue Authority of Singapore (IRAS)

rent and includes other considerations such as payments for advertising and promotion charges, furniture/fitting charges, maintenance charges, service charges and any other charges (excluding GST charges).

Leases with AAR not exceeding S\$1,000 are exempt from stamp duty. For those with AAR of more than S\$1,000, stamp duty is levied as follows:

- Lease period of four years or less, 0.4% of total rent for the period of the lease.
- Lease period of more than four years or for any indefinite term, 0.4% of four times the AAR for the period of the lease.

Estate Duty

As of 15 February 2008, the government has removed estate duty.

Corporation Tax

A company is taxed at a flat rate on its chargeable income. The corporate income tax (CIT) rate from the year of assessment (YA) 2010 onwards is 17%. CIT for the YA is levied on the taxable income of the previous year, which is the profit shown in the company's audited accounts after qualified allowances and deductions have been taken into account.

Companies can enjoy the partial tax exemption (PTE) and tax exemption for new start-up companies, as shown in Tables 34 and 35.

In order to qualify for tax exemption, the new start-up company must:

- Be incorporated in Singapore;
- Be a tax resident in Singapore for that YA;

- Have no more than 20 shareholders throughout the basis period for that YA where:

- 1) All of the shareholders are individuals "beneficially and directly" holding the shares in their own names; or
- 2) At least one shareholder is an individual "beneficially and directly" holding at least 10% of the issued ordinary shares of the company.

To ease business costs and support restructuring by companies⁴, the Ministry for Finance announced in Budget 2020 that the CIT rebate for YA 2020 would be raised to 25% of the corporate tax payable subject to a cap of S\$15,000. The rebate will not apply to income derived by a non-resident company that is subject to final withholding tax.

Effective YA 2006, companies may carry-back unutilised capital allowances (CAs) and trade losses arising in a YA to reduce the amount of taxes payable in an immediately preceding YA. The maximum amount of loss and capital allowance that can be carried back is capped at S\$100,000.

Personal Income Tax

All income earned in or derived from Singapore is chargeable to income tax. Generally, overseas income received in Singapore on or after 1 January 2004 is not taxable, except in some circumstances. Tax residents for a particular YA include:

- A Singapore Citizen or Singapore Permanent Resident who resides in Singapore except for temporary absences, or
- A foreigner who has stayed / worked in Singapore (excludes director of a company) for 183

⁴ Includes Registered Business Trusts, non-resident companies that is not subject to a final withholding tax and companies that receive income taxed at a concessionary tax rate.

days or more in the previous year, ie the year before the YA.

From the YA 2017, tax rates for residential taxpayers are on a graduated scale ranging from 0% to 22%.

For YA 2019, a personal tax rebate of 50% of tax payable, up to maximum of S\$200 is granted to tax residents.

Property Tax

The amount of tax payable by owners is calculated based on a percentage of the annual value of the property, which is the estimated gross annual rent of the property if it were to be rented out, regardless of whether the property is vacant, occupied by the owner or leased out. Exceptions to the standard definition of annual value include:

TABLE 36 New Progressive Tax Scale - For Non-owner Occupied Residential Building

ANNUAL VALUE	TAX RATE (%) (EFFECTIVE FROM 1 JANUARY 2015)
First S\$30,000	10
Next S\$15,000	12
Next S\$15,000	14
Next S\$15,000	16
Next S\$15,000	18
AV in excess of S\$90,000	20

Source Savills Research & Consultancy

TABLE 37 New Progressive Tax Scale - For Owner Occupied Residential Building

ANNUAL VALUE	TAX RATE (%) (EFFECTIVE FROM 1 JANUARY 2015)
First S\$8,000	0
Next S\$47,000	4
Next S\$15,000	6
Next S\$15,000	8
Next S\$15,000	10
Next S\$15,000	12
Next S\$15,000	14
AV in excess of S\$130,000	16

Source Savills Research & Consultancy

- Vacant land or land under development – 5% of the estimated freehold market value of the land, assuming the land plot is vacant with no buildings erected on site.

- Licensed hotels – 25% of the gross hotel room receipts for the preceding year, while the other assessable areas in the hotel, such as F&B outlets, function rooms, retail shops and car parks, will be assessed based on estimated market rents.

Property tax rates on owner-occupied and non-owner occupied residential properties are applied on a progressive scale, while all other properties continue to be taxed at 10% of the annual value. Details for owner-occupied and non-owner occupied residential properties are shown in Tables 36 and 37. Non-residential properties such as commercial and industrial buildings and land are taxed at 10% of the annual value.

Tax exemptions are granted for buildings that are entirely used for public religious worship, charitable purposes, public schools which receive grant-in-aid from the government, and for purposes conducive to social development in Singapore. Partial exemption may be granted if only parts of the building qualify for exemption.

As part of the Government's Stabilisation and Support Package, owners of qualifying commercial properties will be granted a rebate on the property tax payable for the period 1 January 2020 to 31 December 2020. Owners of qualifying properties will be granted rebates of up to 30% on their property tax payable.

Goods and Services Tax (GST)

GST is charged on supplies of most goods and services by businesses, and on imports made by taxable persons in Singapore.

It is a final consumption tax but collected at each stage of production. There are four bands of tax: the standard rate of 7% (applicable to standard-rated supplies comprising goods and services not considered zero rated and exempt supplies), zero rated (applicable only to international services and exported goods), exempt (sales and rental of unfurnished residential property and certain other financial transactions/services) and out-of-scope (goods which are sold but never enter Singapore).

During Budget 2018, the government had announced that the GST is set to increase from 7% to 9% sometime between 2021 and 2025. After reviewing revenue and expenditure projections, and considering the current state of the economy, the Government decided to maintain the GST rate at 7% in 2021 in Budget 2020. But the GST increase will still be needed by 2025.

All businesses with a turnover of taxable supplies in excess of S\$1 million must register with the Controller of GST, whereas businesses



with turnover of less than S\$1 million may do so voluntarily.

The sale of residential properties and land are exempt from GST. Hence a developer cannot charge GST on the sale of a housing unit even if he is GST-registered with the Controller. Neither can he claim for a refund of the GST he has incurred in developing the building.

Withholding Tax And Tax Treaties

Domestic corporations paying certain types of income are required to withhold tax to non-resident corporations/individuals on interests and royalties. The rate of withholding tax is dependent on the country in which the corporation/individual is based but ranges between 0% and 15%. Dividends are not subject to withholding tax.

A Double Taxation Agreement (DTA) is an agreement concluded between Singapore and another jurisdiction (a treaty partner) which serves to relieve double taxation of income that is earned in one jurisdiction by a resident of the

other jurisdiction. All the DTAs concluded by Singapore since 1965 to date are categorized as follows:

- Comprehensive treaties, which cover all types of income and are applicable to the following countries: Albania, Australia, Austria, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Brunei, Bulgaria, Cambodia, Canada, China, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, Estonia, Ethiopia, Fiji, Finland, France, Georgia, Germany, Ghana, Guernsey, Hungary, India, Indonesia, Ireland, Isle of Man, Israel, Italy, Japan, Jersey, Kazakhstan, Korea (Republic of), Kuwait, Laos, Latvia, Libya, Liechtenstein, Lithuania, Luxembourg, Malaysia, Malta, Mauritius, Mexico, Mongolia, Morocco, Myanmar, Netherlands, New Zealand, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Rwanda,

San Marino, Saudi Arabia, Seychelles, Slovak Republic, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Taiwan, Thailand, Turkmenistan, Tunisia, Turkey, Ukraine, United Arab Emirates (UAE), United Kingdom (UK), Uruguay, Uzbekistan, and Vietnam.

- Limited treaties, covering only income from shipping and/or air transport, and which are applicable to the following countries: Bahrain (air transport), Brazil (air transport and shipping), Chile (shipping), Hong Kong SAR (air transport and shipping), Oman (air transport), Saudi Arabia (air transport), UAE (air transport), and United States of America (air transport and shipping).
- Treaties that have been signed but not ratified, and thus do not have any force in law, are with: Armenia, Brazil, Gabon, Germany, Greece, Indonesia, Kenya, United States of America.

LEGAL ISSUES

Land Registration

The Land Titles Registry, which comes under the Singapore Land Authority's umbrella, handles the registration of property transactions in Singapore. Two land registers exist, namely:

- Register of Deeds for Common Law land under the Registration of Deeds Act;
- the Land Titles Register for land under the Land Titles Act.

Planning Controls

Section 12 of the Planning Act 1998 stipulates that no person shall develop any land without the written permission of the competent authority.

'Competent authority' refers to the Urban Redevelopment Authority and 'written permission' may refer to the planning permission, subdivision permission or conservation permission.

'Development' is defined in Section 3 of the Act as either the execution of any building, mining, engineering, earthworks or other operations on, over or under land, or to making any material changes to the use of any land and buildings.

Master Plan 2019

The current Master Plan 2019, is a detailed statutory land use plan for each of the planning regions (north, northeast, east, west and central regions). The Plan, which is revised every five years, guides the physical development of Singapore over the medium term of ten to 15 years.

Other legislation which controls real estate development in Singapore includes:

- Housing Developers (Control and Licensing) Act

- Sale of Commercial Properties Act
- Land Titles (Strata) Act
- Land Titles Act
- Land Acquisition Act

Foreign exchange controls

All Singapore residents, both corporations and individuals are allowed complete freedom from exchange control on any form of investment and payment. Nonetheless, loans to non-residents may be subject to a 'non-internationalisation of Singapore currency' policy. Also, all syndicated loans in Singapore dollars require the approval of the Monetary Authority of Singapore.

MAJOR PROPERTY LEGISLATION

There are a number of key items of legislation related to property, all of which are detailed below:

- Buildings and Common Property (Maintenance and Management) Act
- Building Control Act
- Building Maintenance and Strata Management Act
- Conveyancing and Law of Property Act
- Goods and Services Tax Act
- Housing Developers (Control and Licensing) Act
- Housing Developers (Control and Licensing) Rules
- Income Tax Act
- Land Acquisition Act
- Land Titles Act
- Land Titles (Strata) Act
- Planning Act
- Property Tax Act
- Registration of Deeds Act
- Residential Property Act
- Sale of Commercial Properties Act
- Stamp Duties Act
- State Lands Act
- Street Works Act



South Korea

With a GDP per capita of US\$34,721, the country continued its sound recovery in 2021. The rate of Korean GDP growth in 2021 was 4.0%.

The economy has rebounded from the contraction in 2020 despite the prolonged spread of COVID-19 variants, supported by favourable movement in exports and improvement in private consumption on the back of accelerated vaccinations and the relaxation of domestic restrictions. Accordingly, the Bank of Korea raised the Base Rate from its historic-low to 1 percent on concerns of rising inflation and household debt. GDP growth is projected to be about 4% in 2021 and 3% per in 2022.

TYPES OF PROPERTY OWNERSHIP

Freehold title ownership and strata-title ownership are all commonly practiced and long-term ground leasehold agreements are exceptionally rare.

OVERSEAS OWNERSHIP RESTRICTIONS

Following substantial deregulation in 1998, overseas buyers are generally free to acquire land in Korea, apart from areas where approval is required, such as military areas, cultural assets and ecologically protected areas, as detailed in the Foreigners Land Acquisition Act.

MEASUREMENT OF AREAS

The most commonly used unit of area measurement remains the pyeong (1 py = 3.3058 sq m = 35.58 sq ft), although the government is encouraging the adoption of sq m, with a 2007 law requiring the use of sq m in official documents.

There are three area measurements which are often quoted in legal agreements:

- GFA (Gross Floor Area): all area contained within the centre line of the external walls, excluding vertical penetration and void areas.
- GLA (Gross Leasable Area): usually GFA or GFA less underground parking areas.

- NLA (Net Leasable Area): GFA less common floor areas, building common areas and parking.

Note that variations in these definitions are common e.g. with regard to what constitutes “common areas”.

LEASE TERMS

A typical rent structure comprises: 1) monthly rent; 2) monthly maintenance fee; and 3) refundable security deposit.

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TABLE 38 Lease Terms

LEASE PERIOD	3-5 years
RENT REVIEWS	Typically conducted at the end of the lease period. For standard leases, rent levels may be reviewed during the lease period if: 1) market conditions drastically change; or 2) tax amounts increase. Lease renewal rates are negotiable and usually fall somewhere between the contract and market rent with limited recourse in dispute. Fixed-term leases do not include rent reviews unless pre-agreed.
SUB-LETTING/ ASSIGNMENT	Generally not an accepted market practice, consent required from landlord.
TERMINATION	Pre-termination clauses are usually included in leases and require notification periods of 3- 6 months. Longer term leases typically prohibit pre-termination in the early period of the lease.
REPAIRS	The exterior and common areas of the building are the landlord's responsibility. Tenants are responsible for internal repairs.
SECURITY OF TENURE	Security of tenure is not guaranteed beyond the term of a lease. A right to renew can be included in the lease if required.
DILAPIDATION	Tenants are expected to reinstate a building to its original condition.

Source Savills Research & Consultancy

KEY STATISTICS

Official name	The Republic of Korea
Currency	Korean won US\$1 = KRW1,172 (December 2021)*
Population	51.8 million*
Land area	100,339 sq km
GDP per capita	US\$34,721 (2021)*
GDP growth	4.0% per annum (2021)#
Principal business centres	Seoul (CBD, Gangnam, Yeouido), Pangyo, Busan, Incheon

Source FocusEconomics*, Bank of Korea#

TABLE 39 Acquisition Taxes

TAX	TAX RATE
Acquisition tax	4.00% of acquisition price
Special tax for farming and fishing villages	0.20% of acquisition price
Local education tax	0.40% of acquisition price
VAT	10% of building acquisition price (corporations will be reimbursed)

Source Savills Research & Consultancy, National Tax Service

TRANSACTION COSTS

Brokerage/agency fees

Brokerage fees on transactions are normally between 0.5% and 1% depending on the deal. Fees on leasing are usually 1-2 months rent for the entire leased space with the nature of the deal dictating who is liable to pay the fee.

Security deposit

Typically, a non-interest-bearing, returnable deposit of ten months' net rent for office and retail properties.

Legal costs

Legal costs vary on a case-by-case basis. Most are negotiable. Each party (buyer and seller) bears their own legal costs.

TAX LEGISLATION

Tax depreciation

Only the straight-line method of depreciation is permitted for buildings. Generally, the standard practice for the useful life of a building is 40 years (2.5% depreciation rate).

Corporation tax

Details are shown in Table 42.

Value added tax (VAT)

A standard 10% VAT is levied on all goods and services (including property), with the exception of those specified as exempt or zero rated. Businesses are exempt or refunded.

Personal income tax (PIT)

For tax-paying purposes, individuals are classified as either resident or non-resident. Residents are essentially defined as those who have resided in Korea for 183 days or more, or those who have an occupation that would require them to reside in Korea for 183 days or more. A resident is subject to income tax on all income derived from sources both within and outside of Korea. A non-resident is subject to income tax only on income derived from sources within Korea. Details are shown in Table 43.

Withholding tax and tax treaties

International corporations with no domestic place of business in Korea will be subject to tax on their Korean-sourced income (dividends, royalties, interest) on a withholding basis. Any income attributable to an overseas corporation which has a fixed place of business in Korea will be subject to Korean income tax. The rate of withholding tax is dependent on the country of origin of the corporation in question and the source of income (dividends, royalties, interest), this generally ranges between 10% and 15%.

Withholding taxes are also applicable to non-residents. However, there are limitations on these depending on the existence and nature of a tax treaty with Korea. Table 44 lists those countries with whom tax treaties exist in order to avoid double taxation of international residents.

TABLE 40 Real Estate Taxes During Holding Period

CATEGORY		TAX RATE	
Buildings	Buildings	0.25% of tax assessment value	
Land	Land for business purpose	Less than KRW200 million	0.2% of tax assessment value
		Less than KRW1,000 million	KRW400,000 + 0.3% of excess over 200 million
		Over KRW1,000 million	KRW2.8 million + 0.4% of excess over 1,000 million
Surtax	Local education tax	20% of property tax	
	Special tax for farming and fishing villages	20% of property tax	
	Special property tax (Previously city planning tax)	0.14% of tax assessment value	
	Public facility tax*	0.04-0.12% of tax assessment value	
Aggregate real estate tax		0.5 - 0.7% of tax assessment value	

Source Savills Research & Consultancy, National Tax Service

*Buildings deemed to have high fire risks will be susceptible to double ordinary tax rate

TABLE 41 Disposition Taxes

TAX	SPECIAL CASES
Corporate - income tax 10%-25% of capital gain	Capital gain tax is levied as corporation tax
Local income surtax (formerly inhabitant tax) 10% of transfer income tax or corporate tax	N/A
VAT 10% of building's transfer price (collected from transferee)	Corporations will be reimbursed VAT

Source Savills Research & Consultancy

TABLE 42 Corporation Taxes

TAXABLE INCOME (KRW)	MARGINAL TAX RATE
Below 200 million	10% of tax assessment value
200 million-Less than 20 billion	KRW20 million + 20% of excess over 200 million
20 billion-Less than 300 billion	KRW3.98 billion + 22% of excess over 20 billion
Above 300 billion	KRW65.58 billion + 25% of excess over 300 billion
Local surtax	10% of corporate tax

Source Savills Research & Consultancy

TABLE 43 PIT Rates

INCOME (KRW)	MARGINAL TAX RATE	LOCAL INCOME SURTAX
0-Less than 12 million	6% of tax assessment value	10% of the personal income tax liability
12 million-Less than 46 million	KRW0.72 million + 15% of excess over 12 million	
46 million-Less than 88 million	KRW5.82 million + 24% of excess over 46 million	
88 million-Less than 150 million	KRW15.9 million + 35% of excess over 88 million	
150 million-Less than 300 million	KRW37.6 million + 38% of excess over 150 million	
300 million-Less than 500 million	KRW94.6 million + 40% of excess over 300 million	
500 million-Less than 1 billion	KRW174.6 million + 42% of excess over 500 million	
1 billion and over	KRW384.6 million + 45% of excess over 1 billion	

Source Savills Research & Consultancy

MAJOR PROPERTY LEGISLATION

There are a number of key pieces of legislation pertaining to real estate, all of which are detailed below:

- Act on Report on Real Estate Transactions, etc.
- Act on the Development and Management of Logistics Facilities
- Act on the Management and Promotion of Real Estate Development Business
- Act on the Promotion of Real Estate Services Industry
- Act on the Public Announcement of Values and Appraisal of Real Estate

- Building Act
- Commercial Building Lease Protection Act
- Foreigner's Land Acquisition Act
- Framework Act on Building
- Framework Act on The National Land
- Gross Real Estate Tax Act
- Housing Lease Protection Act
- National Land Planning and Utilization Act
- Public Notice of Values and Appraisal of Lands, Etc. Act
- Real Estate Brokerage Act
- Real Estate Investment Company Act
- Urban Planning Act

TABLE 44 Tax Treaty Countries

COUNTRIES	COUNTRIES	COUNTRIES
Albania	Hungary	Peru
Algeria	Iceland	Philippines
Australia	India	Poland
Austria	Indonesia	Portugal
Azerbaijan	Iran	Qatar
Bahrain	Ireland	Republic of South Africa
Bangladesh	Israel	Romania
Belarus	Italy	Russia
Belgium	Japan	Saudi Arabia
Brazil	Jordan	Serbia
Brunei	Kazakhstan	Singapore
Bulgaria	Kenya	Slovakia
Canada	Kuwait	Slovenia
Cambodia	Kyrgyz	South Africa
Chile	Laos	Spain
China	Latvia	Sri Lanka
Colombia	Lithuania	Sweden
Croatia	Luxembourg	Switzerland
Czech Republic	Malaysia	Tajikistan
Denmark	Malta	Thailand
Ecuador	Mexico	Tunisia
Egypt	Mongolia	Turkey
Estonia	Morocco	Turkmenistan
Ethiopia	Myanmar	UAE
Fiji	Nepal	UK
Finland	Netherlands	Ukraine
France	New Zealand	Uruguay
Gabon	Norway	USA
Georgia	Oman	Uzbekistan
Germany	Pakistan	Venezuela
Greece	Panama	Vietnam
Hong Kong	Papua New Guinea	

Source Savills Research & Consultancy



Taiwan

Taiwan's economy has seen rapid development and is one of Asia's newly industrialised growth engines. Although growing at a slower pace than in the past, the economy has transformed itself from one which produced plastic toys and textiles to one which dominates some electronics sectors. Today, 80% of the world's laptops and 40% of LCD screens come from Taiwan as the nation's SMEs have successfully climbed further up the value chain.

According to the Directorate-General of Budget, Accounting and Statistics, 65% of gross domestic output in 2019 was derived from exports, which can leave the open economy vulnerable to fluctuations in global demand for its goods. This reliance on the production of tech exports has also contributed to the manner in which the property market has evolved. Science and technology parks represent a large portion of investment-grade assets, and in some instances, are government-owned, leaving few opportunities for investors.

The high quality of human resources and the complete manufacturing supply chain are complimented by sound regulatory and legal systems, and a competent central bank. These factors make Taiwan an excellent location for regional operation or R&D centres, and as a logistics hub and/or production base to serve the Asia Pacific region.

TYPES OF PROPERTY OWNERSHIP

Most property on the island is freehold, although long-term leasehold, also called superficies right, is becoming more popular, particularly in Taipei City or on government build-operate-transfer infrastructure projects. Typical leasehold titles have 35-, 50- or 70-year terms. Renewal options are dependent on specific contract agreements.

Strata-title buildings are common throughout the island, and regulations have been passed to create consensus on building maintenance and management. Ownership structures are commonly divided into the following categories: 1) fee simple; 2) strata title; and 3) superficies right.

OVERSEAS OWNERSHIP RESTRICTIONS

Overseas investors and individuals are allowed to own most types of property in Taiwan with a reciprocal agreement that

allows Taiwanese nationals to enjoy the same rights in those countries. The only exception to this applies to individuals or entities from mainland China, who are restricted from owning property unless it is for self-use. The type of owner-occupied commercial property that mainland enterprises and individuals can acquire includes retail, factory and office property as well as employee dormitories.

White-collar Chinese workers who are legally permitted to work in Taiwan and hold a Taiwan work certificate (Alien Resident Certificate) are allowed to buy homes to fulfil their individual housing needs. However, the purchase is subject to a stipulation that restricts the sale of the property for a period of three years following the title transfer. These same individuals are no longer required to state the source of their funds as they were in the past, and are entitled to the same mortgage terms that Taiwanese nationals can secure.

Overseas investors acquiring or leasing land for a particular purpose are required to obtain approval from the relevant government authority.

Overseas investors who have established a company in Taiwan are permitted to buy or lease property for their operations provided they have obtained overseas investment approval status.

Restrictions on overseas ownership

Overseas entities are prohibited from owning the following: military areas, cultural assets, forestry land, fisheries, hunting grounds, salt fields and ecologically protected areas.

MEASUREMENT OF AREAS

The standard unit of measure is the 'ping' (1 ping = 3,305 sq m = 35,58 sq ft). This was adopted from Japanese tatami mats and is the same size as the Japanese 'tsubo' and Korean 'pyung'. As a rule of thumb, one ping has the same dimensions as a king-sized bed.

There are two measurements for areas that are commonly used in legal agreements:

- GFA: all covered areas contained within the external walls including common areas such as amenities, balconies and

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KEY STATISTICS

Official name	Republic of China (ROC)
Currency	New Taiwan dollar US\$1 = NT\$27.81 (December 2021)
Population	23 million (2021)
Land area	3,600 sq km
GDP per capita	US\$32,917 (2021) US\$34,880 (2022F)
GDP growth	6.28% per annum* (2021) 4.15% per annum* (2022F)
Principal business centres	Taipei City, New Taipei City, Taichung City, Tainan City, Kaohsiung City

Source National Statistics, ROC*

parking. In practice, GFA is used to calculate the property's rent and sales price, although parking and retail space will often be excluded.

- Net floor area: the useable area exclusively occupied by the tenant, or the GFA less common areas (including lifts), balconies and walls. In Taiwan, the average efficiency ratio for Grade A office buildings is between 60% and 70% of the GFA.

TRANSACTION COSTS
Brokerage/agency fees

Typically, leasing fees are equivalent to one month's rent from the tenant and one month's rent from the landlord.

Agency fees are charged to both the vendor and buyer at the conclusion of a transaction. The buyer is typically charged 1% to 2% of the transaction amount while the vendor is charged 3% to 4% of the transaction amount. Both of these fees may vary if the relevant parties have consented.

Valuation fees

The valuation fee is approximately 0.005% to 0.2% of the property value.

Notarisation costs

According to the charging standards for notarisation costs issued by the Judicial Yuan, the notarisation cost varies from 0.5% to 0.01% of



TABLE 45 Lease Terms

LEASE PERIOD	Typically from 3 to 5 years, although longer leases can be negotiated particularly for retail or industrial space.
RENT REVIEWS	Generally uncommon for commercial properties, often as a reflection of a slower moving market.
SUB-LETTING/ ASSIGNMENT	Subject to specific terms in the contract and signed by all affected parties.
TERMINATION	Usually specified within lease agreements and requires notification in advance. The security deposit will be forfeited if the tenant chooses to terminate the contract early.
RENTAL DEPOSIT	The commercial leasing deposit is 2 to 3 months' rent regardless of lease duration.
DILAPIDATIONS	Tenants are expected to cover the costs of returning the building to its original handover condition.

Source Savills Research & Consultancy

TABLE 46 Capital Gains Tax

TRANSACTION	TAXABLE INCOME	TAX RATE (%)
Taiwanese residents	Taxable Income = selling price - buying price - deductions - assessed land increment value	Holding period: Less than 2 years: 45% 2 to 5 years: 35% 5 to 10 years: 20% Over 10 years: 15%
Non-Taiwanese residents		Holding period: Less than 1 year: 45% Over 1 year: 35%
Taiwanese company		Holding period: Less than 2 years: 45% 2 to 5 years: 35% Over 5 years: 20%
Overseas company		Holding period: Less than 1 year: 45% Over 1 year: 35%

Source Savills Research & Consultancy

the total amount of the contract. It is standard practice in Taiwan for each party to bear their own legal costs.

TAX LEGISLATION

Land stamp duty

Land stamp duty is charged at 0.1% of the government-assessed land value on the sale or transfer of deeds of property. Building stamp duty is also charged at 0.1% of the government-assessed value of the building. The stamp duty is to be paid by the purchaser.

Deed tax

Deed tax is charged at 6% of the government-assessed building value and is paid by the purchaser.

Land value increment tax

Land value increment tax is applicable to taxable gains based on proceeds from a sale after a number of deductions, including land improvement costs, construction benefit fees, land rezoning fees and land premiums, have been made. The vendor will be charged at a progressive rate of 20%, 30% and 40%. Privileged rate is applicable for owners owning the land for more than 20 years.

Land value tax

Land value tax will be paid on an annual basis by the owners and is commonly levied

at regular progressive rates ranging from 1% to 5.5%. The tax base is the gap between the land value and the starting value evaluated by the government.

Buildings tax

The taxpayer is the building owner and buildings tax is levied on the government-assessed value of the building. The tax rates vary by city. In Taipei City, the annual tax rates are 3% for commercial buildings, 1% for owner-occupier residential and 1.2% to 3.6% for multiple-residence owners.

Capital gains tax (CGT)

Effective from 2016, capital gains generated from property face an extra tax levy. For individuals and companies, it ranges between 15% and 45%, depending on the length of the holding period. Furthermore, the tax rate for overseas nationals or overseas companies has been lifted much higher, to between 35% and 45%. Details are shown in Table 46.

Value added tax (VAT)

A standard 5% VAT is paid by the tenant. Real estate transactions will be taxed 5% VAT on the property's value, which is paid by the purchaser.

Corporate tax

In 2018, the rate of corporate income tax increased from 17% to 20%. Corporate taxes are applicable to any company operating within the borders of Taiwan (ROC) including overseas entities whose head office is situated outside of Taiwan. Corporate taxes will be applied to any income generated in Taiwan at the rates shown in Table 47.

Personal income tax (PIT)

Tax residents are those who have been in Taiwan for a minimum of 183 days in a calendar year. Individuals are taxed on income arising in or derived from Taiwan and the progressive tax scale ranges from 5% to 40%.

Non-residents who stay in Taiwan for less than 183 days in a calendar year are not entitled to any deductions, with income tax being computed on gross income and taxes collected through withholding. The withholding tax rate is generally 20%. Details of PIT are shown in Table 48.

Withholding tax and tax treaties

Any enterprise in Taiwan, including subsidiaries and branch or representative offices of an overseas company, must withhold tax on payments, as shown in Table 49.

Taiwan's general tax treaty policy is to avoid double taxation, prevent fiscal evasion and strengthen economic relations. Taiwan's treaties follow the Organisation for Economic Cooperation and Development model treaty and take into consideration matters relating to political and fiscal status, the economy and bilateral trade. As of 2018, Taiwan had concluded 32 comprehensive income tax treaties and 12 international transportation income tax treaties as follows:

TABLE 47 Corporate Tax

TAXABLE INCOME (NT\$)	TAX RATE (%)
120,000 or less	None
Over 120,001	20

Source Savills Research & Consultancy

TABLE 48 Personal Income Tax

NET TAXABLE INCOME (NT\$)	TAX RATE (%)	PROGRESSIVE DIFFERENCE (NT\$)
0-540,000	5	0
540,001-1,210,000	12	37,800
1,210,001-2,420,000	20	134,600
2,420,001-4,530,000	30	376,600
4,530,001 and above	40	829,600

Source Savills Research & Consultancy

TABLE 49 Payment Of Withholding Tax

TYPE OF INCOME	NON-RESIDENT ENTERPRISES* (%)
Dividends	20
Professional fees	20
Rental income (royalties)	20
Commissions	20

Source Savills Research & Consultancy
*A non-resident enterprise is an enterprise that does not have a fixed place of business in Taiwan but has received Taiwan-sourced income

- Comprehensive treaties – covering all types of income:

Australia, Austria, Belgium, Czech Republic, Denmark, Eswatini, France, Gambia, Germany, Hungary, India, Indonesia, Italy, Israel, Japan, Karibati, Luxembourg, North Macedonia, Malaysia, New Zealand, Netherlands, Paraguay, Poland, Saudi Arabia, Senegal, Singapore, Slovakia, South Africa, Sweden, Switzerland, Thailand, UK and Vietnam.

- Limited treaties – covering only income from shipping or air transport:

Canada, EU, Germany, Japan, Korea, Luxembourg, Macau, Netherlands, Norway, Sweden, Thailand and US.

LEGAL ISSUES

Foreign exchange controls

None.

MAJOR PROPERTY LEGISLATION

There are a number of key pieces of legislation pertaining to real estate, which are detailed below:

- Income Tax Act
- Value-added and Non-value-added Business Tax Act
- Land Tax Act
- House Tax Act
- Deed Tax Act
- Company Act
- Urban Planning
- The Land Act
- Building Act
- The Land Registration Regulation
- Real Estate Broking Management Act
- Construction Industry Act
- Statute for Investment by Foreign Nationals



Thailand

Thailand is Southeast Asia's second largest economy and third most populous state. The country benefits from broadly well-developed infrastructure, a liberal market economy and pro-investment policies.

Thailand saw an increase of 0.9% in GDP in 2021 mainly driven by the positive impacts that resulted from an increase in the fully vaccinated population, the easing of quarantine restrictions and border reopening. Looking ahead, 2022 is anticipated to see stronger growth, driven by the confidence provided by a high rate of inoculation and the return of international trade and tourism.

Thailand has set out its long-term economic goals in its 20-Year National Strategy (2017-2036), aimed at moving towards developed country status. The main components focus on enhancing economic stability, human capital, economic opportunities, environmental sustainability and government efficiency. Recent government initiatives further include the funding of significant infrastructure projects and regulatory reforms aimed at improving the ease of undertaking commercial activity. The latter was reflected in Thailand's ease of doing business ranking which, as measured by the World Bank, climbed by 20 places in 2017. The government has also committed to developing new growth hubs, starting with the Eastern Economic Corridor (EEC), a 13,285 square kilometre (sq km) area spanning Rayong, Chonburi, and Chachoengsao provinces. A series of policies have been outlined by the government to foster the EEC as a key area for trade, investment and transportation, as well as to position it as a strategic gateway to Asia.

TYPES OF OWNERSHIP

Land

The majority of land in Thailand is privately owned through freehold tenure. There are a few leasehold sites which are either Crown property or foreign owned. The longest lease length is 30 years, with an option to renew for a further 30 years upon expiry.

TABLE 50 Land Title Types

NOR SOR 4 (NSJ4) OR 'CHANOTE'	The highest land title used in Thailand, providing full freehold ownership and denoting that the land has been accurately measured and recorded by the land department.
NOR SOR 3 GOR	Land 'awaiting' a full title deed is granted Nor Sor 3 Gor. The land will have been measured by the land department and can be transferred or mortgaged while conversion to full Chanote is pending.
NOR SOR 3	A title issued to land that has yet to be measured by the land department and, therefore, will not have exact boundaries registered. The title may be converted into Nor Sor 3 Gor and then into a full Chanote.
POSSESSORY RIGHTS	Land with a possessory right has yet to be substantiated by the land department and is only recognised for tax payments at the Local Administrative Office.

Source Savills Research & Consultancy

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DEVELOPED PROPERTY

Strata-title tenure is common for high-rise residential developments, permitting foreign property ownership subject to quota restrictions.

The majority of modern Bangkok office stock (80%+) is centrally owned, with the remainder held through strata-title tenure.

High-grade retail properties are typically centrally owned.

OVERSEAS PROPERTY RESTRICTIONS

Foreign individuals and corporations are not permitted to hold freehold land title, although a freehold land interest can be acquired through the following methods:

- A joint venture structure where the foreign party controls not more than 49% of total shares.

KEY STATISTICS

Official name	Kingdom of Thailand
Currency	Thai baht (THB1=100 satang) US\$1 = THB33.38 (January 2022)
Population	69.8 million (2020)
Land area	513,120 sq km
GDP per capita	US\$7,189.04 (2020)
GDP growth	-6.1% (2020) 0.9% (2021)
Principal business centres	Bangkok

Source Savills Research & Consultancy

**TABLE 51** Thai To Metric Conversion

1 SQUARE WAH	4 square metres
1 NGAN	400 square metres
1 RAI	1,600 square metres

Source Savills Research & Consultancy

TABLE 52 Typical Commercial Lease Terms

LEASE PERIOD	A typical tenancy is 3 years with options for further periods of up to 3 years.
RENT REVIEWS	Typically no rise within three year lease term.
SUB-LETTING/ ASSIGNMENT	Most leases do not allow tenant to sub-let or assign the lease.
TERMINATION	Usually specified within lease agreements and requires notification in advance. The security deposit will be forfeited if the tenant chooses to terminate the contract early.
REPAIRS	The exterior and common areas of the building are the landlord's responsibility.
SECURITY OF TENURE	Security of tenure is not guaranteed beyond the tenancy/lease term. An option for a further term should be agreed in the first term.
DILAPIDATION	Tenants are required to reinstate a property to its original handover condition at the expiry of the term.
DEPOSIT	3 months' gross rental (non-interest bearing) refundable upon expiry of the lease.
RENT FREE/FIT-OUT PERIOD	Typically 1 month although this may increase for larger floor areas.

Source Savills Research & Consultancy

TABLE 53 Typical Transaction Fees

PERIOD	SCALE OF FEES
Leasing fee	1 months' gross rent payable by lessor
Leasing fee (exceeding 3 years)	1.5 months' gross rent payable by lessor
Lease renewals	50% of the fees chargeable above
Sales fee (individual units)	3% of transacted price payable by seller
Sale of land or buildings	2% of transacted price payable by seller

Source Savills Research & Consultancy

- The Board of Investment (BOI) may grant the right to own land for manufacturing purposes.
- The purchase of land located within industrial estates for manufacturing or logistics purposes.

Foreign individuals and corporations are able to own condominiums provided that a minimum of 51% of the total floor area of a condominium project is owned by Thai nationals.

MEASUREMENT OF AREAS

Land area is generally expressed in terms of 'Wah', 'Ngan' or 'Rai'. Details are shown in Table 51.

COMMERCIAL PROPERTY

All areas are quoted in square metres (sq m). There are various area measurements which are often quoted in agreements, including:

- Gross area: the total floor area from the outside of the exterior walls including the columns, stairwells, lift lobby, service areas, common areas and toilets.
- Leasable area: the total floor area measured from the inside face of external walls including lift lobbies, toilets and structural columns.
- Net leasable area: the area used exclusively by the tenant measured from the inside face of the external walls excluding columns, toilets, common areas and service areas.

Note that the office and retail sectors typically use net leasable area in agreements.

LEASE TERMS

The lease terms typical to commercial property are detailed in Table 52. However, there are a number of terms/practices which are also worth highlighting, as outlined:

- Lease periods: while it is possible to have a lease period for longer than three years, the lease would then need to be registered and the payment of a registration fee and stamp duty equivalent to 1.1% of the rent payable over the lease term would be due.
- Rent-free period: usually provided simply as an allowance to cover the period required for fitting-out. Also used as an incentive to bring down the effective rent.
- Rent: prices are quoted as gross figures, per square metre per month. The gross rent is made up of the net rent plus an allowance for service charges and taxes.
- Termination: not an accepted market practice but may be agreed provided a tenant secures an alternative tenant, agreeable to the landlord, and that the existing tenant covers any agency fees.

TRANSACTION COSTS

Details are shown in Table 53.

Brokerage/agency fees

The typical agency fee for leasing transactions is 1-1.5 month gross rent including VAT payable by the lessor.

The standard brokerage fee for sale transactions is mostly between 2-3% of the transaction price including VAT payable by seller.

Legal costs

Legal service fees vary based on a purpose of use, and most fees are subject to negotiation.

TAXATION

Land and building tax

A progressive tax system due annually from the owner of land and buildings which is chargeable on all properties other than a persons primary residence, unless that residence has a value of greater than THB50 million. The tax is calculated as a percentage of the appraised value as determined by the Land Code and government authority. The tax system recognizes four different purposes of use: residential, commercial, agricultural and vacant. As this new tax policy was recently introduced in 2020 the government is running a transition period until December 2022, during which time the rates will apply and are shown in Table 54.

Once the transition period has concluded, the government will apply reviewed tax rates though

TABLE 54 Land and Building Taxes

	VALUE RANGE (THB)	TAX RATE
Residential	0-50,000,000	0.02%
	50,000,000-75,000,000	0.03%
	75,000,000-100,000,000	0.05%
	100,000,000>	0.1%
	Tax rate ceiling	0.3%
Commercial	0-50,000,000	0.3%
	50,000,000-200,000,000	0.4%
	200,000,000-1,000,000,000	0.5%
	1,000,000,000-5,000,000,000	0.6%
	5,000,000,000>	0.7%
	Tax rate ceiling	1.2%
Agricultural	0-75,000,000	0.01%
	75,000,000-100,000,000	0.03%
	100,000,000-500,000,000	0.05%
	500,000,000-1,000,000,000	0.07%
	1,000,000,000>	0.1%
	Tax rate ceiling	0.15%
Unused/vacant property	0-50,000,000	0.3%
	50,000,000-200,000,000	0.4%
	200,000,000-1,000,000,000	0.5%
	1,000,000,000-5,000,000,000	0.6%
	5,000,000,000>	0.7%
	Tax rate ceiling	1.2%

Source Savills Research & Consultancy

TABLE 55 Sales/Transfer Taxes On Land And Property

CHARGE	FREEHOLD SALE	LEASEHOLD TRANSFER	BUILDING SALE	TAX LIABILITY
Transfer Fee	2%	N/A	2%	Seller/Buyer
Lease Registration Fee	N/A	1%	N/A	Lessor/Lessee
Specific Business Tax	3.3% or N/A	N/A	3.3% or N/A	Seller
Stamp Duty	0.5% or N/A	0.1%	0.5% or N/A	Seller
Withholding Tax	1% or 5-37%	N/A	1% or 5-37%	Seller

Source Savills Research & Consultancy

All of the taxes outlined in Table 64 are payable to the Land Department. Stamp duty is only applicable in cases where specific business tax is not applied.



the maximum tax rate will never exceed the 'tax rate ceiling' stipulated for each purpose of use.

TAXATION ON TRANSFER

Transfer fee

An ownership transfer fee is levied at 2% of the property value as assessed by the government and is typically divided equally between the seller and the buyer. Details are shown in Table 55.

Specific business tax

A specific business tax will be imposed only in the transaction of properties listed below:

- Property for which the land allocation is permitted
- Condominiums
- Property developed for sale
- Property used for corporate purposes
- Property re-sold within five years of its purchase

The specific business tax rate for real estate is 3.3% of the government's assessed value or transaction price (whichever is higher).

TABLE 56 Leasehold Transaction Taxes

CHARGE	SCALE OF FEES
Lease Registration Fee	1% of the total rent receipts throughout the lease period
Stamp Duty	0.1% of the total rent receipts for the entire lease period

Source Savills Research & Consultancy

Stamp duty

Stamp duty is assessed based on the official appraised value or the contracted sale price, whichever is higher.

If the property has been owned for more than five years then stamp duty is levied at 0.5% of the property value assessed by the government or based on the contracted price, whichever is greater. Stamp duty is the seller's liability. Where leasehold land is being transferred stamp duty is payable on the remaining value of the lease.

Withholding tax

Withholding Tax (WHT) is remitted by the buyer (on behalf of the seller) from the proceeds of sale. Where the seller is a company, WHT is calculated at 1% of the contracted sale price. The WHT can be used as a credit against final

income tax payable upon lodgement of an annual tax return. For individual sellers, WHT is calculated based on the individual's marginal tax rate ranging from 0-37% (except the first THB100,000 which is taxed at 5% instead of allowing the tax-free threshold) after deductions based on the number of years of ownership.

Capital gains tax

Capital gains for corporations are treated as business income and taxed at the corporate tax rate (20% as of December 2017). The calculation of tax for sales by individuals is based on total proceeds subject to certain allowances.



LEGAL ISSUES

Foreign exchange controls

Foreign currency can be transferred or brought into Thailand without limitation. All foreign exchange transactions are required to be conducted through commercial banks or through authorised money changers or money transfer agents, unless permission is granted by the Bank of Thailand.

Inward remittance of foreign currencies for direct investment in Thailand is permitted and must be deposited in an authorised bank within 360 days.

Repatriation of investment funds is permitted provided that supporting evidence is submitted to an authorised bank.

Town planning

Each property is governed by a zoning plan guide by the authority of the National Economic and Social Development Board (NESDB) and the Department of Public Works and Town & Country Planning, Ministry of Interior (DPT), with certain competencies devolved to local administrations to control development and land use.

MAJOR PROPERTY LEGISLATION

There are a number of key pieces of legislation pertaining to real estate as detailed below:

- Bankruptcy Act
- Civil and Commercial Code
- Commercial and Industrial Property Lease Act
- Condominium Act
- Exchange Control Act
- Foreign Business Act
- General Building Construction Code
- General Building Control Act
- House and Land Tax Act
- Investment Promotion Act
- Industrial Estate Authority of Thailand Act
- Land Code
- Land Readjustment Act
- Local Development Tax Act
- Revenue Code



Vietnam

GDP growth in 2021 was 2.58% year on year as the pandemic seriously affected all sectors of the economy, especially during the lockdown in the third quarter. A breakdown of the growth rate can be summarized as follows: the agriculture, forestry and fishery sector increased by 2.9%, contributing 13.97% to the growth; the industry and construction sector increased by 4.05%, contributing 63.80%; the service sector increased by 1.22%, contributing 22.23%. The International Monetary Fund (IMF) forecasts Viet Nam's GDP to increase 6.6% in 2022, higher than Malaysia, the Philippines, Indonesia and Thailand.

In 2021, the United States was Viet Nam's largest export market with an estimated turnover of US\$95.6 billion. China was Viet Nam's largest import market with an estimated turnover of US\$109.9 billion. In 2021, the trade balance of goods had a trade surplus of US\$4 billion.

The total registered FDI reached US\$31.15 billion, of which newly registered FDI provided capital of US\$15.2 million from 1,735 projects. By country, Korea led newly registered FDI (34.4%), followed by Japan, China, Hong Kong and Taiwan. Remittances to Vietnam in 2021 were US\$18.1 billion, versus US\$17.2 billion in 2022, placing Vietnam in the top 10 countries globally.

TYPES OF PROPERTY OWNERSHIP

The Land Law was updated in 2013 and has been effective since 1 July 2014. Organizations and individuals may acquire land-use rights (LURs) via land lease or allocations requiring a land-use fee (LUF). Land allocation is also referred to as a land grant. The differences between lease and allocation under LUFs are:

1) For land allocation, the land user pays a one-off fee. For a land lease, the user may either pay the land rental on an annual basis or by a one-off sum covering the entire lease term.

2) A land allocation term of agreement may be for a definite or indefinite timeframe, whereas a land lease is a fixed term. A land-use plan is annually approved by local authorities and allows users to know which LURs are possible.

According to the revised law, foreign enterprises are now eligible to allocate land requiring LUFs for the development of residential projects for sale, or for sale & lease. This is to promote greater fairness between local and foreign investors. Foreign investors involved in residential projects for lease may also acquire LURs via land lease, under which they pay the land rental annually or by lump-sum. The land lease term and land allocation for foreign enterprises may not exceed 50 years, although for certain major projects under more unique circumstances, it is possible to increase the term to 70 years. However, eligible buyers will require obtaining freehold LURs. For those sites used for diplomatic purposes, lease terms may be up to 99 years and extendable.

The new law also states foreign entities eligible for land allocation and land lease with a one-off lease payment are entitled to transfer, sub-lease, gift, mortgage, and contribute LURs within the term.

OVERSEAS OWNERSHIP RESTRICTIONS

The amended Housing Law granting greater property rights to overseas nationals has been effective since 1 July 2015, with an implementation guide recently issued under Decree No. 99/2015/ND-CP. There are two groups of overseas nationals allowed to own properties: legal entities such as foreign investment funds and banks, Vietnamese branches and representative offices of overseas companies established in Viet Nam; and overseas nationals with an appropriate entry visa.

The Ministry of Construction issued Circular No.19/2016/TT-BXD to guide implementation of the Housing Law, and Decree No. 99/2015/ND-CP stipulating the number of units which foreigners may own.

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KEY STATISTICS

Official name	The Socialist Republic of Viet Nam
Currency	Vietnamese dong US\$1 = VND23,150 (January 2022)*
Population	98,510 million (December 2021)***
Land area	331,690 sq km (January 2022)
GDP per capita	US\$2,786 (2020)**
Real GDP growth	2.58% (2021)**
Principal business centres	Ha Noi, Ho Chi Minh City

*Source Based on the average inter-bank exchange rate published February 2021 by The State Bank of Vietnam.

**Source Data World Bank

*** Source GSO

The aim is to tighten resale procedures and increase transparency as well as streamline administrative procedures.

The new law limits overseas ownership to 30% of all units within an apartment complex, and to a maximum 250 houses in a Ward. Overseas nationals are allowed to own properties as stated in commercial contracts, but are limited to a 50-year tenure, with optional renewal three months before expiry. An overseas national married to a Vietnamese citizen or a Vietnamese expat is entitled to freehold tenure.

The decree also allows foreigners to pay for property via a financial organization operating in Viet Nam. The retail banking sector is highly competitive, and this will help promote property mortgage access for overseas nationals.

MEASUREMENT OF AREAS

All are quoted in sq m. There is often a variety of area measurements quoted in agreements:

- Net floor area (NFA): usable area within a building from the internal face of perimeter walls on each level, excluding columns.
- Gross floor area (GFA): all areas as measured from the outside of external walls .

To better protect apartment buyer rights, The Ministry of Construction issued a new regulation on apartment unit areas, which came into effect

TABLE 57 Commercial Lease Terms

LEASE PERIOD	Typically a 3-year fixed term. Longer leases are possible.
RENT REVIEWS	Rent reviews are typically conducted based on the inflation ratio and market rents applied at the time.
SUB-LETTING/ ASSIGNMENT	Not an accepted market practice. Possible to assign to subsidiaries or branches.
TERMINATION	No early termination is the norm. In special cases, 4 to 6 months' written notice in advance is required.
DEPOSIT	3 months.
PAYMENTS	Quarterly in advance. Payments made longer in advance may reduce rental rates.
RENT-FREE PERIOD	During fit-out. This is usually within a month to 45 days.
REPAIRS	The landlord is responsible for the building exterior and common areas. Tenants are expected to be responsible for internal repairs.
SECURITY OF TENURE	Option for a further term is best agreed in the first term contract.
DILAPIDATIONS	Tenants are normally expected to reinstate a property to its original condition at term expiry.

Source Savills Research & Consultancy

TABLE 58 Personal Income Tax

TAX BRACKET	PORTION OF ANNUAL ASSESSABLE INCOME (VND MILLION)	PORTION OF MONTHLY ASSESSABLE INCOME (VND MILLION)	TAX RATE (%)
1	Up to 60 (US\$2,881)	Up to 5 (US\$240)	5
2	Over 60-120 (US\$2,881-US\$5,761)	Over 5-10 (US\$240-US\$480)	10
3	Over 120-216 (US\$5,761-US\$10,371)	Over 10-18 (US\$480-US\$864)	15
4	Over 216-384 (US\$10,371-US\$18,437)	Over 18-32 (US\$864-US\$1,536)	20
5	Over 384-624 (US\$18,437-US\$29,960)	Over 32-52 (US\$1,536-US\$2,497)	25
6	Over 624-960 (US\$29,960-US\$46,092)	Over 52-80 (US\$2,497-US\$3,841)	30
7	Over 960 (US\$46,092)	Over 80 (US\$3,841)	35

Source Savills Research & Consultancy

TABLE 59 Other Incomes Taxes

TAXABLE INCOME	TAX RATE (%)
Capital investments (including interest from loan and dividend)	5
Royalties and income from franchises	5
Winnings or prizes valued more than VND10 million for each reward	10
Inheritances and/or gifts valued more than VND10 million each	10
Capital transfers pursuant to Clause 1 Article 13 of LPIT	20
Transfers of securities regulated in Clause 2 Article 14 of LPIT	0.1
Property transfers regulated in Clause 2 Article 14 of LPIT	2

Source Savills Research & Consultancy

8 April 2014. The area of an apartment is the net area applied in S&P contracts and titles issued to buyers. This area is used to calculate the management fee chargeable to apartment owners. The net area is the usable area including the separated walls within the unit, attached balcony and loggia, but excluding external walls, interior columns and technical box.

TRANSACTION COSTS

Agency fees

Leasing fees are equivalent to one month rent and are paid by the property owner. Purchase fees are usually 2% of the agreed price and paid by the seller.

Security deposit

This is commonly a non-interest bearing, returnable deposit of three months gross rent that includes service charge and rates.

Legal costs

Legal costs vary on a case-by-case basis. Most are negotiable.

TAX LEGISLATION

Stamp duty

Levied at 0.5% of the total land value and paid by the purchaser.

Property tax

From 1 January 2015, sellers will pay 2% tax against the selling price upon transference.

Value added tax (VAT)

Since VAT Law was amended in 2014, a 5% rate has been applied to just a few groups of goods and services while the standard 10% rate applies across almost all categories. In January 2022, the Vietnamese government officially reduced VAT from 10% to 8% for the group of goods and services, excluding telecommunications, finance and banking, insurance, real estate, metal production and mining.

Tax depreciation

The straight-line method is used for buildings.

Corporation tax

From 1 January 2014, the Corporate Income Tax (CIT) rate was 22%, except for those eligible for preferential rates. From 1 January 2016, almost all enterprises will be charged 20% CIT. Enterprises engaged in leasing and purchasing social housing will have a 10% rate.

Personal income tax (PIT)

Resolution No. 26/2012/QH13 on the Law on Personal Income Tax (LPIT), issued 22 November 2012 and effective 1 July 2013. Progressive tax tariffs on each portion of income applied to businesses and salaries are shown in Table 58. This applies to residential individuals with a taxable income from a business and/or from salary after deductions for dependents, insurance premiums and contributions to charitable funds.

Family exemption is deducted from taxable income before income tax is levied on business activities, salaries and wages. Family exemptions include the following:

- US\$478 per month (US\$5,739 per year);
- A deduction for each dependent of US\$191 per month. If CPI was over 20% when the law came into effect, or there is a recent adjustment to family exemption, the government will request the National Assembly Standing Committee to adjust the exemption based on price volatility. This exemption will then be carried forward to the next tax period.

With regard to assessing tax on other items of income, rates are shown in Table 59.

Withholding tax and tax treaties

Viet Nam has tax treaties with more than 50 nations and territories, which include:

Australia, Austria, Bangladesh, Belarus, Belgium, Brunei, Bulgaria, Canada, China, Cuba, Czech Republic, Denmark, Finland, France, Germany, Hong Kong, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Japan, Republic of Korea, Democratic People's Republic of Korea, Laos, Luxembourg, Malaysia, Mongolia, Morocco, Myanmar, Netherlands, New Zealand, Norway, Oman, Pakistan, Philippines, Poland, Qatar, Romania, Russia, Saudi Arabia, Serbia, Seychelles, Singapore, Slovakia, Spain, Sri Lanka, Sweden, Switzerland, Taiwan, Thailand, Tunisia, United Arab Emirates, United Kingdom, Ukraine, Uzbekistan and Venezuela.

Land-use taxation

Under the Law on Land Use Taxation as of 17 June 2010, the following kinds of LURs are subject to tax:

- 1) Urban and rural residential land; 2) Land used for non-agricultural production, such as industrial parks, production facilities and mines;
 - 3) Other non-agricultural land uses for business or religious purposes, including cemeteries.
- The law specifies tax calculation methods and

provides progressive tax rates from a minimum 0.03% up to a maximum 0.15%.

LEGAL ISSUES

Foreign currency control

Decree No. 70/2014/ND-CP allows foreign investors to use the Vietnamese Dong (VND) to buy foreign currencies from authorised banks and transfer them abroad within 30 days of the exchange date. Any transfer must first be requested and subsequently approved.

Land price framework

According to the Revised Land Law of 2013, a local People's Committee will no longer establish a yearly land prices framework. Instead, the government regulates the general land prices framework on a five-year basis. The local People's Committee will consider decisions on a yearly framework and case-by-case. Authorities may refer to land prices surveyed by different valuation institutions for decisions, and to compensate values not based on government frameworks. This policy will support investors hiring valuation consultants during their project selection stage.

Apartment-as-offices banned

The use of apartments for office or trading space is now forbidden under Article 6, Clause 11 of the Residential Housing Law 2014. This activity is considered to cause disruption to other residents and diminish the safety of the building.

Land plots sales without raw buildings

Decree No. 11/2013/ND-CP allows investors to sell land plots without any raw buildings. Investors must fulfil all necessary infrastructure requirements before handing over the title to buyers. This regulation will only be applied to projects in specified areas.

Development projects payment restriction

The implementation of the Revised Housing Law has been effective since 1 July 2015. Residential developers may only accept payment upon completion of a project foundation. The first payment cannot exceed 30% of the unit value and the sum of all payments is not to exceed 70% before handover. The threshold is limited to 50% for overseas developers.

Trading floor

The revised Law on Real Estate Business (LREB) was passed 25 November 2014 and came into effect 1 July 2015. The new law does not require individuals and enterprises to lease, sell or purchase properties through a real estate trading floor. Any enterprise engaging in real estate trading floor activities must have at least two certified real estate brokers as employees.

Contract templates

Decree No. 76/2015/ND-CP regulating implementation of the LREB was issued 10

September 2015 and became effective 1 November 2015. It provides contract templates for certain real estate transactions, such as sale and purchase agreements, pre-sales contracts and hire-purchase contracts.

Subsidisation for social housing

According to Decision No. 370/QĐ-TTg under the government's Decree No. 100/2015/ND-CP of the Government on subsidised housing development and management in 2018, the regulating loan interest rate at Vietnam Bank for Social Policies is to be 4.8%/year (0.4%/month) for those buying and renting subsidised housing, constructing new houses or renovating existing ones. The interest rate for overdue debt is to be 130% of the loan interest rate.

No state capital investment in real estate enterprises

Decree No. 32/2018/ND-CP prohibits state-owned enterprises from investing in the real estate sector or contributing capital in the form of assets, capital and land use rights (except in the case of major business activities where the main enterprise is real estate).

MAJOR PROPERTY LEGISLATION

Legislation affecting real estate is detailed below:

- Revised Law on Real Estate Business 2014
- Revised Law on Residential Housing 2014
- Revised Land Law 2013
- Revised VAT Law 2013
- Decree 11/2013/ND-CP
- Decree 70/2014/ND-CP
- Decree 76/2015/ND-CP
- Decree 12/2015/ND-CP
- Decree 99/2015/ND-CP
- Circular No. 19/2016/TT-BXD
- Circular No. 06/2016/TT-NHNN
- Decree 100/2015/ND-CP
- Revised Law on Residential Housing 2014 No.65/2014/QH13
- Circular No. 21/2019 TT-BXD
- Decree No. 25/2020/ND-CP
- Decree No. 41/2020/ND-CP
- Revised Law on Construction 2020
- Revised Law on Investment 2020
- Decree 30/2021/ND-CP
- Decree 52/2021/ND-CP
- Decree 69/2021/ND-CP
- Decree 02/2022/ND-CP



UK

The UK is the fifth largest national economy in the world measured by GDP as at the end of 2020 (source: World Bank). The service sector dominates the UK economy, contributing 72.79% of GDP (2020), with the financial services industry being particularly important, along with the UK aerospace, pharmaceutical and automotive industries. The capital of the UK is London, which is the world's second largest financial centre, according to Reuters.

TYPES OF PROPERTY OWNERSHIP

The two most common ownership types in land are:

- Freehold, where land is held in perpetuity; and
- Leasehold, where land is held for a specific duration.

There are also a number of legal interests in land, including:

- Easements, such as a right of way; and
- Mortgages.

MEASUREMENT OF AREAS

In the UK, it is market practice to have a measured survey carried out during the purchase or sale of a building. Details of code of measuring are shown in Table 60.

TRANSACTION COSTS

In a real estate transaction, typically both the buyer and seller will have an adviser, and advisory fees are paid to both. This fee is typically 1% of the purchase or sale price, although this may vary depending on the exact nature and size of the property.

For an acquisition of a commercial property, market practice is to typically allow for the following purchaser's costs, as set out in Table 61.

TABLE 60 Code of Measure

CODE OF MEASURING	PURPOSE
Offices	
IPMS* 1: Offices	Planning or building cost purposes (external area)
IPMS 2: Offices	Agency and valuation purposes (internal area)
IPMS 3: Offices	Agency and valuation purposes (useable area)
Residential	
IPMS 1: Residential	Planning or building cost purposes (external area)
IPMS 2: Residential	Agency and valuation purposes (internal area)
IPMS 3: Residential	Agency and valuation purposes (useable area)
Other	
Gross External Area	Planning or building cost purposes (external area)
Gross Internal Area	Agency and valuation purposes (internal area)
Net Internal Area	Agency and valuation purposes (useable area)

Source Savills Research & Consultancy
*IPMS - International Property Measurement Standards

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TABLE 61 Commercial Transaction Costs

ITEM	COMMENT	% OF PURCHASE PRICE
Stamp duty land tax (SDLT)	Up to 5% (see content)	5.0
Advisory fees	-	1.0
Legal fees	-	0.5
VAT on advisory and legal fees	VAT @ 20%	0.3
Total acquisition fees		6.8

Source Savills Research & Consultancy

KEY STATISTICS

Official name	United Kingdom
Currency	British pound sterling (100 pence) US\$1 = GBP0.74 (January 2021)
Population	68.34 million (2021)
Land area	243,610 sq km
GDP per capita	US\$41,811 (Dec 2020)
Real GDP growth	GDP forecast for 2021 - 7.1%
Principal business centres	London, Manchester, Birmingham, Leeds, Glasgow, Edinburgh, Bristol

Source Savills Research & Consultancy



Stamp duty

Stamp duty is a tax charged on the transfer of property. This is a progressive tax with the bandings for commercial property being:

- Under £150,000 – 0%
- £150,001 - £250,000 – 2%
- £250,000 and above – 5%

Many UK assets are held in special purpose vehicles and often offshore (the Channel Islands – Guernsey or Jersey).

Such a structure could potentially lower the stamp duty liability to 0.5% or 0%. We recommend that investors seek legal advice with regards to setting up the most tax efficient investment structure.

For residential property, stamp duty tax is charged at different levels in the same way as commercial property up to a maximum of 12%, with the bandings being as follow:

- Up to £125,000 – 0%
- £125,001 - £250,000 – 2%
- £250,001 - £925,000 – 5%
- £925,000 - £1,500,000 – 10%
- Above £1,500,000 – 12%

There is an additional 3% levy on residential property if the property is a purchaser's second residence. In the November 2017 budget, new rules were announced regarding the purchase of a first home if the purchase price is £500,000 or less. The first time purchaser can claim a discount (relief), allowing them to pay 0% on the first £300,000 and 5% on the portion from £300,001 to £500,000.

SDLT is also payable by the lessee on the grant of a lease. The charge is calculated in two parts. The premium is taxed at the rates set out above for freeholds and assignments of leases. In addition, there is a charge on the net present value of the rent payable.

There are a number of types of transactions that are exempt from SDLT, including:

- Transfers of land within groups of companies.
- The leaseback element of a sale and leaseback.

All available reliefs are subject to detailed conditions, and certain reliefs can be subject to claw back provisions.

TYPES OF LAND USE

In the UK there is a system of planning use classes (Table 62).

TAX LEGISLATION

Business rates are a tax charged on occupation of a property by a business occupier and the

cost will be placed on the tenant under standard lease terms. Importantly, business rates become the owner's liability when the premises are vacant.

The payment of income from the UK to an overseas investor is subject to withholding tax which is currently charged at 20%. There are a number of ways an investor can structure his investment to reduce the withholding tax liability. There are certain depreciating elements of the investments, such as plant and machinery, which can be offset against the annual tax liability. These are known as capital allowances. An investor's tax and legal adviser will be able to advise on other ways to mitigate tax liability on income.

Capital gains tax (CGT)

Capital Gains made by an investor are taxed in the UK depending on the nature of the asset and the status of the individual. UK resident individuals are usually entitled to an annual tax-free allowance before being subject to CGT. For the tax year 2020/2021, this is set at GBP12,300, after which gains are taxed at rates between 10% and 28% depending upon the individual's total taxable income and the nature of the asset.

CGT is payable on gains made on residential property. However, there is a relief from CGT on the disposal of an individual's main residence where it was not acquired for the purpose of realising a gain or where it is under

53,820 sq ft / 5,000 sq m. Where a residential property is owned by a company, it will be subject to an additional charge.

Gains on sales of commercial properties are also subject to CGT as above, though are not subject to the additional charge payable by companies. Gains realised by companies resident in the UK for corporation tax purposes form part of their profits chargeable to corporation tax, which are currently taxed at the rate of 19%.

Since 5 April 2015, non-resident individuals have been liable to pay CGT on gains realised on the disposal of UK residential property. Non-resident funds were previously exempt from gains on disposal of UK commercial property. From April 2019, disposals by all non-resident funds will be chargeable to capital gains (or exempt if they come within one of the specific categories of exempt investor), in accordance with the new rules. Gains of corporate entities will be brought within the charge to corporation tax instead of NRCGT from April 2020. One way for companies to reduce the tax bill almost immediately and mitigate the impact of these rules is to revisit all capital expenditure incurred on property that is still in ownership and claim any historic capital allowances that are due.

Value added tax (VAT)

Where VAT is due on the sale of real estate, the seller is liable to account for the VAT to HM Revenue & Customs (HMRC) with the seller seeking to pass that cost to the buyer under the sale contract. VAT will usually apply at 20%.

The sale of a non-residential freehold or leasehold interest in UK land does not generally attract VAT unless the seller has “opted to tax”. Where a property has been opted for VAT and is income producing, or is intended to be so, then the asset can be treated as an acquisition of a property rental business and termed a ‘transfer of a going concern’, in which case VAT is not chargeable.

If the landlord exercises the option to tax, VAT is charged on the rent at the standard rate, which is currently 20%. The main advantage for a landlord in opting to tax is that they can recover any input tax which has been incurred relating to the property (such as VAT on repair works, property letting fees, legal fees and management expenses).

A tenant who makes exempt supplies, for example, banks or other financial institutions, will suffer irrecoverable VAT on their rent where the landlord has opted to tax.

Tax depreciation

Any depreciation charge which is made in the accounts for property is not permitted for the purposes of calculating taxable profits. Instead, capital allowances may be available which reflect

TABLE 62 Planning Use Classes

USE	PROPERTY TYPE
Class E	Commercial, business and service
Class F.1	Learning and non-residential institutions
Class F.2	Local community
Class B2	General industrial
Class B8	Storage and distribution
Class C1	Hotels
Class C2	Residential institutions
Class C2A	Secure residential institution
Class C3	Residential dwellings
Class C4	Houses In multiple occupation
Sui Generis	Other

Source Savills Research & Consultancy

TABLE 63 Common Lease Terms

REPAIRING LIABILITIES	Where a commercial property is let to a single tenant, leases are usually drafted on a full repairing and insuring basis (FRI). This puts the main responsibility for maintenance of the property on to the tenant. Alternatively, leases can be drafted on an internal repairing and insuring basis (IRI). This typically means that landlords will administer the repair and maintenance of the property and recover the cost from the tenants. This is usually the case when a property is let to multiple tenants.
LEASE PERIOD	Average lease lengths in London are around 8 years for offices and around 5 years for retail. The Landlord and Tenant Act 1954 states that if a tenant occupies premises to run a business, the tenancy will not automatically come to an end upon expiry of the lease. Unless otherwise specified in the contract, the tenant has a right to remain on the premises and to be granted a new lease of up to a maximum of 15 years. If the landlord terminates the lease, in many cases the tenant is entitled to compensation, unless there has been a breach of the lease.
RENT REVIEWS	Leases are normally subject to upward-only rent reviews every 5 years, at which point rents are adjusted to open market rents. Index-linked rents and fixed rent increases are becoming more frequent in certain segments of the real estate market.
ALIENATION	There are two main types of alienation – sub lettings and assignments. Sub lettings create an interest in the property below the original tenant's lease. Assignments allow a tenant to replace themselves completely with another tenant. Tenants will usually be able to assign or sub-let their lease subject to the landlord's consent, which is not to be unreasonably withheld. The normal caveat to this is that the incoming tenant should have a financial strength at least as good as the existing tenant. The rent payable by assigned tenants will typically be guaranteed by the assignor.
TERMINATION	Leases are typically subject to a mutual break clause in the 5th year of the term, subject to 6 months' notice.
DILAPIDATIONS	When a lease expires the tenant is typically obliged to reinstate the premises to the condition it was in when the lease commenced.

Source Savills Research & Consultancy



a percentage of depreciation on certain qualifying expenditure and form a deduction from taxable profits.

In the context of a property investment business, capital allowances may be available for qualifying expenditure on plant and machinery. Plant and machinery is a term widely defined which requires that for allowances to be available, the plant and machinery must not form part of the property itself and must perform a function in the business. Allowances should be available where the capital expenditure is incurred for the purposes of a qualifying activity, the definition of which includes carrying on a property business. Where available, capital allowances for plant and machinery apply rates of 18% per annum for items of plant and machinery, and 6% per annum for items which are stipulated to be integral features.

Corporate taxation

Corporate tax is chargeable on the profits of a property business of a UK resident company, and this includes where the business generates income from property in the UK and from outside the UK. A property investment company that buys properties for the purpose of generating a rental yield will be taxed on this income, and as set out above, will also pay corporation tax where it makes a gain from the sale of one of its properties as a capital asset.

While a UK resident company will be charged corporation tax on income from both its UK property business and any overseas property business, companies resident outside the UK generating income from a UK property business are charged income tax at the rate of 17%. Tenants and agents making payments to non-resident landlords are required to withhold from rental payments and account to HMRC for the withheld tax amount. Non-resident landlords can apply to HMRC for clearance under the non-resident landlord scheme to receive rental payments gross.

Property rental income is exempted from the revised Controlled Foreign Company (CFC) regime introduced by the Finance Act 2012. The CFC regime taxes the undistributed profits of overseas companies which are subject to a lower level of taxation and which are controlled by UK persons.

From the First of April 2023 Corporation tax will rise from 19% to 25% as the main rate of corporation tax and the introduction of a 19% small profits rate of corporation tax for companies whose profits do not exceed £50,000.

Personal taxation

Tax rates are based upon the amount of income earned by an individual. For the tax year 2020-2021, the bands are as follow:

- Up to £12,500 – 0%
- £12,501 - £50,000 – 20%
- £50,001 - £150,000 – 40%
- Above £150,000 – 45%

We always advise individuals and corporations take specialist advice on their tax liabilities.

KEY LEGAL LEGISLATION

- Landlord & Tenant Act 1954
- Estate Agents Act 1979
- Arbitration act 1996
- Health & Safety Act 1974
- Town and Country Planning Act 1990
- Party Wall Act 1996
- Landlord & Tenant Act 1927
- Landlord & Tenant Act 1988
- Landlord & Tenant Act 1995
- Law of Property Act 1925
- Civil Procedure Rules 1998
- Consumer and Business Protection Regulations
- Land Registration Act 2002
- Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017
- Data Protection Act 2018 (Enacting the EU General Data Protection Regulations)



US

The US is a developed country and has the world's largest national economy, with a GDP of US\$20.9 trillion in 2020, which contributed to an estimated 25% of global nominal GDP. The economy is fueled by an abundance of natural resources, various diversified industry and the world's highest worker productivity, with the fifth highest GDP per capita in the world in 2020. While the US economy is considered post-industrial, it continues to be one of the world's largest manufacturers.

The country accounts for 41% of global military spending, being the world's foremost economic and military power, a prominent political and cultural force, and a leader in scientific research and technological innovation.

TYPES OF PROPERTY OWNERSHIP

There are three types of property ownership in the US:

- **Freehold estate ownership:** includes fee simple (the most common), life estate (an estate limited to the duration of a person's life) and tail estate (estate of inheritance). Fee simple is the most common and complete form of property ownership and has an unlimited duration.
- **Leasehold estate ownership:** the temporary right to occupy or use the land for a fixed period of time, which may be measured in decades or centuries.
- **Non-possessory interest** (i.e. an easement or restrictive covenants) is the right to use or restrict the use or another person's land.

OVERSEAS OWNERSHIP RESTRICTIONS

There are no restrictions on non-residents owning property in the US.

MEASUREMENT OF AREAS

The generally accepted standard for measuring office space in most cities is per the Building Owners and Managers Association International's Standard Method for Measuring Area in Office Buildings. It is accepted and approved by the American National Standards Institute.

- **Rentable sq ft:** in the lease, the landlord quotes the tenant's space on a rentable sq ft basis which equals the useable sq ft plus the tenant's pro-rata share of the building's common areas, such as lobbies, public corridors and washrooms.
- **Useable sq ft:** the area contained within the walls of the tenant's space.

In New York City, Connecticut and New Jersey, the Real Estate Board of New York measurement standard is used.

- **Net useable sq ft:** the actual space within the walls of the premises. Vertical penetrations, such as lift shafts, are deducted from useable area but common areas and mechanical rooms are included, and there are no deductions made for necessary columns and projections of the building.
- **Loss factor:** the percentage difference between the useable area and the rentable area.

$\text{Loss Factor} = (\text{Rentable Area} - \text{Useable Area}) \div \text{Rentable Area}$

- **Add-on/load area:** the tenant's proportionate share of common areas. It is a percentage that describes the difference between the rentable and useable sq ft for the building.

$\text{Add-on or Load Factor} = (\text{Loss Factor} \times \text{Rentable Area}) \div \text{Useable Area}$

Typical lease terms are laid out in Table 64.

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KEY STATISTICS

Official name	United States of America
Currency	US dollar
Population	332 million (2021)
Land area	9.8 million sq km (2018)
GDP per capita	US\$63,015 (2020)
GDP growth	4.0% (2020)
Principal business centres	New York City, Los Angeles, Chicago, Washington DC, Atlanta, Houston, Dallas, Seattle, Boston, San Francisco, Philadelphia

Source US Census, World Bank, Bureau of Economic Analysis

TABLE 64 Lease Terms

LEASE PERIOD	Typical lease terms are 3, 5, and 10 years. Larger tenants can negotiate lease terms up to 15 years with options to renew at market rent. It is not uncommon to see lease terms of 20 years and above for sale-leaseback transactions in suburban markets.
RENT REVIEWS	None, but leases often call for an increase in base rent based on a fixed percentage, US dollar amount or percentage of the change in CPI.
SUB LETTING/ ASSIGN	Yes, but often with landlord approval.
TERMINATION	Usually prohibited, though termination/break clauses can be included in a lease or early termination can be negotiated but subject to a termination fee.
REPAIRS	Unless it is a triple net lease, the exterior and common areas of the building are the landlord's responsibility. Tenants are responsible for repairs within their space.
STATUTORY RENEWAL RIGHT	Does not exist, but leases typically include a clause permitting the tenant to extend the lease for one or more fixed periods that typically range between three and ten years. Stature protects tenants from unlawful eviction.
REINSTATEMENT	Tenants are expected to reinstate a building to its original condition although allowances are made for fair wear and tear.

Source Savills Research & Consultancy

TRANSACTION COSTS**Brokerage/agency fees**

The broker's fee is usually linked to the size or complexity of the transaction. Fees can be a set US dollar amount or a percentage of the US dollar value of the transaction being negotiated. Further guidance on fees can be provided on request.

Security deposit

Negotiable but typically ranges between 2% and 10% depending on market practice/demand.

Legal costs

Each party typically carries their own costs (unless otherwise stated in the legal contract).

LEASING**Rents**

In most markets, rent is quoted in US dollars per sq ft per year, but in California, rent is quoted in US dollars per sq ft per month. In a full service gross lease, the landlord is responsible for operating costs but the tenant pays their proportionate share. In a triple net lease, the tenant is responsible for all operating costs.

Base year

In a full service gross lease, the base year is the first year under the lease term. The landlord pays the operating costs in the first year, and in the following years the tenant reimburses the landlord for a pro-rata share of increased operating expenses over a base year. It is utilised in multi-tenant buildings to determine the base cost for operating expenses for the space. A base year is typically calculated on a calendar year or the first 12 months of the tenant's occupancy.

Operating expenses

Tenant costs often include repairs and maintenance, insurance, management fees, supplies, utilities, property tax, and so on. For utilities, tenants either pay their proportionate

share or their space is metered and they pay the utility company directly. Property tax is the landlord's responsibility but tenants pay their proportional share. The following are not operating expenses: principal and interest, capital expenditures, depreciation, income taxes, and amortisation of loan points.

Rent adjustments

Landlords often negotiate fixed rent adjustments (also known as rent bumps) either annually or at fixed intervals (i.e. years three and five or annual) or as a percentage of CPI.

Concessions

Depending upon market conditions, landlords may offer free rent and/or tenant improvement allowances as a concession. Other concessions may include signage or reduced rent for a fixed period of time.

Renewal options

Tenants do not have a statutory right to renew but landlords often negotiate a renewal option when the lease term ends at market rent.

Option to expand

It is common to negotiate an option to expand.

TAX LEGISLATION

Tax legislation in the US is complicated. In addition to standard taxes raised on all investors, there are several unique rules applicable to overseas companies and non-residents that own real estate in the US. There are certain investment structures that potentially provide significant reductions in overall taxes, as well as treaties that typically reduce tax rates on certain types of investment income, such as dividends and interest. Below is a summary of the main tax considerations.

Transfer tax

Each state typically imposes a tax when the transfer of a controlling interest in an equity that owns property occurs. The tax rate varies from state to state and guidance for different states can be provided on request.

Mortgage recording tax and recording fees

Mortgage recording taxes exist in some states (most notably New York at around 2.8% on new debt over US\$500,000) which are covered by the buyer. Mortgage and deed recording fees exist in most states, with fees for recording deeds and new mortgages paid by the buyer, and document recording fees (including removing encumbrances) paid by the seller.

Property tax

Property taxes are charged periodically (typically annually, biannually, or quarterly) on property owners by the local municipality in order to cover the cost of providing local services, such as street cleaning, administration, and policing. There are no national laws regarding property taxes, and tax rates vary by state and sometimes by local jurisdiction.

Income tax

Income tax is charged on non-resident investors in a similar manner to that of a US citizen. For property investors, income tax is charged on the net operating income after all expenses and operating costs have been deducted. The maximum rate is 37%. However, non-resident investors are also allowed to depreciate the cost of their US rental real estate and other fixed assets used in the US business for US income tax purposes.

Capital gains tax (CGT)

Gains from the sale of a property by a non-resident investor qualify as capital gains, with rates typically varying between 15% and 20% for individuals.

Foreign partners will be subject to United States net income tax on gains to the extent that the partner or member would have been subject to tax had the partnership sold all of its assets at fair market value as of the date of the sale or exchange. The new tax law further requires the acquirer of the partnership interest to withhold 10 percent of the amount realized on the sale unless the selling partner certifies that it is not a nonresident alien individual or foreign corporation. If the acquirer fails to withhold the correct amount, the partnership will be required to deduct and withhold from distributions to the acquirer partner an amount equal to the amount the acquirer failed to withhold.



Withholding tax and treaties

There are withholding taxes on interest income (potentially subjected to a 30% withholding tax for a non-treaty investor). Investors from countries with more favourable treaties may be able to reduce or eliminate the 30% tax.

In most cases, the sale of a non-resident's interest in a US property is subject to the Foreign Investment in Real Property Tax Act (FIRPTA) of 1980 income tax withholding charge. This is typically an additional 10% on the amount realised upon disposition of the US real property. However, advanced tax structuring can considerably reduce or eliminate FIRPTA liability.

Double tax treaties exist with the following countries (partial list): Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Hungary, India, Indonesia, Ireland, Israel, Italy, Japan, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Pakistan, Poland, Portugal, PRC, Russia, South Africa, South Korea, Spain, Sweden, Switzerland, Thailand, Turkey, UK, Ukraine.

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