



RUSSIA – October 2019

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REAL ESTATE OWNERSHIP ISSUES IN RUSSIA1

Real estate ownership issues in Russia

i Planning

Planning and zoning in general are regulated by the Land Code and the Urban Planning Code, although the more technical aspects are set forth in regional and municipal legislation.

The Land Code and the Urban Planning Code operate with two main terms related to planning and zoning: the land category of the land plot; and the permitted use of the land plot. These terms determine how a particular land plot may be used.

There are seven land categories that attribute a land plot for certain general use (e.g., agricultural land, industrial land, urban land). Permitted use of the land plot is assigned to a particular land plot in accordance with zoning plans approved at each level, starting from the general zoning plan of Russia and ending with a zoning plan of a particular land plot. In comparison with the land category, the permitted use of the land plot is much more specific and determines what kind of building, structure or fixture may be erected on the land plot, or what activity may be conducted on the land plot (e.g., whether a land plot may be used for growing crops or for the development of a trade centre).

If a land category or permitted use (or both) prohibit a party from developing the relevant land plot, such a party must apply to the relevant authorities for a change of land category or permitted use; otherwise, the party will not be granted the appropriate construction permit.

ii Environment

As the contamination or misuse of real property is a matter of public concern, the relevant authority may conduct an inspection of the property and issue a clean-up order to the party responsible for the contamination or misuse. Normally, the liable party would be an owner or a tenant. Russian law also provides that if the owner of the land plot uses it in gross violation of its permitted use, the state authorities may confiscate the land plot (with compensation of its value to the owner).

The party responsible for contamination or misuse may also be subject to civil liability for damages caused to third parties.

iii Property tax

As a general rule, Russian companies are liable to pay property tax on the average annual net book value (cadastre value for trade and business centres and non-residential premises) of the fixed assets on their balance sheet.

However, movable fixed assets acquired after 1 January 2013 (other than those acquired from related parties or in the course of liquidation or reorganisation) are exempt from property tax. This narrows the application of this tax to immovable fixed assets and movable fixed assets acquired before 1 January 2013.

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Starting from 1 January 2019, the property tax on movable fixed assets has been abolished. Immovable property (other than land) will remain subject to property tax.

Land is exempt from property tax and may be subject to a separate land tax.

The standard property tax rate is 2.2 per cent; special rates apply to property taxable on its cadastre value. Regional authorities may reduce the tax rate or, in some cases, provide a full exemption for all or certain categories of taxpayers, or based on the type of property.

iv Land tax

Land tax is payable by landowners at a rate determined by the municipal authorities. Land tax is assessed on the cadastre value of the land, which used to be substantially lower than its actual market value; however, recently this difference has decreased or even been eliminated, and in some cases the cadastre value may even exceed the market value of the land, thus giving grounds for numerous disputes with the authorities.

Land tax rates may not exceed 0.3 per cent of the cadastre value of agricultural and residential land. With respect to other land plots, the maximum rate is 1.5 per cent of the cadastre value.

The Russian Tax Code permits municipal authorities to establish tax incentives for certain categories of taxpayers.

Businesses leasing land are not subject to land tax. Instead, they are liable for the land lease payments established by federal, regional or local authorities, or other landowners.

v Finance and security

Usually, financing for the acquisition or development of real property is provided by banks. The most common security in relation to real property is a mortgage, which may be established over real property, lease rights and certain rights to property that are at present primarily reserved for state institutions.

A mortgage as an encumbrance becomes effective upon its state registration and, in the absence of such a registration, is considered to be null and void. The parties may enforce a mortgage without recourse to the courts (unless a limited number of exceptions apply).

The enforcement options for mortgagees include a public sale and taking possession of the secured asset (this option is not available if the mortgage is granted by an individual).

Where a land plot is mortgaged, all buildings and structures erected or to be erected on the land plot and owned by the mortgagor will be mortgaged by operation of law in favour of the mortgagee. Similarly, if a building or structure is mortgaged, the underlying land plot (if owned by the mortgagor) will be automatically mortgaged by operation of law in favour of the mortgagee.

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