1. Who can buy freehold real estate?

Pursuant to Law No. 7 of 2006 concerning real property Registration in Dubai and Regulation No. 3 of 2006 specify areas where non-locals can own property in Dubai. Foreign persons may be granted the following rights on properties situated in designated freehold areas in Dubai:

- The right to freehold ownership without time restrictions.
- The usufruct right or leasehold right for a period not exceeding 99 years.

Despite the fact that the law fails to define the term “foreign persons”, the Dubai Land Department (“DLD”) initially interpreted this term loosely in its practice, accepting:

- Corporate entities – onshore and offshore companies.
- Individuals – whether residents or non-residents.

For more information on the designated areas where non-locals can own real estate in Dubai, please contact our team.

2. Why structuring UAE real estate makes sense?

For many reasons, but principally for succession planning and local probate avoidance purposes. A local probate – i.e. the legal process that takes place after someone’s death – will take place in the event that the deceased directly holds assets in the UAE or, irrespective of the location of the assets, if he passed away in the jurisdiction.

The UAE succession law provisions – as contained in the Personal Affairs Law, a codification of Islamic Sharia principles – will automatically apply to Muslims. The same provisions will apply to non-Muslims unless one (i) formally opts for its national succession law through the execution of a notarial will or (ii) registers a will with the DIFC Wills and Probate Registry. In this respect, please refer to our fact sheet “DLD Registration by DIFC Companies”, whereby the DLD has approved in May 2017 the direct ownership of real estate in Dubai by DIFC foundations, Real Estate Investment Trusts (REIT’s) and Real Estate Funds.

3. Why to use a JAFZA offshore company to own real estate in the UAE?

Since January 2012, JAFZA offshore companies are the only offshore structures permitted by the DLD to directly own real estate in Dubai – within the designated areas, as specified from time to time – and be issued a title deed. No foreign company can be registered anymore as holder of a title deed over Dubai real estate. Other types of local offshore companies are assimilated to foreign companies and similarly restricted. The issuance of a title deed to UAE Free Zone entities is entertained by the DLD on a case by case basis. A JAFZA offshore company directly owning real estate in Dubai may be held by a foreign offshore company.

4. Why use a foreign offshore company to own JAFZA offshore company?

A JAFZA Offshore entity fully owned by an individual is entitled to acquire a property in Dubai subject to JAFZA’s pre-approval. The latter is a formality in practice. If an individual directly holds shares in a JAFZA offshore company, such shares – as movable assets – will be included in a local probate and will be subject to UAE succession law unless a will is in place. If these shares are held by a foreign offshore company, all direct ownership links with the UAE are removed and such shares will in principle not be part of the local probate procedure.

A JAFZA Offshore entity held by a foreign offshore company is entitled to acquire a property in Dubai subject to DLD and JAFZA’s approval. Obtaining JAFZA’s approval is a formality in practice.

The DLD’s approval, on the other hand, is subject the applicant evidencing at DLD’s satisfaction the identity of the ultimate beneficial owner of the foreign company. Decisions of the DLD are discretionary by nature and entertained on a case by case basis; negative decisions cannot be appealed.

5. Is the proposed structure compatible with more complex succession planning steps?

Absolutely. E.g. the shares in the foreign offshore vehicle holding the JAFZA offshore company may be settled onto a trust or transferred a foundation upon completion of the transaction and issuance of the title deed. In this respect, we refer to our fact sheet “DLD Registration by DIFC Companies”, whereby the DLD has approved in May 2017 the direct ownership of real estate in Dubai by DIFC foundations, Real Estate Investment Trusts (REIT’s) and Real Estate Funds.

6. Which foreign offshore company is appropriate to own a JAFZA offshore company?

Shares in a JAFZA offshore company may be held by any corporate vehicle registered in a reputable offshore jurisdiction outside the UAE, e.g. British Virgin Islands, Jersey, Cayman Islands, Samoa, etc. Commonwealth jurisdictions allow for simplified legalization procedures and thus, cost savings. Samoa offers unique succession planning advantages: the Samoa Default Succession Company allows the inclusion in the Mem & Arts of specific provisions that cause a designated membership interest to automatically vest in a specified person upon the happening of a specified event, e.g. the death of a shareholder.

7. Is there any real estate transfer tax in the UAE?

A transfer fee of 4% of the market value of the property is levied at the local level on any registration or transfer thereof, except when the transfer occurs from one/several individual(s) to a corporate structure held by that same individual(s) with the same share percentage, or vice-versa. As, in this case, a special fee of 0.125% may be applicable at the discretion of the DLD. A 4% fee will also be levied in case of transfer of shares in the JAFZA company or in the foreign offshore company. In such case, the 4% fee will be calculated on the share percentage being transferred in the relevant company.
Who we are

M/HQ is a multi-service platform catering to a broad spectrum of clients, whether individual entrepreneurs, family run SMEs or multinational corporations. Our one stop shop offering is unique in the Middle East: a combination of the versatile capabilities of a market-leading fiduciary platform with a law firm’s specialist expertise.

We have a broad expertise in structuring domestic and foreign real estate ownership and advising on related legacy planning/asset protection issues. We are routinely assisting clients with real estate conveyancing – especially involving complex corporate structures – and tenancy related matters.

Headquartered in the UAE, we are an entrepreneurial firm for entrepreneurial clients.

Who will assist you

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