



## **ISSUES IN OWNERSHIP OF REAL ESTATE**

### **KUWAIT**

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#### **1. Is perpetual free simple ownership of real property permitted? If not, what are the principal forms of ownership, or other principal form of ownership, of real property?**

The right of perpetual free simple ownership of real property is confined to Kuwaitis. Arab and foreign countries are permitted to possess real estates allocated for the location of their diplomatic missions, and residence of the ambassador and members of such mission provided a decree must be issued in this regard. Further, any Arab citizen, holding the nationality of an Arab state, may acquire the ownership of only one estate in Kuwait in any of the residential areas, if a decree is issued by the Council of Ministers giving him this right upon fulfilling certain conditions prescribed by law or any other conditions stipulated by the Council of Ministers.

Commercial companies wherein non-Kuwaiti partners participate are prohibited from acquisition of estates. However, the joint stock companies wherein non-Kuwaiti partners participate, and are not involved in the real estate investment, may acquire the estate required for the management thereof or for the achievement of its purposes, if a decree is issued, granting such right and provided certain conditions stipulated by the law shall be observed.

**2. What instruments are used to convey free simple ownership, or other principal form of ownership, of real estate?**

An Official Instrument is used to convey ownership of the real estate. The parties are required to execute the official instrument for transfer of ownership before a Notary Public at the Ministry of Justice.

**3. How in this jurisdiction is the ownership of real property recorded or searched? Who generally performs the search?**

The seller and buyer or the authorized representatives of the buyer/seller may apply to the Ministry of Justice in the prescribed form in order to conduct a title search and the Ministry will issue an official report of the details of the real property within three to four working days from the date of the application.

In order to register the real estate, an application has to be presented to the real estate registration office, in the area where the estate is located. The application must be attached with the supporting documents thereto, including the title deed, a copy of the agreement between the buyer and seller as entered in the records of the intermediary (broker's book) or the affidavit signed by the buyer and the seller according to the form prepared by the Ministry of Justice if the deal is completed without an intermediary.

**4. What assurances of ownership are available to purchasers of real property (e.g., title insurance or title opinions)? What is the cost of obtaining such assurances?**

The official instrument executed and authenticated before the Ministry of Justice is the official record proving the buyers right of ownership of the real estate. Any transactions including mortgage/pledge associated with the real property shall be recorded in the official instrument. Please refer to point 7 below for the details of the registration fees to be paid for obtaining the official instrument.

**5. What are the most common forms of investment vehicles? What are the most common entities employed to own investment real estate in a tax efficient manner?**

There is no income tax or real estate tax for Kuwaiti companies or individuals in Kuwait. The most common forms of real estate investment vehicles are Limited Liability Companies and Shareholding Companies.

**6. Has this jurisdiction adopted, or is it considering, legislation permitting the creation of real estate investment trusts or similar entities?**

There are many charitable trusts and Public Authorities that own and invest in real estate such as the Public Institution for Social Security formed by the Ameri Decree under Law No.61 of 1976, the Social Security Law.

**7. What state or local transfer, stamp or similar taxes are levied generally on sellers or buyers upon the direct transfer of real estate?**

Registration fees as prescribed under the law shall be imposed by the Real Estate Registration Department upon the buyer of the real estate. In case of sale of property together with all rights associated therein, the registration fee prescribed is ½% of the estate value. In case of sale of property without the usufructory right in the property, the registration fee prescribed is ¼% of the estate value. In case of the sale of usufructory right in the property, the registration fee prescribed is ¼% of the estate value. Certain exceptions are provided under the law with regard to registration of real estate held by charitable trusts.

**8. What state or local transfer, stamp or similar taxes are levied generally on sellers or buyers upon the transfer of interests in entities which own real estate?**

No taxes or charges are levied upon the seller or buyer upon the transfer of interests in entities which own real estate.

**9. How significant is local regulation and taxation of real estate? How significant is the variation of real estate law among political subdivisions of this jurisdiction?**

There is no real estate taxation in Kuwait. Further, there are no political subdivisions in terms of real estate law in Kuwait.

**10. Must ultimate beneficial owners of entities which own real estate be disclosed as a matter of public record?**

No.