



## ISSUES IN OWNERSHIP OF REAL ESTATE

### LITHUANIA

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

Lithuanian law recognizes absolute ownership of real estate as well as any other types of property. This is an everlasting right, which can be restricted only upon the will of the owner, by virtue of law or based on the decision of a competent court.

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

The most common instruments used to convey the ownership of real estate in Lithuania is a sale and purchase agreement. Other less usual ways/ instruments used for transfer of the title to real estate are: exchange agreement, donation agreement, transfer of real estate as a non-pecuniary contribution into the share capital of a company, etc. The title to real estate passes over as of the moment of its transfer, which has to be documented by a transfer-acceptance deed to be executed by the parties in addition to the main agreement (sale and purchase, exchange agreement, etc.). Upon agreement of the parties the agreement itself may serve as a transfer-acceptance deed (in the latter case no separate transfer-acceptance deed has to be executed).

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

With certain minor exceptions, any types of real estate, the ownership of real estate, rights *in rem*, such as mortgage, servitude, usufruct, etc., as well as legal facts, e.g. attachments, lawsuits, transactions related to real estate or restriction of rights thereto, are registered with the Real Estate Register (a public register administered by the State Enterprise Centre of Registers under the auspices of the Ministry of Justice). Only legally registered real estate may be sold or otherwise disposed of.

Apart from certain limitations, all data of the Real Estate Register are available to the public. Any person, upon payment of a set fee, may obtain information on the legal status (including present and former owners, registered tenants and encumbrances, etc.) of any real estate registered with the Real Estate Register.

**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?**

A special form of a transaction certificate issued by the Centre of Registers is deemed the main assurance of ownership to a purchaser of real property. Such certificate is issued only at request of a notary public and is produced in his offices. This results from the fact that any transaction concerning the transfer of the ownership or other rights *in rem* to real property, also transactions related to restriction of rights *in rem* to real property (e.g. mortgage, usufruct, etc.) should be certified by a notary public (otherwise it will be void).

The certificate in question reflects the factual data on the owner(s) of real property that is subject to transaction, and thus serves as the assurance to the purchaser or other party to the transaction involving real property that, at the moment of transaction, a person indicated in the certificate is a true owner of the property to be acquired or otherwise disposed of. The real estate transaction for the purpose whereof the certificate was issued can be certified only by the notary (notaries) public in whose office the certificate was produced. The certificate is valid for 30 calendar days.

The fees for obtaining the transaction certificate are minor. They are determined by the Centre of Registers in association with the Chamber of Notaries.

**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?**

The most preferable forms of entities are – in the most frequent cases – a private company (in Lithuanian *uždaroji akcinė bendrovė* or *UAB*), or – in more rare cases – a public company (in Lithuanian *akcinė bendrovė* or *AB*) as they provide investors with the largest range of advantages (including taxation aspects), if compared to other types of business entities. An absolute majority of real estate investors choose a private company (*UAB*) for their business purposes in Lithuania.

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

Lithuanian legislation does not permit creation of real estate investment trusts or similar entities.

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

Depending on the case a real estate transaction may involve the following taxes:

- 1) Corporate or personal income tax is imposed on the capital gains from the sale of real estate or interests in entities that own real estate. Its standard rate is 15%, however, the 13% rate of the corporate income tax or 27% personal income tax, as well as full exemption from these taxes may also be applied in particular cases. Capital gains of a foreign entity from sale of real estate are subject to a withholding tax at a rate of 10%.
- 2) Value added tax (VAT) of 18% is applied only to sale of new buildings (built not later than 24 months ago) and land plots together with new buildings, or land plots developed for construction of new buildings.
- 3) Notary fee charged for certification of a real estate sale and purchase agreement. It amounts to 0.45% or 0.5% of the value of the transaction, i.e. the price of the real estate agreed by the parties to the agreement. However, in all case the established ceiling of this fee cannot be exceeded irrespective of the type and value of a transaction.
- 4) Registration fee is applied for legal registration of the ownership of real estate with the Real Estate Register. It mainly depends on the type and average market value of real estate purchased. The average market value of real estate used for calculation of the fee in question is established by a competent authority and it is usually considerably lower than the actual market value determined by independent property valuers.

**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?**

Capital gains received by a foreign entity (otherwise than through its Lithuanian permanent establishment) or a non-tax resident of Lithuania from sale of securities is not subject to taxation in Lithuania. For taxation of Lithuanian entities and tax residents please see the preceding answer.

**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?**

All taxes pertaining to possession and use of real estate – real estate tax, land tax and the State-owned land lease tax – are paid to the budgets of local municipalities where the property is located.

The annual rate of the real estate tax is set every year by the local municipalities in the range of 0.3%-1% of the taxable value of the real estate.

The annual rate of the land tax is 1.5% of the taxable value of the land, while the annual rate of the State-owned land lease tax varies from 1.5% to 4%. The particular rate of the latter is established by the municipalities where the land plot is located.

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

The ultimate owner of entities which owns real estate is disclosed as a matter of public record in the Register of Legal Persons only when such entities are owned by a sole shareholder.