**CAN FOREIGN-INVESTED ENTERPRISES USE LAND IN VIETNAM?**

According to the provisions of the law on land, Enterprises with foreign investment capital comprising enterprises with 100% foreign-owned capital, joint venture enterprises, and Vietnamese enterprises in which a foreign investor purchases shares or merges and acquires under the law on investment (Article 3.7 Law on Land 2013)

Foreign-invested enterprises can use land in Vietnam in the following ways:

1. **Through the form of land allocation by the State**

Foreign-invested enterprises may be allocated land by the State through the following forms:

* Allocation of land with collection of land use fees to implement investment projects for construction of residential housing for purposes of sale or sale in association with leasing out ( Article 55.3 Law on Land 2013)
* Foreign-invested enterprises may lease land from the State without collection of land use fees where land is used for construction of underground facilities, not for business purposes (Article 57.2 of Decree No. 43/2014/ND-CP of the Government)
1. **Through the form of the land lease by the State**

The State allows foreign-invested enterprises to lease land with collection of annual land rent or a one-off payment of rent for the entire lease term to:

* Implement investment projects in agricultural production, forestry, aquaculture, or salt production; land for non-agricultural business and production; land for construction of community (public utility) buildings for business purposes; and land to implement investment projects for residential housing to lease out ( Article 56.1.[d] Law on Land 2013);
* Using land for construction of works of professional institutions (Article 56.1.[e] Law on Land 2013); or
* Renting law for construction of underground facilities for business purposes (Article 57.1 of Decree No. 43/2014/ND-CP of the Government).
1. **Through some form of indirection**
* Receiving transfer of investment capital being the value of land use right from enterprises currently using land allocated by the State with the collection of land use fees, or leased from the State with the rent paid in a one-off payment for the entire lease term where the value of land use right has been capitalized into the enterprises’ capital, except for the case of transfer of investment capital being the value of agricultural production land or forestry land (Article 39.1 of Decree No. 43/2014/ND-CP);
* Receiving transfer of land use rights via receipt of capital contribution using land use rights according to Article 169.1.[e] Law on Land 2013 (applicable only when the foreign-invested enterprise is a joint-venture enterprise); or

* Leasing or sub-leasing land in industrial zones, industrial complexes, export processing zones, high-tech zones, and economic zones (Article 185.2 Law on Land 2013).

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