**FOREIGN ORGANIZATIONS AND INDIVIDUAL OWNERSHIP AND BUSINESS OF REAL ESTATE IN VIETNAM**

## I. ****Foreigners and foreign organizations according to Vietnamese law:****

**Foreign individuals:** According to the provisions of Clause 5, Article 3 of the Law on Nationality, Foreigner residing in Vietnam is defined as foreign nationals and stateless persons who permanently or temporarily reside in Vietnam. According to this regulation, it can be understood that foreign individuals are understood to include two groups: **(1) Foreign nationals; (2) Stateless person.**

**Foreign nationals** are persons who holds the nationality of another country other than the Vietnamese nationality.

**Stateless person** is a person who has neither Vietnamese nationality nor foreign nationality.

**Foreign organizations**: According to the provisions of the Law on Enterprise, any organization that is established overseas under another country’s law. Organizations can be classified into two groups: economic organizations and other non-economic organizations.

**Foreign-invested business organization:** an organization whose members or shareholders are foreign investors.

**Economic organizations under the Law on Investment include:** enterprises, cooperatives, unions of cooperatives and other organizations conducting business investment activities.

## ****II. Types of immovable property that foreigners and foreign organizations are allowed to own and use in Vietnam:****

Vietnamese law has separate regulations for each type of immovable property that individuals and organizations are entitled to use, own and do business in Vietnam in general and foreigners, foreign organizations in particular.

**What is immoveable property**: Immovable property is one of the property categories under Vietnamese law. According to the provisions of Article 107 of the Civil Code, immovable property includes 04 groups: **(1) Land; (2) houses and construction works attached to land; (3) Other properties attached to land, houses and constructions; (4) Other property as prescribed by law.**

**1. Land:** Article 53 of the Constitution stipulates that land is a public property, owned by all the people, and represented and uniformly managed by the State. The Land Law 2003 provides more specific provisions on the rights of ownership of all the people of as follows: **Land belongs to the entire people with the State acting as the owner’s representative and uniformly managing land. The State shall grant land use rights to land users in accordance with this Law.**

Therefore, it is affirmed that according to the provisions of Vietnamese law, land does not belong to the private ownership of individuals, organizations **(i.e. individuals and organizations do not have the right to own land)** but belongs to all the people, and represented and uniformly managed by the State. The State grants land use rights to land users for use in accordance with the provisions of the Land Law. The State grants land use rights to individuals and organizations using land through decisions on land allocation or land lease.

According to regulations, foreigners and foreign organizations have the rights to land for use and business purposes with appropriate purposes as prescribed through forms as following:

* Lease of land from the State and paying land rental;
* Receive land allocation and pay land use levy (for housing project);
* Land lease or sub-lease from organizations or individuals;
* Receive transfer of projects associated with land use rights.

**2. Houses and construction works attached to land**

**2.1 Housing:** any building in which households or individuals live

According to Article 159 of the Law on Housing, foreign organizations and foreigners eligible for the homeownership in Vietnam include:

* Foreign entities who invest in project-based housing construction in Vietnam as prescribed in this Law and corresponding regulations of law;
* Foreign-invested enterprises, branches, representative offices of foreign enterprises, foreign-invested funds and branches of foreign banks operating in Vietnam (hereinafter referred to as foreign organization);
* Foreign individuals who are allowed to enter Vietnam;
* Therefore, foreigners and foreign organizations in the above cases are entitled to own houses in Vietnam.

**2.2** **Constructions other than land-attached houses:** if a foreigner or foreign organization has lawful land use rights, the construction is legally built and established on the land then ownership shall be recognized by the State. Foreigners or foreign organizations have ownership rights to that legal construction.

**3. Other land-attached assets, houses, constructions and Other properties as prescribed by law:** other properties attached to houses and constructions legally built and established is owned by foreigners and foreign organizations.

## III. ****Conditions under which foreigners and foreign organizations conduct real estate business in Vietnam****

**1. Conditions for real estate business of foreigners and foreign organizations (foreign investors):**

* Being an investor from a WTO member country or a country that has a free trade agreement with Vietnam without restriction from trading in real estate (general provisions);
* Must establish an enterprise in Vietnam with real estate business and real estate service business in accordance with business objectives and purposes. Real estate services that foreign-invested enterprises are allowed to do business in include: real estate brokerage, real estate trading floor, real estate consulting, real estate management.
* Prohibiting transfer land use rights in the form of **“selling alloted land”**;
* Prohibiting buying houses, constructions for sublease.

**2. Conditions for real estate to be put into business:**

**2.1 Houses, constructions put into business must fully meet the following conditions:**

* Having registered ownership of houses and construction works attached to land in the certificate of land use right. For existing houses and construction works in real estate investment and business projects, only a certificate of land use rights is required in accordance with the provisions of the law on land;
* There is no dispute over land use rights, ownership of houses and construction works attached to the land;
* Not being distrained to ensure judgment enforcement.

**2.2 Types of land permitted to trade in land use rights must fully satisfy the following conditions:**

* Having a certificate of land use rights in accordance with the law on land;
* No dispute over land use rights;
* Land use rights are not distrained to secure judgment enforcement;
* During the land use period.

## IV. ****Scope of foreign individuals and organizations to conduct real estate business in Vietnam****

As mentioned above, foreign organizations and individuals doing real estate business must establish a business and have a business line suitable to the intended business purpose. In addition, foreign-invested enterprises established by foreigners or foreign organizations have the scope of real estate business activities within the following limits:

* Leasing houses and constructions for sublease;
* For land leased by the State, it is allowed to invest in the construction of houses for lease; invest in the construction of houses and constructions other than houses for sale, lease, or lease-purchase;
* For land leased from organizations, households and individuals, they may invest in building houses and constructions for lease according to the right land use purposes;
* Receive transfer of the whole or part of real estate project of the investor to build houses, construction works for sale, lease, lease purchase.
* For land allocated by the State, it is allowed to invest in building houses for sale, lease, or lease-purchase.

**Some additional notes on house ownership rights of foreigner and foreign organizations:**

* Foreign individuals, organizations, foreign-invested enterprises may not receive direct transfer of land use rights in Vietnam (Article 169.1 of Land Law 2013);
* Foreigners, foreign-invested enterprises, branches, representative offices of foreign enterprises, foreign investment funds and branches of foreign banks operating in Vietnam but not in the school. Investment in housing construction under projects is allowed to own houses in investment projects to build commercial houses in Vietnam, except for areas ensuring national defense and security as prescribed by Vietnamese law. But these entities will be limited in term of ownership and number of houses owned in the project;
* For foreigners, they are allowed to use and exercise the same rights as the Vietnamese individual owners or lease them to others for the right purposes permitted by law;
* For foreign-invested enterprises, branches, representative offices of foreign enterprises, foreign investment funds and foreign bank branches currently operating in Vietnam, only residential houses may be used. to arrange for people who are working at that organization to stay, not to use the house for rent, office or other purposes.