

How to structure your ownership of real estate property in Dubai?

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Law No. 7 of 2006 concerning Real Property Registration in the Emirate of Dubai ("Property Law") governs property ownership by individuals and companies in the Emirate of Dubai. Article 4 of the Property Law, which is the key provision on property ownership, states:

"The right to own real property in the emirate will be restricted to UAE nationals, nationals of the Gulf Cooperation member states and to companies fully owned by these, and to public joint stock companies. Subject to the approval of the Ruler, non -UAE persons may, in certain areas determined by the Ruler, be granted the following rights:

- Freehold ownership of real property without time restrictions; and
- Usufruct or leasehold over real property for a period not exceeding ninety-nine (99) years."

This Article will discuss the current legal position of real property ownership in the Emirate of Dubai as regulated by Article 4 of the Property Law and, based on our experience in registering property transfers, the current policy of the Dubai Land Department ("DLD").

It is important to note that the DLD's policy has not been formally published and is subject to change from time to time. Specific legal guidance on a proposed ownership structure should be sought prior to entering into any property transaction.

Ownership by UAE and other GCC nationals and companies

United Arab Emirates ("UAE") and Gulf Cooperation Council ("GCC") nationals and companies incorporated in the UAE (excluding the free zones) that are wholly owned by UAE or GCC nationals have the right to own any property interest in real property located in any area in the Emirate of Dubai pursuant to Article 4 of the Property Law. This includes limited liability companies and private joint stock companies in which all the shareholders are UAE or GCC nationals.

If a company incorporated in the UAE has non-UAE or GCC shareholders, it will not be considered a UAE or GCC national for the purposes of Article 4 of the Property Law. The only exception to this rule is public joint stock companies that are listed in Dubai. Although these companies allow their shares to be bought by non-UAE or GCC nationals, they are still considered to be UAE nationals for the purposes of Article 4 of the Property Law.

Ownership by other nationals and companies

Article 4 of the Property Law allows non-UAE or GCC nationals and companies to own freehold title, a long lease or a usufruct right up to 99 years in the areas in Dubai that have been designated for foreign ownership under regulations issued by the Ruler of Dubai ("Designated Areas").

On a strict interpretation of Article 4 of the Property Law, all non-UAE or GCC nationals or companies are granted the right to own a freehold interest, a right of usufruct or a long lease of up to 99 years in real property in Designated Areas. However, the DLD's current policy imposes restrictions on the types of non-UAE or GCC companies that can own property. A summary of the current restrictions on property

ownership is as follows:

Offshore companies

Presently, the only types of offshore companies that DLD permits to own property in Designated Areas are offshore companies incorporated in the Jebel Ali Free Zone or the Dubai Multi Commodities Centre Free Zone. Thus, offshore companies set up in other jurisdictions such as the Cayman Islands or the British Virgin Islands are currently not allowed to own property in Dubai.

Offshore companies that owned property in Designated Areas before the DLD's policy came into force are entitled to maintain their ownership, but will not be able to make further property purchases.

2. Free zone companies in Dubai and other Emirates (excluding DIFC)

Companies incorporated within the free zones in Dubai, such as Dubai Media City and Dubai Healthcare City, are allowed to own properties in Designated Areas.

The DLD does not currently permit Free zone companies incorporated in other Emirates, such as Ajman and Ras Al Khaimah, to own property in Dubai. However, free zone companies that owned property in Designated Areas before the DLD's policy came into force are entitled to maintain their ownership, but will not be able to make further property purchases.

3. DIFC companies

Companies incorporated within the Dubai International Financial Centre ("DIFC") must obtain special approval from the DLD to purchase property outside the DIFC and such special approval shall be granted by the DLD at its sole discretion. We anticipate that this special restriction may be removed in the near future so that the regulation of ownership of property by DIFC companies will be treated the same as companies incorporated in other free zones within Dubai.

However, while direct ownership of property by DIFC-registered companies is only permitted within the DIFC and not in the rest of Dubai (i.e. Designated Areas), an offshore company (such as JAFZA offshore or DMCC offshore company) whose shareholding is held by a DIFC-registered company will be permitted to own property within the Designated Areas.

4. Other companies

Companies that are incorporated onshore in Dubai, such as limited liability companies and private joint stock companies, with non-UAE or GCC shareholders may own property in the Designated Areas. However, the current policy of DLD does not allow companies registered onshore in foreign jurisdictions to own property in Dubai.

Summary of ownership structures

To summarise, the structure of a proposed owning entity will depend on where the property is located, the nationality of the owner and, if the owner is company, the type of company. The types of entities that are permitted to own property in the Emirate of Dubai in accordance with Article 4 of the Property Law and the DLD's current policy are set out below.

1. All areas:

- UAE or GCC nationals
- companies incorporated onshore in the UAE (excluding the free zones), e.g. private joint stock companies or limited liability companies, where 100% of the shareholders are UAE or GCC nationals
- public joint stock companies that are listed on the Dubai Financial Market.

2. Designated Areas:

- nationals of all countries
- free zone companies incorporated in Dubai regardless of the nationality of the shareholders (except DIFC companies, which require special approval)
- Jebel Ali Free Zone offshore companies or Dubai Multi Commodities Centre Free Zone offshore companies, regardless of the nationality of the shareholders
- companies incorporated onshore in Dubai (e.g. private joint stock companies or limited liability companies), regardless of the nationality of the shareholders
- public joint stock companies that are listed on the Dubai Financial Market.