Land Acquisition

Experts from the Investment Consulting Center tackle your frequently asked questions, one inquiry at a time

Q. What should a foreigner check before concluding a land acquisition contract in Korea?
A. A foreigner should check whether the process will require post-contract notification or pre-contract permission (penalties are imposed for violations).

Additional information
* Based on the principle of reciprocity, the Enforcement Decree of the Foreigners’ Land Acquisition Act does not prohibit or restrict an individual, a juristic person, an organization or the government of another nation from acquiring or transferring land in Korea.

* However, if a foreigner mistakes pre-contract permission for a post-contract notification and concludes a land-acquisition contract without obtaining permission, the contract shall be considered invalid and the foreigner shall face fine or imprisonment.¹

Q. Is land acquisition notification required for a domestic corporation in which no less than half of its executives are foreign nationals?
A. Yes.

Additional information
* In this case, the domestic corporation is considered a “foreigner” in accordance with the Foreigners’ Land Acquisition Act.² Therefore, the domestic corporation should notify land acquisition.

Q. In the case that a domestic corporation in which no less than 50 percent of its shares are held by foreigners acquires land in Korea, does the corporation need to notify real estate acquisition in accordance with the Foreign Exchange Transaction Act?
A. No.

Additional information
* In this case, although the domestic corporation is deemed a foreigner under the Foreigners’ Land Acquisition Act, it is considered a “resident” under the Foreign Exchange Transaction Act and therefore does not need to notify real estate acquisition.

* It should be noted that the Foreign Investment Promotion Act applies to foreign investors planning to register a foreign-invested company, therefore foreign investors seeking to acquire real estate by introducing investment funds or long-term loans should carry in funds after notifying foreign investment. ³

Q. Is a domestic branch of a foreign corporation required to notify land acquisition? Also, how should the land acquisition fund be introduced?
A. Land acquisition notification is required.

Additional information
* Because a domestic branch of a foreign corporation is deemed a foreigner under the Foreigners’ Land Acquisition Act, land acquisition should be notified.

* If the domestic branch seeks to acquire domestic real estate by introducing funds from overseas, the branch may introduce operational funds from its overseas headquarters through a designated foreign exchange bank without having to notify real estate acquisition under the Foreign Exchange Transaction Act because it is deemed a “resident” under the Act.³

By James Rhee, Executive Consultant
james@kotra.or.kr / +82-2-3497-1962

James RHEE is an Executive Consultant working at the Investment Consulting Center, part of the one-stop service offered to foreign investors by Invest KOREA.

¹ Article 7 (2) of the Housing Site Development Promotion Act and Article 6-4 of the Enforcement Decree of the same Act
² Article 2 (2) b, c of the Foreigners’ Land Acquisition Act
³ Article 9-34 of the Regulations on Foreign Exchange Transactions