TURKEY

Corporate Structure/Capital Market

Corporate Structure

The most common vehicle used for the acquisition of real estate is a Joint Stock Company (*A.S.*) or a Limited Liability Company (LLC) (*Anonim Sikret – Ltd. Sti.*). The former is similar to a Public Liability Company or German (*Aktiengesellschaft (Ag)*) and the latter to an English private company or German (*Gesellschaft mit beschränkter Haftung (GmbH)*). A company may also take the form of a collective company or a co-operative association, but commercial investment property is rarely held by such entities. Foreign investment is normally made through an *A.S.*

Property may be held also by an ordinary partnership (*Adi Şirket*) or a Limited Liability Partnership (*Limited Şirket*); although all property held by the partnership is held in co-ownership (C.O. Art 534). A partnership does not have a legal personality separate from the partners and for tax purposes income is allocated to the individual partners. All partners have unlimited joint and several liability. A foreign corporation also may be used to acquire property, subject to the requisite government department approval.

A branch may be established in Turkey to provide local management and the branch must have at least one Turkish national with a power of attorney granted by the parent company. The parent company is responsible for all the activities of the local branch.

Legislation was passed in 1995 to enable the establishment of Real Estate Investment Trusts (REITs). Such entities, which are established as joint stock companies, do not pay income or corporate tax and dividends are paid, without any withholding tax, to the shareholders who are taxed on their individual income. To maintain this tax advantages a REIT must only invest in land and buildings and specified operations such as property or hotel management and real estate construction are prohibited (with limited exceptions for property that is directly owned); have at least 25% of the shares publicly quoted; a minimum fully paid-up capital (currently €10.25m); debt must not exceed three times the paid-up capital; mortgage loans must not exceed 50% of the appraised value of any property and mortgage loans must not exceed 10% of the total asset value of the company; and a dividend . REITs are controlled by the Capital Market Board (CMB) of Turkey, established by the Capital Market Laws and a related Communiqué. The number of quoted REITs has grown steadily over the past ten years. (See **Real Estate Companies – Turkey** for a list of some of the larger REITs.) These REITs have been created for specific real estate investments or by conversion from an existing company.

Capital Market

The Turkish capital market provides similar sources of capital to most other European countries. However, a secondary mortgage market is currently in its infancy.

Many of commercial real estate investors are private companies or foreign investors. Insurance companies and other institutional funds are major real estate investors.

Most loans are denominated in Turkish Lira, although some loans are made in Euros, Swiss Francs or US dollars to take account of lower interest rates (although with commensurate exchange rate risks).

Mortgages are normally made by notarial deed (*notarial senedi*) and all mortgages must be registered at the Land Registry and Cadastral (*Tapu ve Kadastro*) to become effective. Priority is normally based on the date the mortgage deed is filed.

Residential property may be financed in three ways:

Own funds. Many purchasers pay the entire amount from their own or family savings. A private loan may be made, but this is not always recorded as a formal mortgage.

'Purchase money mortgage'. A seller will defer payment of the purchase price for a short period of time (2 to 3 years). This is the most common form of finance for the purchase of new homes with the developer/builder carrying part of the sale cost. In some cases, the purchase price is paid in stages as construction progresses (a 'sale off-plan') and a balance may be carried after completion.

Conventional mortgage. A mortgage is provided by a commercial or mortgage bank for a term of five to ten years. Such mortgages are now regulated by the 'Amendment to Law Relating to Housing Finance System 2007' (Law No. 5582) (also called the 'Mortgage Law'). Banks, finance leasing companies and consumer finance companies are qualified to provide mortgage loans. This law also provided a regulatory framework for the establishment of a secondary mortgage market.

The new mortgage law provides greater protection for mortgage borrowers by providing statutory notice periods, a cap on repayment penalties and requiring that a licensed appraiser assess the market value for the lender of a property to be taken as security. It also simplifies the foreclosure process in order to make the loans more attractive to the secondary mortgage market.

Real Estate Taxes and Transaction Costs

The following are the principal taxes and other costs levied on land and buildings:

Transfer tax/Stamp duty	See **Registration fee** below
VAT	18% for the renting or sale of most commercial property. Exemptions or a reduced rate for certain private residential property and in certain industrial zones.
Notary fees	As agreed with Notaire
Registration fee	A *Tapu* tax of total of 3% of the recorded transfer price (1.5% the seller and 1.5% the purchaser). Stamp duty at 0.75% is payable on the value of the transaction (subject to a ceiling of around TL 1m). This duty is payable on each recorded document. See more under "**Registering Property**".
Broker's fees (ex. VAT)	1% - 3% (as agreed) payable by both the purchaser and seller.
Legal fees (ex. VAT)	Usually based on an hourly basis, although a fee may be agreed based on the value of the property. Generally around 1% (depending on size and nature of transaction). A notary is not essential but notarization of a formal document is common for which a fee will be required.
Capital Gains Tax	Payable on realized gain (exemption for main residence). Exemption may apply to properties held for a number of years.
Local real estate tax	Tax is levied by each Municipality based on assessed value of the property at rate of 0.02% - 0.06% for commercial property. Rate higher for urban properties.

Notes:

- Tax rates are only a guide. These change from year to year and require specialist professional advice on application to any individual or legal entity.

- More information about national tax can be obtained from an accountancy firm (See **Accountants**). Or visit **KPMG Online Tax Rates** for an overview of current tax rates.
- Also see our list of **International Law Firms in Turkey**.
- See also: “An overview of the **Legal System** and aspects of property law in Turkey”.
- Further information may be found in our **Bibliography for Turkey**.
- This information is intended as an introductory guide and is intended to point out issues that may be of interest to a foreign investor. It does not constitute legal advice and should not be relied on as such. Professional advice is recommended on any issue referred to herein.

  Also, please see Disclaimer.