

Acquiring immovable property in Malta



An island which ranks very high for overall quality of life and enviable climate conditions definitely ticks the right boxes on property investors' worldwide map. Furthermore, the choice of commercial and residential properties in Malta caters for all needs and requirements. All locations in Malta benefit from easy commuting distance of the Malta International Airport which hosts approximately thirty airlines including the major low-cost airlines flying in and out of Malta on a regular basis. Numerous state of the art marina and coastal developments have already attracted hundreds of foreigners to our shores. For high net worth individuals, it is not just about relocating to an island destination but acquiring property in Malta grants them a gateway to an attractive beneficial flat rate of tax of 15% on all foreign income which is received in Malta.

Clear and efficient process for acquiring property in Malta

Once the property is chosen and the price and conditions are agreed upon, a promise of sale agreement is signed between the vendor and purchaser in front of a Notary Public and the agreement is usually valid for three months or as agreed by the parties.

- Upon signing the promise of sale agreement, the purchaser has to pay an amount equivalent to one percent stamp duty as part payment of the full five percent payable upon the execution of the contract of sale.

- The purchaser is also expected to pay a deposit on account of the price or a payment in earnest upon signing the promise of sale agreement.

During the term of the promise of sale agreement:

- The Notary Public will carry out the necessary research into the property to confirm good and unhindered legal title and ensure that there are no outstanding debts, hypothecs or liens on the property.
- Purchaser will complete all the special requirements such as organising bank loans, check on building permits if required.
- AIP permit, if required, is to be obtained.
- Vendor will complete all special requirements such as finishing certain works.

Once all the above has been completed, the final contract of sale, as read and explained by the Notary Public, will be executed and registered with the Public Registry. The purchaser has to:

- Pay balance of purchase price
- Pay the remaining four percent duty on the sale
- Pay fees due to the Notary Public (one percent).

Purchaser = 5 percent stamp duty upon acquiring immovable property in Malta

AIP permit for Individuals

EU citizens who have not resided in Malta for at least five years, but have the intention of acquiring their primary residence i.e. take up residence in Malta, do not require an AIP permit for such primary residence, nor do they require a permit to purchase immovable property required for their business activities or supply of services. They will however require an AIP permit to acquire immovable property for secondary residence purposes. Once such EU citizens have resided continuously in Malta for a minimum period of five years, they may freely acquire more than one immovable property without the necessity of obtaining an AIP permit.

Individuals who are not citizens of the EU may acquire immovable property in Malta only after they obtain the relative AIP permit.

In the case of a non-EU citizen or an EU citizen who has not resided in Malta for at least five years and is acquiring a secondary residence in Malta, a permit will only be granted if the immovable property is an apartment the value of which is not less than EUR 98,370 or any other property the value of which is not less than EUR 163,905 and which is intended to be used by the non-resident as a residence for himself and his family and such non-resident does not own any other immovable property in Malta other than immovable property which is exempt such as property situated in special designated areas.

EU and Non-EU citizens may purchase any number of units within developments located in Special Designated Areas without the need of an AIP permit.

No AIP permit is required if an EU citizen who has not resided in Malta for a continuous period of 5 years is acquiring his primary residence or property required for his business activities or supply of services.

An EU citizen who resides in Malta for a continuous period of 5 years can then acquire his secondary residence without the need to apply for an AIP permit.

AIP permit for companies

A company established in and operating from an EU member state, may freely acquire immovable property that is required for the purposes of carrying out the activity for which it has been set up, as long as it is directly or indirectly controlled as to more than 75% by citizens of the EU who have resided in Malta for a minimum continuous period of five years at any time preceding the date of acquisition.

Any other company will require a permit, which would be in general be granted if the property is required for an industrial or touristic project or would contribute to the development of the economy of Malta.

The permit may be withheld if the immovable property that is going to be acquired is considered to be of historical importance, or as being situated in a historical locality.

Letting property

Property which is acquired and for which no AIP was required, can be rented out. This will require the lessor to obtain a license from the Malta Tourism Authority as well as register for income tax and VAT purposes. From an income tax perspective, income derived from the letting of immovable property can be considered either

as investment income or trading income. This determination usually depends on whether it is a long or short let. VAT implications also depend on whether it is a long or short let and on who is the lessee.



Reselling

Resale of property is always an option and repatriation of the full resale price, including profits after tax, is allowed.

Tax implications upon resale of property

If the property is sold within seven years from the date of acquisition, the vendor in general has the option to choose to be taxed in either of the following methods:

- a capital gains tax based on gains realised after deducting cost of acquisition and cost of any improvements made; or
- a final withholding tax equivalent to 12 percent of the sale price of the immovable property.

However, if the property had been owned by the vendor for a period exceeding 7 years, the only method available for calculating the capital gains tax is the final withholding tax rate unless an opt-out from this method is available in terms of law. An opt-out is available inter alia where the transferor is resident for tax purposes in another country and produces to the notary a statement signed by the tax authorities of his country confirming his residence in that country and certifying that that person is subject to tax in that country on gains or profits derived from the transfer of immovable property situated in Malta.

Tax Exemptions

A foreigner who buys residential property in Malta and holds it as his own residence for at least 3 consecutive years immediately preceding the date of the transfer and disposes of such property within 12 months of vacating the property is exempt from any Maltese taxes upon resale.

Residing in your Maltese home for at least 3 years = Tax Exemption upon resale of property

Contact us

André Zarb

Partner, Head of Tax

T: + 356 2563 1134

E: andrezarb@kpmg.com.mt

Anthony Pace

Partner, Tax

T: + 356 2563 1134

E: anthonypace@kpmg.com.mt

Doreen Fenech

Partner, Tax

T: + 356 2563 1134

E: doreenfenech@kpmg.com.mt

www.kpmg.com.mt

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