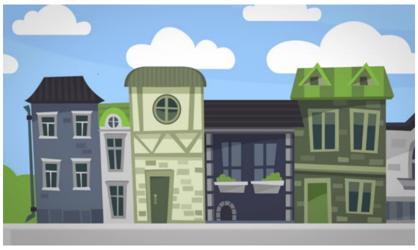
FOREIGN OWNERSHIP OF PROPERTY IN MALAYSIA

INTRODUCTION



Essentially, Malaysia is divided regionally into two segments of West Malaysia that comprises eleven states with two federal territories and the East Malaysia comprises two states with one federal territory.

The National Land Code ("**NLC**"), 1965 is a comprehensive and all-encompassing legal regime that governs dealings relating to land and land tenure within the West Malaysia including the States of Johore, Kedah, Kelantan, Melacca, Negeri Sembilan, Pahang, Penang, Perak, Perlis, Selangor, Terengganu and Federal Territory of Kuala Lumpur and Putrajaya. The East Malaysia of Sabah and Sarawak however, has its own unique land codes respectively. While the NLC 1965 is the governing legislation pertaining to real estate transactions within the West Malaysia, we set to expound on the applicable rules, conditions and restrictions that the foreign purchaser should look out for in respect of the property investments within this region.

RESTRICTIONS IN RESPECTS OF FOREIGN INTERESTS

In Malaysia, foreigner purchaser may only acquire property upon the procurement of consents from the respective state authorities[1] subject further to the following restrictions[2] where the foreign purchaser is not allowed to acquire:

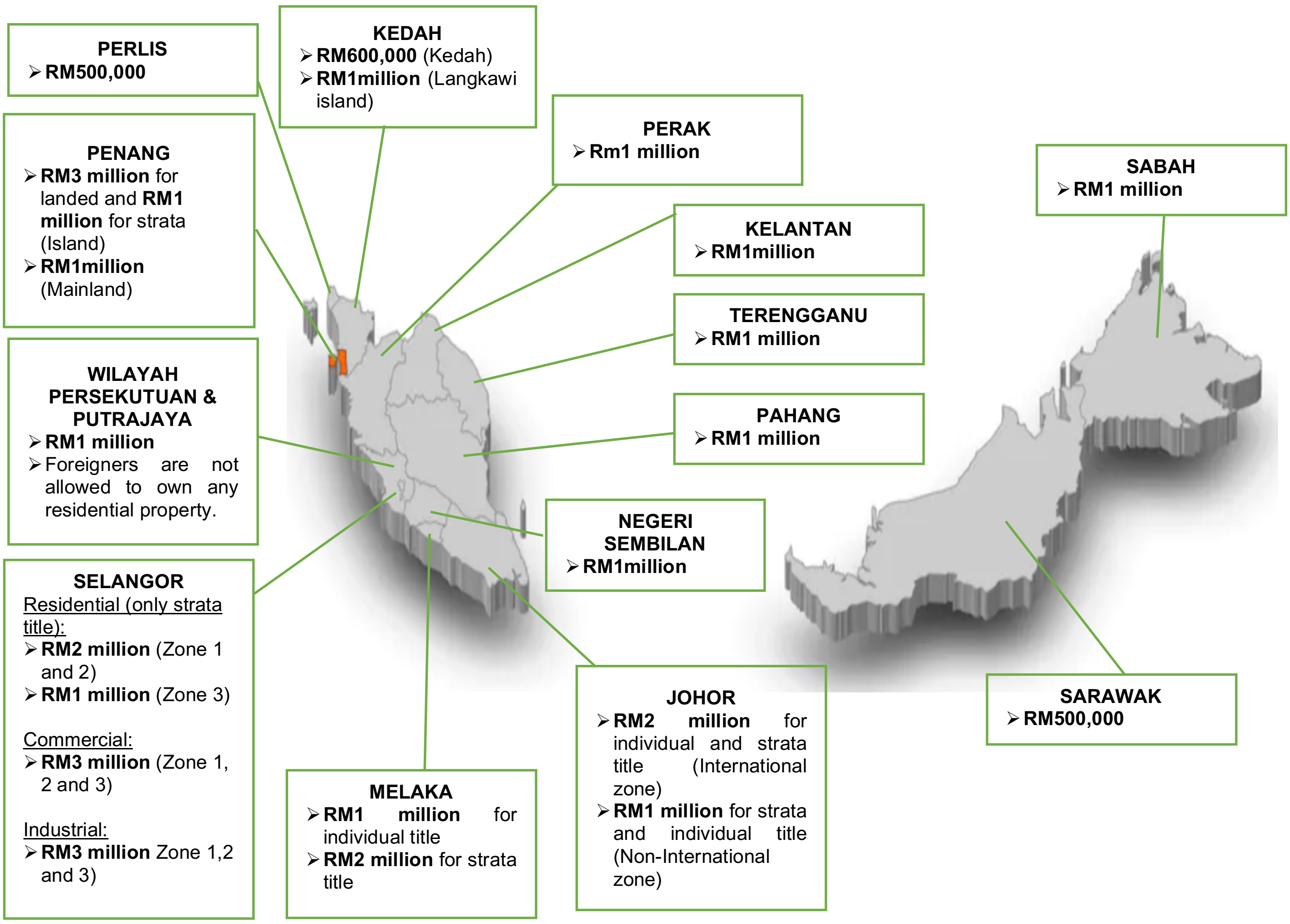
- Property valued less than RM1,000,000 per unit;
- Residential units under the category of low and low medium cost as determined by the respective state authority;
- Property built on Malay reserved land; and
- Property allocated to Bumiputera in any property development project as determined by the state authorities.

Bumiputera means malay individual or aborigine [3] and Bumiputera interest means any interest which comprises of:

i. Bumiputera individuals; and/or
ii. Bumiputera institution and trust agency; and/or
iii. local company / institution whereby the parties in item (i) and/or (ii) hold more than 50% of the voting rights in that local company / institutions.

MINIMUM PURCHASE PRICE

Whilst the Economic Planning Unit has enforced the minimum threshold for acquisition of property by foreign purchaser at **RM1,000,000.00**, the floor price of the property however varies depending on the restrictions imposed by the relevant state authorities.



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[1] S. 433B of the NLC 1965
[2] Economic Planning Unit: Guideline on the acquisition of properties (effective of 1 March 2014)
[3] Article 160(2) of the Federal Constitution

CONVEYANCING PROCEDURE

Foreign purchaser has the options of purchasing either new property from a developer or existing property from the home owner ("**Subsales**"). The chart below is sets to elucidate on the process of property acquisition, type of legal documentation to be executed, costs and expenses to be expected during this transaction.

To kick start, foreign purchaser would have to sign the sales form from the developer or the offer to purchase form in Subsales transactions with the vendor. The initial deposit is usually fixed at 2% of the purchase price of the property, which shall then form part payment towards the purchase price of the property.

A non-cash foreign purchaser shall thereafter proceed to apply to a financial institution for credit facility to finance the purchase of the property. Any individual(s) or entity(ies) with decent credit ratings are most likely to secure financing margin of between 70% to 80% of the total purchase price. Barring any unforseen circumstances, the application of home financing in the usual context would be completed within 3 months.

Within 30 days or subject to the agreement between the vendor and the foreign purchaser, the foreign purchaser would need to sign the legal instruments comprising the sales and purchase agreement, deed of mutual covenants, loan documentations, memorandum of transfer and other instruments of transfer (as applicable). At this juncture, the foreign purchaser would have to remit the balance deposit of 8% of the total purchase price to the vendor.

Immediately after the execution of the indentures above, a law firm would have to apply for a foreigner consent on behalf of the foreign purchaser from the respective state authority followed by a minimum payment of RM50 (approximately at USD 13), application form and other supporting documents as may be required.

The balance purchase price of 90% of the purchase price shall be remitted to the vendor in accordance to the payment terms in the sale and purchase agreement and it is incumbent on the vendor to deliver the vacant possession of the property to the foreign purchaser within the agreed period typically upon the receipt of full purchase consideration by the vendor.

STAMP DUTIES

Aside to the purchase price of the property, the foreign purchaser would also need to pay the stamp duties imposed by the Inland Revenue Board of Malaysia on the transfer of property. The computation of stamp duties is summarised as follows:

Sale and Transfer:

Purchase Price	Stamp Duties
First RM100,000	1%
Next RM400,000	2%
Subsequent RM500,000	3%

Loan:

Stamp duties are chargeable at the rate of 0.5% on the total amount of loan taken by the foreign purchaser.

LEGAL FEES

The legal fees payable to the advocates and solicitors are governed by the provisions of the Solicitors' Remuneration Order 2005 at the following rates:

Purchase Price	Scale Fees
First RM500,000	1% (subject to a minimum fee of RM500.00)
Next RM500,000	0.8%
Next RM2,000,000.00	0.7%
Next RM2,000,000.00	0.6%
Next RM2,500,000.00	0.5%
Where the consideration or the adjudicated value is in excess of RM7,500,000.00	Negotiable on the excess (but shall not exceed 0.5% of such excess)

All information in this Newsletter is correct as at **30 April 2018** unless otherwise stated.

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