

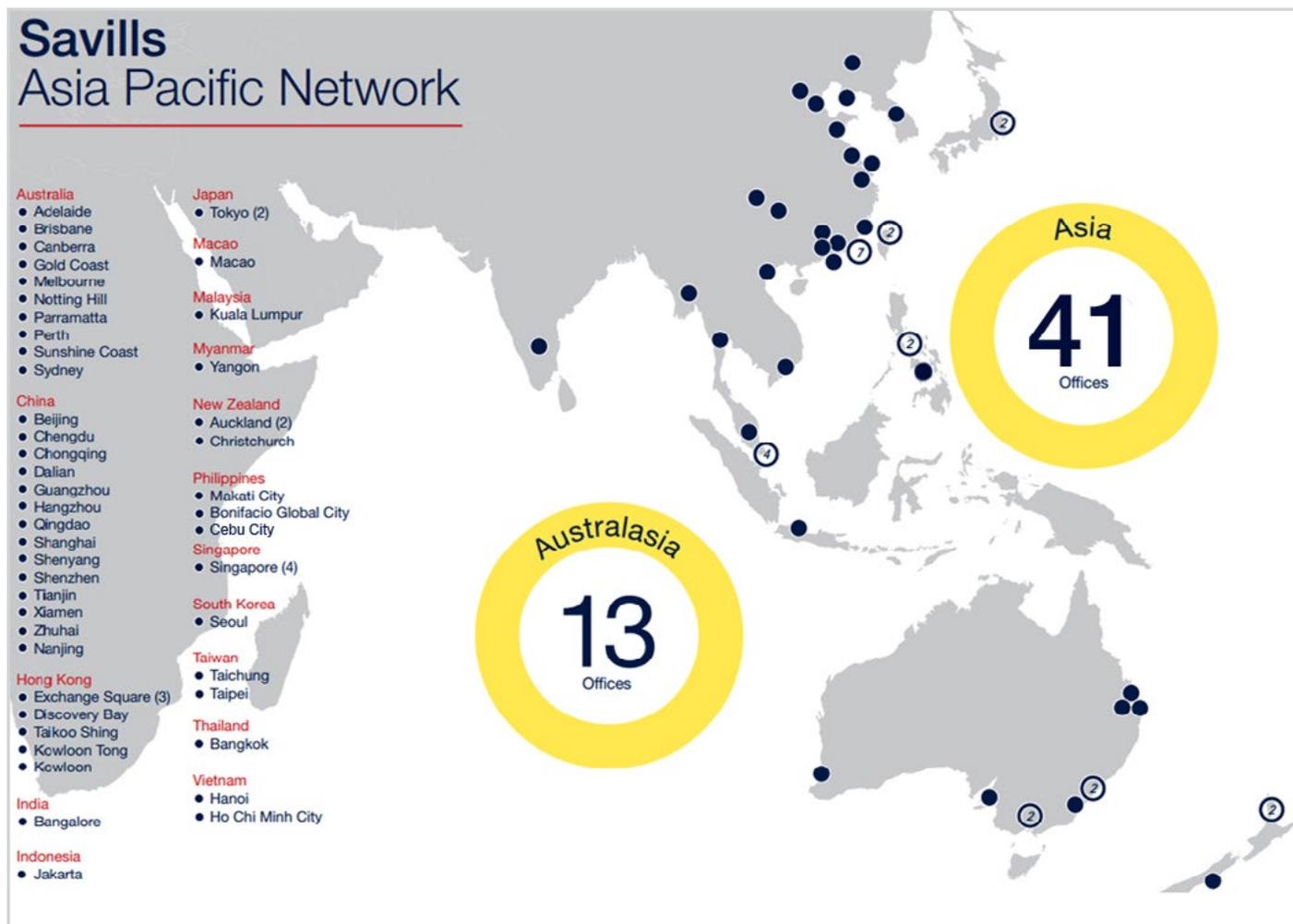
# Investment & Country Guide

## Philippines

2016



# An introduction to KMC MAG Group



KMC MAG Group, Inc. is an award-winning real estate services firm headquartered in Bonifacio Global City, the fastest growing business district in Metro Manila. It is an international associate of Savills, one of the leading real estate firms in the world.

With over 100 employees involved directly in transactions for office, investments, retail, industrial & hotel locaters, as well as residential properties, KMC is a full service real estate firm and is widely recognized as the Best in Class Real Estate Agency in the Philippines by the International Property Awards. With services ranging from tenant representation, investments to property management, KMC MAG Group has successfully become the leading local firm in the Philippine real estate services industry. The firm provides clients with consistent high

quality service backed with strong market expertise.

Recently, KMC MAG Group was awarded as the Best Real Estate Agency Philippines by the International Property Awards.

With offices both in Makati and Bonifacio Global City, Philippines, KMC MAG Group's strengths are due to its in-depth market knowledge, high client satisfaction, and nationwide coverage. The company utilizes a process-driven team approach to deliver superior results and value for its clients.

The company's vision is to be the most preferred and leading provider of professional real estate services in the Philippines. Our mission is that we aim to be the only real estate services firm in the Philippines operating with the needs of

foreign and local clients in mind, providing high quality services: timely, responsive, and informative – merged with local expertise and passion.

# PHILIPPINES



## Overview

The Philippines offers vast opportunities in the agricultural sector as it is endowed with extensive rainforests, mountainous regions and coastlines. It is a major producer of agricultural products and is rich in mineral and geothermal energy resources. The country is also a main supplier of automotive, aerospace and electronics parts. Aside from its vast natural resources, another main driver of the Philippine economy is its skilled and educated population. The country has a high number of overseas Filipino workers (whose remittances support the Philippine economy). Its talented population has also contributed to the growth of the business process outsourcing sector in its major central business districts of Bonifacio Global City, Makati and Ortigas, surpassing India as the leader in voice-based call-centre services.

The Philippines is a constitutional republic with a democratic presidential system. Benigno Aquino III is the incumbent president and will remain as the head of state and government until this year. Aquino's programmes and platforms are focused on maintaining the country's political and economic stability, and creating reforms to promote good governance. The peaceful May 2013 elections, recent credit ratings upgrade and the Philippines' strong GDP growth in the first quarter of 2013 are just some of

TABLE 1

### Key Statistics

Official Name	Republic of the Philippines
Currency	Philippine Peso (PHP) US\$ 1 = PHP 45.50 (2015)
Population	102 million (2014)
Land Area	300,000 sq. km
GDP Per Capita	PHP 136,446.71 ; US 2,873.5
GDP Growth	6.0% (Q3 2015)
Principal business centers	Makati Central Business District, Bonifacio Global City, Ortigas Center

Source: National Statistical Coordination Board, Banko Sentral ng Pilipinas, Bureau of Treasury

the country's achievements credited to the Aquino administration. Now, all eyes are on the 2016 elections as its results will affect real estate as well as the overall economy.

To further boost the country's development, the Aquino administration is currently focused on the improvement of infrastructure, education, healthcare and other public services. This is to ensure more inclusive growth in the country, and to improve the provision and delivery systems of public service. Aside from this, the administration's priority is to enact bills to boost the economy and improve the ease of doing business in the Philippines. Some of these bills include the Cabotage Law, the Fiscal Incentives Rationalization Bill and the Land Administration Reform Bill. Aquino is also working towards more economic reforms and the enhancement of key industries to make the Philippines more attractive to investors.

## Types of property ownership

There are two main types of property ownership in the Philippines:

1. Freehold land. Private freehold land is exclusively available only to Philippine nationals. Those that count as Philippine nationals include Filipino citizens, and corporations, partnerships or other juridical persons that are at least 60% Filipino-owned.
2. Leasehold land. Leasehold corresponds to properties that may only be held for a given length of time. All public land may be owned by Filipino citizens on a leasehold tenure; however, private land may be leased by international corporations with certain restrictions.

## Restrictions on overseas ownership of lands

The 1987 Constitution generally reserves ownership of private land to Filipino citizens. To some extent however, overseas nationals and former Filipino citizens are allowed to own properties. Although there are some restrictions, owning real estate or land in the Philippines is not impossible. Unlike other countries where the only prerequisite is money, property ownership is confined to Filipino citizens, and corporations, partnerships or juridical persons with at least 60% Filipino interest. Dual citizens and former Filipino citizens are also accorded the right to own private lands subject to some limitations imposed by law.

Except in instances when land is inherited, overseas nationals are restricted from owning private lands. They are only

allowed to lease private land for up to 50 years. This half-century period is only renewable once for a further 25 years at most.

In terms of condominium projects, the overseas ownership rule applies wherein overseas nationals can only own up to 40% of the entire project.

### Condominium ownership

Overseas nationals can own condominiums under the principle of the 60%/40% rule. They may purchase up to 40% of the condominium and once the purchase is complete, their shares can entitle them to be a stockholder of a condominium corporation. Most condominiums in the country are usually vertical developments and high-rise buildings.

In addition, a Special Resident Retirement Visa (SRRV) is offered by the government

to overseas nationals who wish to stay permanently or those who would like to frequently visit or stay for long periods in the country. Holders of an SRRV can also gain additional benefits aside from being allowed to buy a condominium property, lease a parcel of land or a house and lot. Information regarding other benefits of the SRRV is available on the Philippine Retirement Authority Website.

### Leasing

Land can be leased by an overseas national or an international corporation on a long-term contract for an initial 50-year period and is renewable every 25 years thereafter. An overseas national can rent a lot and at the same time legally own the house on the rented land.

### Buying land

Before purchasing a property, the buyer must take note of certain differences in terms of owner rights when acquiring land in the Philippines, including the fact that maximum length for long-term financing only ranges from ten to 15 years.

Another aspect to note is that all real estate transactions are completed with a Professional Regulation Commission-licensed real estate broker/firm. Moreover, keeping a record of sample computations, requirements and payment schemes may come in handy.

Ownership is declared by the Transfer Certificate of Title in the case of single houses and raw land. The Land Registration Act obliges the owners of property to register titles with the Registry of Deeds. The titles must be registered in the same province as the property and it may take around 33 days to complete the eight required procedures.

TABLE 2  
Income tax rates for Philippine residents

Amount of net taxable income (PHP)	Tax Rate
>0 - <10,000	5%
>10,000 - < 30,000	PHP 500 + 10% of the excess over PHP 10,000
>30,000 - < 70,000	PHP 2,500 + 15% of the excess over PHP 30,000
>70,000 - <140,000	PHP 8,500 + 20% of the excess over PHP 70,000
>140,000 - < 250,000	PHP 22,500 + 25% of the excess over PHP 140,000
>250,000 - < 500,000	PHP 50,000 + 30% of the excess over PHP 250,000
> 500,000	PHP 125,000 + 32% of the excess over PHP 500,000

Source: KMC Research & Consultancy, BIR

TABLE 3  
Income tax rates for non-Philippine residents

	Tax Rate
Non-resident aliens engaged in trade or business	Table 2 applies
Non-resident aliens not engaged in trade or business	25%*
Aliens employed by regional or area headquarters and regional headquarters of multinational companies	15%**

Source: KMC Research & Consultancy, BIR  
\*of gross income tax; \*\*of final income tax

## Measurement of areas

All measurement of areas is done in sq m. Within agreements, the most commonly used measurement terms include:

- Gross area: the total area within the building, including common areas and areas used for other purposes such as parking or comfort rooms.
- Total leasable area: the area available to lease to tenants.
- Floorplate: the size of each floor, typically measured in sq m.

## Lease terms

- Rent-free period: constitutes the period wherein the lessee is allowed to occupy the space and also provides as a fit-out period. The usual rent-free period ranges from one to two months.
- Rent: rental levels are quoted as gross figures per sq m per month.
- Deposits: deposits are usually the equivalent of three months' rent with advance payments for three months, the basis of which could either be the rental rate in the first or last year.
- Escalation: rental escalation is usually incorporated in the lease, often pegged at 5% per annum, which may vary according to market conditions.
- Frequency of payments: rental payments are usually made on a monthly or quarterly basis.
- Security of tenure: tenure is secured only for the tenure of the original lease and there is no guarantee beyond the original lease term however the tenant may have statutory rights to renewal upon the discretion of the landlord.

TABLE 4

### Residential and commercial lease terms

Lease term (years)	Broker's Fees
<b>Residential</b>	
1	1 month rent
2 - 3	1.5 months rent
<b>Commercial</b>	
1 - 3	1 month rent
4 - 5	2 months rent
5 and above	3 - 4 months rent (negotiable)

Source: KMC Research & Consultancy

TABLE 5

### Commercial and residential transaction costs

	Percentage of Transaction	Payer
Legal fees	5.0 - 10.0	Buyer
Local transfer tax	0.25 - 0.75	Buyer
Deed of sale	0.225 - 0.5	Buyer
Documentary stamp tax	1.5	Buyer
CGT	6.0	Seller
Real estate agent's fee	3.0 - 5.0	Seller

Source: KMC MAG Group Research

- Tenants building reinstatement responsibilities at lease end: unless otherwise agreed, premises are to be reinstated to its original state by tenant. Tenant may negotiate for this provision to be waived.

The usual length of a lease for residential space ranges from one to three years, while for commercial space it ranges from three to five years. For industrial space, the length of a lease can range from anywhere between one and 15 years.

## Service Charges, Operating Costs, Repairs & Insurance For Offices

The responsibility for utilities usually fall upon the landlord, with the landlord subscribing directly to these utilities and

distributing these to the tenants. Electricity, communication, and water consumption are separately metered and are billed on a monthly basis to each tenant.

Car parking is usually allocated based on one parking slot per 75 - 100 sq m ratio.

Internal repairs are usually of the responsibility of the tenant while the repairs of common areas, including those of the reception, elevators, and stairs, are the responsibility of the landlord but are however charged back to the tenant via service charge. External structural repairs are the responsibility of the landlord but are charged back via a service charge whenever possible. The securing of building insurance is also the responsibility of the landlord but is again charged back via a service charge.

## Transaction costs

### Brokerage/agency fees

For both commercial and residential sales, the brokerage or agency fees usually range from 3% to 5% of the total price, but may depend on the lease period, as shown in Table 2. Usually, the fee for a one-year lease is the amount equivalent to one month's rent. For a lease period exceeding one year, the concomitant increase in broker's fees are usually subject to negotiation.

### Legal fees

Apart from the purchase price, there are other fees and taxes associated with every real estate transaction and these are listed in Table 3. The usual fees associated in such transactions are customarily assigned to the seller and the buyer depending on the mutual agreement of the parties. These stipulations must be expressly stated in the Deed of Absolute Sale to delineate the rights and responsibilities of each party and avoid any future problems that may arise thereat.

## PEZA

Companies can also opt to register with the Philippine Economic Zone Authority (PEZA), a government agency that specializes in providing investment assistance to foreign investors inside the country. Registering with PEZA has several advantages, such as income tax holidays of a specific duration during which the company is not liable to 30% income tax, no value added tax on purchased goods and services, exemption from withholding and local government taxes, and visa-processing assistance for expatriate employees. However, PEZA-registered companies are required to relocate to a PEZA IT Park or building and only certain businesses are allowed to register that are involved in the following activities:

- Export manufacturing
- Tourism
- Information technology service export
- Agro-industrial export manufacturing
- Agro-industrial bio-fuel manufacturing
- Logistics and warehousing services
- Facilities providing
- Utilities

## Real estate legislation

As previously mentioned, Philippine real estate laws set certain limitations on overseas property ownership within the country. There are also limitations on purchases made by former natural-born Filipino citizens who have acquired foreign citizenships and have not applied or have not been granted dual citizenship. They may purchase property, however some limitations to this include:

1. The land must be used for business and residential purposes only.
2. Acquisition of land may be through sale, donation, foreclosure, tax sale or execution sale.
3. If land is for residential purposes, there is a maximum of 1,000 sq m of urban land or 1 ha of rural land allowed.
4. A former natural-born Filipino citizen can acquire either urban or rural lots, but not both.
5. If land is to be used for business purposes, a maximum of 5,000 sq m of urban land or 3 ha of rural land is allowed.
6. A maximum of two lots not exceeding the maximum limit in total combined area is allowed. Lots must be located in different cities or municipalities.

7. Either one or both spouses may avail of this privilege, but the above limits must be observed.

Holders of dual citizenships are allowed full rights of possession of real estate in the Philippines. Overseas nationals and international companies may indirectly own private lands by taking a minority interest (only up to the extent of 40% equity) in corporations that are considered Philippine nationals.

## Major Property Tax Legislation

- 1987 Philippine Constitution
- Condominium Act (RA 4726)
- Dual Citizenship Law (RA 9225)
- Property Registration Decree (PD 1529)
- Local Government Code (RA 9640)
- National Building Code (PD 1096)
- The Subdivision Development Act (PD 1216)
- Urban Land Reform (PD 1517)
- Rent Control Act of 2009 (RA 9653)
- Foreign Investments Act (RA 7042)
- Realty Instalment Buyer Protection Act (RA 6552)
- Public Land Act (CA 141)
- Urban Development and Housing Act (RA 7279)
- Investors' Lease Act (RA 7652)
- Special Economic Zone Act (RA 7916)
- Rental Reform Act (RA 9161)
- Land Use Ordinance
- Zoning Ordinance
- Real Estate Investment Trust (REIT) Act of 2009 (RA 9856)



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