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Savills World Research
Asia Pacific

Asia Pacific Real Estate Investment Country Guides

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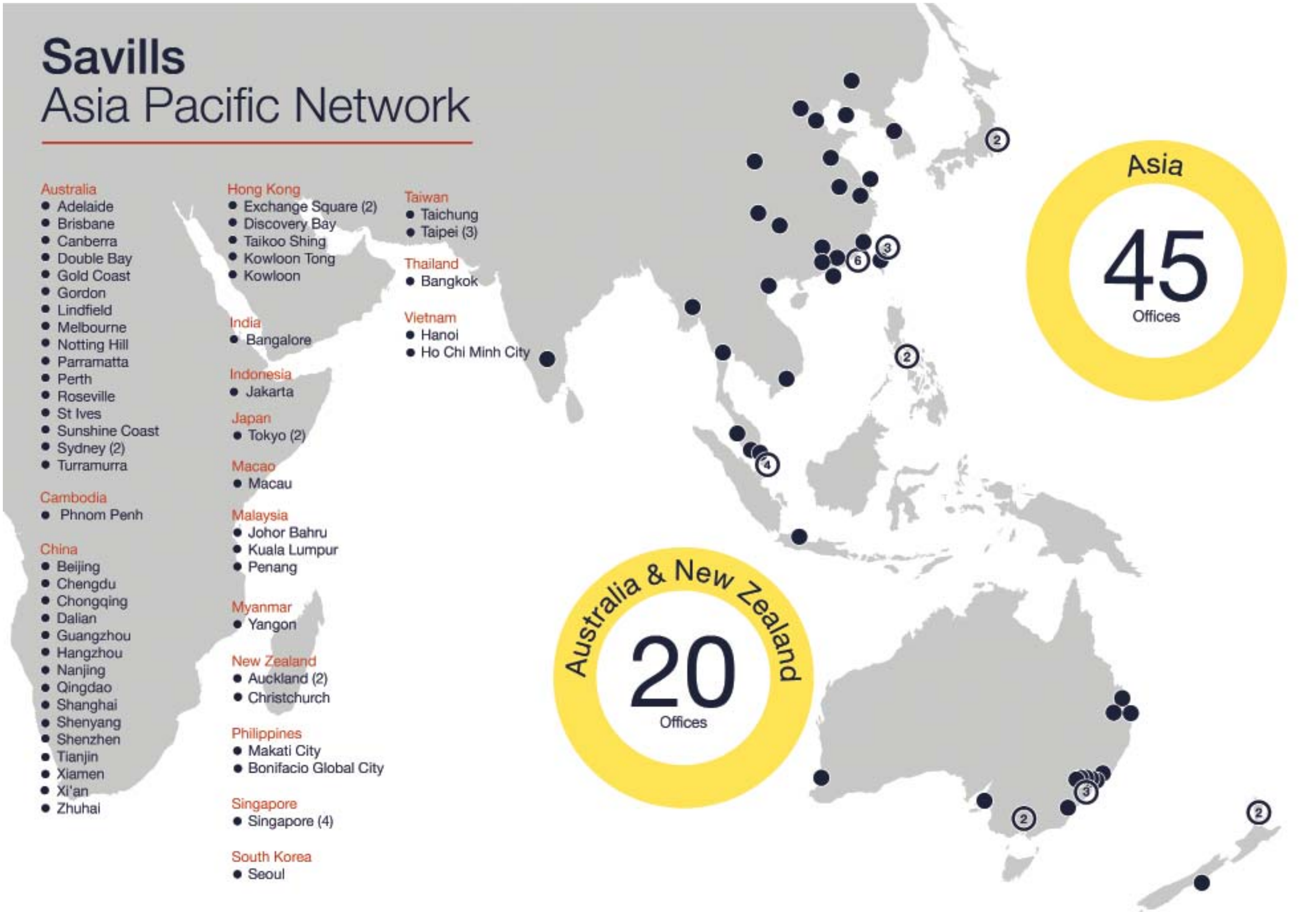
An introduction to Savills



Source: Savills Research & Consultancy

Savills is a leading global real estate service provider listed on the London Stock Exchange. The company, established in 1855, has a rich heritage with unrivalled growth. The company now has over 700 offices and associates throughout the Americas, Europe, Asia Pacific, Africa and the Middle East.

In Asia Pacific, Savills has 65 regional offices comprising some 25,000 staff. Asia Pacific markets include Australia, China, Hong Kong, Indonesia, Japan, Korea, Macau, Malaysia, Myanmar, New Zealand, Singapore, Taiwan, Thailand and Viet Nam, with associate offices in Cambodia and the Philippines. Savills provides a comprehensive range of advisory and professional property services to developers, owners, tenants and investors alike. These include consultancy services, facilities management, space planning, corporate real estate services, property management, leasing, valuation and sales in all key segments of commercial, residential, industrial, retail, investment and hotel property.

A unique combination of sector knowledge and entrepreneurial flair gives clients access to real estate expertise of the highest calibre. We are regarded as an innovative-thinking organisation supported by excellent negotiating skills. Savills chooses to focus on a defined set of clients, offering a premium service to organisations and individuals with whom we share a common goal. Savills is synonymous with a high-quality service offering and a premium brand, taking a long-term view of real estate and investing in strategic relationships.

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Overview

Economic recovery in the United States has continued as has the recovery in Europe albeit with greater levels of economic stimulus. Economic growth in Asia has fallen as China continues its transition from fixed asset investment to consumption as the main driver of economic growth. This transition has had an impact on economies that had enjoyed the benefit of an expanding Chinese economy including Australia. Over the last decade Australia enjoyed an almost unprecedented growth in mining investment and high commodity prices. This drove the terms of trade to historical highs. Expanded production capacity has coincided with a slowdown in China and a fall in commodity prices which has, in turn, led to a fall in the terms of trade.

Australia has employed a number of counter measures to offset the impact of a fall in the terms of trade. The floating currency has played a significant role in buffering the economy as it moved from a high of around AU$1.10 against the US dollar to around AU$0.70 currently. At the same time, the Reserve Bank of Australia lowered the official cash rate to an historic low of 2.00%. Finally, the Federal Government continues to support historically high levels of skilled immigration.

The effect of these three strategies has been to assist the transition of economic growth in the Australian economy from mining to non-mining activities. Housing construction, consumption, tourism and education are now contributing to GDP growth albeit at a below trend rate. These engines of economic growth can be expected to continue into 2016 generating somewhat stronger GDP growth, although again slightly below trend. This may afford room for the Reserve Bank to lower interest rates further providing more stimulus to economic growth.

TABLE 1

Key statistics

Official name	Australia
Currency	Australian dollar (100 cents), floating currency US$1 = AU$0.70 (8 January 2016)
Population	23.9 million
Land area	7.69 million sq km
Gross domestic product (GDP) per capita	AU$86,074; US$61,036
GDP growth	2.8% per annum (financial year [FY] 2014) 2.0% per annum (FY 2015) 2.5% per annum (FY 2016E)
Principal business centres	Canberra, Sydney, Melbourne, Brisbane, Perth, Adelaide

Source: Australian Bureau of Statistics

Types of property ownership

Most Australian land is held under the Torrens title system, through land registries established in each state and territory. While the system is essentially the same in each Australian state and territory, the registration requirements vary. Under the Torrens title system, the relevant state or territory guarantees title to the person who is recorded on the register as the owner of the land (the exception being in the case of fraud). A transfer of ownership of Torrens title land is effected through a change of the record on the register.
The registered owner holds their ownership interest subject to prior registered interests and, subject to the relevant legislation in each state and territory, free from most interests which are not registered. In other words, priority between interests is established by the order in which they are registered, not by the order in which they are executed (or signed).

As the state or territory guarantees the accuracy of the register, prospective purchasers can rely on the information on the register and act on the basis of it.

The most commonly recognised interests in Australian land are detailed as follows.

Freehold estate in fee simple
This is the most common form of land ownership in Australia, and represents the most complete ownership interest available to persons other than the Crown. A fee simple estate is of unlimited duration.

Leasehold interest
Leasehold interest is the interest which a tenant or lessee acquires from the owner of the land to use and occupy the land for a limited period. Most commercial leases are for a fixed period of time. Generally, where the land is owned by the Crown, a person may take a long-term (often 99 years) leasehold interest from the Crown. Leasehold interests are generally required to be registered. Options to extend the term of the lease may also be negotiated.

Other interests
Other types of interest in land which may be registered include:

- mortgage interests – which generally secure repayment of a loan or other financing arrangements;

- options to acquire land;

- easements – which generally convey a right to use a particular part of someone else's land for a specific purpose, but not to occupy the land;

- restrictive covenants – a covenant given by the owner of one parcel of land to the owner of another parcel of land, by which the first owner agrees not to use their land in a particular way, for the benefit of the second owner; for example, an agreement by one owner not to build any structures which would impede the neighbouring owner's views.

Non-Torrens title land
While most Australian property is now registered under the Torrens title system (including all land in Queensland and the Northern Territory), some areas of land have not been converted. Unconverted parcels of land typically fall into one of the following categories:

- Crown land – land owned by a state or territory of Australia or by the Commonwealth of Australia;

- Old system land – generally rural land. Most states and territories have procedures for converting old system land to Torrens title whenever a new dealing with the land is lodged with the land registry.

Native title
Native title was first recognised in Australia in 1992, when the High Court of Australia found that the traditional Aboriginal owners held native title over certain land. A national scheme, implemented through legislation in each state and territory, governs the validity of land dealings affecting native title and establishes a process to deal with native title claims. Native title rights can be compulsorily acquired or surrendered under law, but cannot be transferred. Although native title is most relevant to non-freehold land and Crown- or Commonwealth-owned land, a prudent buyer will take native title into account in relation to most land dealings.

Overseas ownership restrictions

The Australian government reviews and evaluates certain overseas investment proposals. Investment proposals by overseas interests are regulated by the Foreign Acquisitions and Takeovers Act 1975 (Cth) (FATA). FATA is administered by the Treasurer, who is assisted by the Foreign Investment Review Board (FIRB), a division of the Commonwealth Government Treasury. The Commonwealth government publishes policy guidelines for the administration of FATA.

Like most countries, Australia has rules and restrictions on the acquisition and ownership of property by foreign interests. The rules, restrictions and exemptions are complicated however foreign persons are normally given approval to buy:

- Vacant land for development, including house and land packages where construction has not commenced, subject to a condition imposed under the FATA that continuous construction commences within 24 months for residential developments, or five years for commercial developments not to be used for residential purposes; and

- New dwellings such as house and land packages, home units and townhouses purchased 'off the plan' that is, under construction or newly constructed, but never occupied or previously sold. 'Off the plan' sales to foreigners are only permitted for new development projects or extensively refurbished commercial structures, which have been converted to residential.

- Certain categories of foreign nationals, who hold a visa that permits them to reside in Australia continuously for at least the next 12 months (such as students), may be given approval to purchase established residential real estate (that is, second hand dwellings) for use as their principal place of residence (that is, not for rental purposes) while in Australia. A condition of such purchases is that the dwelling must be sold when the foreign nationals' temporary resident visas expire, they leave Australia, or the property is no longer used as their principal place of residence.

- Foreign companies, with an established substantial business in Australia, buying for named senior executives resident in Australia for periods longer than 12 months, may be eligible for approval provided the accommodation is sold when no longer required for this purpose. Whether a company is eligible, and the number of properties that may be acquired, will depend upon the extent of the foreign company's operations and assets in Australia. Unless there are special circumstances, foreign companies normally will not be permitted to buy more than two houses under this category. Foreign companies would not be eligible under this category where the property would represent a significant proportion of its assets in Australia.

- From 1 December 2015, applicants will pay a fee before their foreign investment application is processed. For a property valued under AU$1 million a fee of AU$5,000 is payable. For properties valued over AU$1 million a fee of AU$10,000 is payable then AU$10,000 incremental fee increase per additional AU$1 million in property value. Advanced off-the-plan certificates require a fee of AU$25,000 upfront.

- Property developers can apply for an advanced off-the-plan certificate to sell new dwellings in a development of 100 or more residences to foreign investors. The Government will tighten the rules around the use of advanced off-the-plan certificates by limiting the value of all apartments that can be bought by a single foreign investor to AU$3 million in the one development. If foreign investors want to purchase apartments above this value, they will have to seek individual approval.

Proposals by foreign persons to acquire developed residential real estate that does not fall within the above categories are subject to the FATA, but are not normally approved.

Meaning of 'foreign interests'
The expression 'foreign interest' has a very technical meaning under FATA. There are complex tracing provisions, which have a broad reach. However, in general terms, a foreign interest is:

- a natural person who is not ordinarily resident in Australia;

- an overseas government or its agencies;

- any corporation, business or trust in which there is a 'substantial interest' held by an overseas person or corporation.

A substantial interest exists where there is an interest of 15% or more in ownership, voting power or potential voting power by a single person or corporation (together with associates) or 40% or more in aggregate ownership, voting power or potential voting power by two or more persons or corporations (together with their respective associates). Potential voting power refers in general terms to the number of votes that can be cast in a general meeting of a corporation.

Proposals relating to urban land
Overseas entities wanting to acquire urban land (including interests that arise via leases, financing and profit-sharing arrangements) must make a proposal to FATA. Proposals must be made in regard to the following:

- developed non-residential commercial real estate where the property is subject to heritage listing and valued at AU$5 million or more (in the case of both US and non-US investors);

- developed non-residential commercial real estate, where the property is not subject to heritage listing, valued at AU$55 million or more in the case of non-US investors, or AU$1,094 million or more in the case of US, Chilean, Japanese, Korean and New Zealand investors;

- accommodation facilities, valued at AU$55 million or more;

- vacant real estate irrespective of value;

- residential real estate irrespective of value (subject to certain exceptions as outlined below);

- shares or units in Australian urban land corporations or trust estates, irrespective of value, must be approved by the Treasurer before they can be implemented and should be presented to FIRB in advance. Failure to notify may result in an order for compulsory divestment.

You do not need prior approval to acquire residential real estate if you are:

- an Australian citizen living abroad;

- an overseas citizen purchasing, as a joint tenant, with your Australian citizen spouse;

- an overseas citizen who holds a permanent resident visa;

- a New Zealand citizen.

Proposals relating to rural land
The definition of rural land includes all land that is used wholly and exclusively for carrying on a substantial business of primary production. A substantial business of primary production must have a commercial purpose or character and be involved in activities relating to the cultivation of land, animal husbandry/farming, horticulture, fishing, forest operations, viticulture or dairy farming, but does not include vacant land, hobby farms, land used for stock agistment or mining.

The Government has passed legislation which requires that, from 1 July 2015, foreign persons and foreign government investors holding interest in agricultural land must register those interests with the Australian Taxation Office (regardless of value).

All existing holdings must be registered by December 31 2015 and any new interests must be registered within 30 days of contract exchange.

Proposed acquisitions of rural land valued at AU$15 million or more (or the relevant threshold for US, New Zealand, Chilean, Singaporean or Thai investors) must be approved by FIRB[1].

Contracts
All contracts which are being used by overseas investors for the purchase of Australian real estate for which FIRB approval is required must be made conditional upon FIRB approval (unless approval has already been granted). Contracts should provide for a minimum of 40 days from the date of lodgement for a decision from FIRB. For any properties being purchased at auction, prior FIRB approval must be obtained.

1 Information current as of 1 December 2014.

Measurement of areas

Measurements generally used in the property industry are quoted as set out below by the Property Council of Australia:

- gross lettable area – retail: the aggregate floor space contained within a tenancy at each floor and used for calculation in shopping centres, commercial buildings and shops generally.

- gross lettable area: the floor space contained within a tenancy at each floor and used for calculation in warehouses, industrial buildings, freestanding supermarkets and showrooms.

- net lettable area: the sum of the whole-floor lettable areas, used in calculating area in office buildings and office parks.

Lease terms

Lease terms vary, depending on the location and type of the property. The following summary outlines some common terms found in Australian retail and commercial leases:

Lease period[2]
- Retail: in most Australian states and territories, the relevant retail leasing legislation stipulates a minimum lease term (five years in most jurisdictions) unless this is waived by the tenant. Generally, lease terms from three to five years are the most common, although longer leases may be available.

- Commercial (including office and industrial): subject to any specific requirements under legislation in each state or territory, commercial leases can be for any length of time. In most cases, commercial leases are between five and ten years.

A tenant may also be able to negotiate options to extend the lease for a number of further terms.

Rent reviews[3]
The rent payable under the lease may be subject to periodic review

2 The period or term of the lease.
3 A periodic review of rent under a lease using a predetermined method. For example, an increase in line with CPI, or in accordance with a market valuation.

using a predetermined method: for example, a fixed review to increase the rent by 5% per annum and/or by reference to the consumer price index (CPI).

Sub-letting/assignment[4]
A tenant might agree to sub-lease or to assign space which they are leasing to a third party. Normally, this cannot be done without the landlord's permission. If the landlord approves the sub-lease or assignment, they may require the sub-lessee or assignee to provide guarantees or other security, depending on the terms of the original lease.

Repairs
The party responsible for making repairs to the premises is generally set out in the lease. It is common for the landlord to be responsible for major structural and capital works, and for the tenant to be responsible for maintaining the premises (subject to fair wear and tear) and for repairing any damage caused by the tenant. Some leases also contain clauses dealing with the fit-out of the premises and "make-good" obligations, where each party is made responsible for specific maintenance/ make-good obligations at the beginning and/or end of the lease.

4 A contract whereby the whole or part of the property is let to another person, the party letting being themselves a lessee. The obligations of the lessee to the lessor are not diminished. The length of the sub-lease must not be longer than the unexpired part of the lease.

Security of tenure[5]
Security of tenure only extends for the duration of the lease.

Security of performance
Generally, a landlord will require security for performance by the tenant of the tenant's obligations under a lease. This can be by way of a bank guarantee, cash deposit bond or company/personal guarantees.

Termination of a lease
Leases generally terminate upon their expiry date. Options to renew may be built into the lease by negotiation. Commercial (retail, office and industrial) leases do not normally contain provisions requiring either party to be compensated on termination of the lease, except where the termination is due to default. Retail tenancy legislation in most states and territories may also require compensation to be paid to retail tenants if the landlord exercises a right to terminate the lease pending demolition or redevelopment of the premises.

Transaction costs

Brokerage/agency fees
Leasing fees are typically paid by the landlord and are negotiable prior to appointment and will be dependent on whether it is a conjunctional or sole-agent appointment. Typically, leasing fees amount to 15% of the first year's rent.

5 When the term is used in connection with renting, it means the certain term for which a tenant may remain in occupation.

On transactions, typical fees are in the range of 0.75% to 1.5% of the agreed price for commercial, industrial and retail properties. Fees on residential transactions will be higher.

Legal fees
Transaction and statutory search fees will vary depending on the solicitor instructed, the complexity and size of the transaction, and on the nature and location of the property.

Registration fees and levies
The land registry in the relevant state or territory will charge registration fees for registering a purchaser's interest in the land (and for registering any mortgage or other dealing on the land). In some jurisdictions (for instance New South Wales), a levy is payable in addition to the registration fee prior to the land registry attending to registration of the purchaser's interest in the land. The amount of these levies is dependent on the purchase price of the land.

Tax legislation

In Australia, power to levy tax exists at both commonwealth (i.e., federal) and state levels. The federal government levies taxes such as income tax, and goods and services tax (GST). Taxes levied by state governments include stamp duty, land tax and payroll tax as well as transaction duty, fees and charges on certain kinds of business transactions.

At the federal level, taxation is administered by the Australian Taxation Office (ATO). At the state and territory level, the relevant taxation authority is the State Revenue Office of the applicable state or territory.

Stamp duty
Stamp duty is a tax imposed at the state/territory level. As a result, the stamp duty payable on a purchase of land will depend on where the land is situated. Stamp duty may also be payable on the purchase of shares in a company, particularly where the company is "land rich". Stamp duty is generally charged at an incremental

TABLE 2
Marginal rates of land tax for commercial property*

State/territory	Threshold (AU$)	Rate	Department
Australian Capital Territory	275,001	1.23% of land value	Revenue Office
New South Wales	2,641,000	AU$35,444 + 2% of land value above AU$2,641,000	Office of State Revenue
Northern Territory	Not payable		
Queensland	5,000,000	AU$62,500 + 1.75¢ for each AU$1 more than AU$5,000,000	Office of State Revenue
South Australia	1,052,001	AU$10,695 + AU$3.70 for every AU$100 or fractional part of AU$100 over AU$1,052,000	Revenue South Australia
Tasmania	350,000	AU$1,837.50 + 1.5% of amount above AU$350,000	State Revenue Office
Victoria	3,000,000	AU$24,975 + 2.25% of amount above AU$3,000,000	State Revenue Office
Western Australia	11,000,000	AU$156,560 + 2.67¢ of each AU$1 in excess of AU$11,000,000	Office of State Revenue

Source: ATO / State Revenue Offices
*Information current as of 20 November 2015. Note that different marginal rates may apply, depending on property type and value. Please refer to the applicable State or Territory revenue office website for up-to-date information.

rate, based on the higher of the market value of the property transferred and the GST-inclusive consideration. Certain exemptions and concessions may be available. Stamp duty on land acquisitions in New South Wales is currently charged at a rate of between 1.25% and 7.0%; however, for the latest rates please contact the State Revenue Office in the relevant state or territory. Stamp duty is generally payable by the purchaser, either by law or by commercial agreement, but in some jurisdictions the seller and purchaser are jointly and severally liable. The transfer of title to land cannot be registered until stamp duty has been paid.

Land tax
Land tax is also imposed at the state/territory level. As a result, the rate of land tax, the threshold at which it becomes payable and the date on which it is assessed and paid will depend on where the land is situated. Generally, land tax is payable by the current owner as of 31 December or 30 June of the current year, and is assessed on the unimproved land value. Certain exemptions may be available (for example, land tax is generally not payable on a principal place of residence). The current maximum marginal rates of land tax for commercial property are shown in Table 2.

The State of South Australia is progressively abolishing stamp duty on commercial property transfers. The rate will reduce from 1 July 2016, half that rate again from 1 July 2017 and be zero from 1 July 2018.

Corporation tax
The tax rate for public and private companies, resident and non-resident, is currently 30%.

Income tax
Individuals, trustees, superannuation funds and companies deriving income from an Australian source must apply to the ATO for an Australian tax file number and must lodge an annual tax return with the ATO. Entities which carry on an enterprise in Australia also require an Australian business number.

Income tax is payable by individuals, trustees (in certain circumstances), superannuation funds and companies. Australian income tax is imposed on a single measurement of taxable income, which is calculated as the sum of assessable income derived by the taxpayer during the relevant year of income, less 'allowable deductions', i.e.,

Taxable Income = Assessable Income – Allowable Deductions

Australian tax residents are generally liable to pay income tax in respect of their worldwide assessable income, whereas non-Australian tax residents only pay tax on that part of their income which is derived from sources in Australia. However, this principle may be subject to the application of double taxation agreements (DTAs) which Australia has entered into with a number of other countries (please refer to the section 'Withholding tax' overleaf for a list of countries).

Taxation rates for individuals differ, depending on whether the individual is an Australian tax resident or not. The marginal rates of taxation applicable for Australian tax residents for the financial year from 1 July 2015 to 30 June 2016 are shown in Table 3.

In addition, individual Australian tax residents must pay a Medicare Levy of 2% of taxable income, subject to low-income thresholds, phase-in limits and surcharges for individuals without private health insurance. Further, a levy of 2% for taxpayers on AU$180,000+ to fund the Temporary Budget Repair Levy is payable from 1 July 2014. The marginal rates of taxation applicable for non-Australian tax residents for the financial year from 1 July 2015 to 30 June 2016 are shown in Table 4.

Non-Australian tax residents are not required to pay a Medicare Levy of 2% of taxable income. However, a levy of 2% for non-Australian taxpayers on AU$180,000+ to fund the Temporary Budget Repair Levy is payable from 1 July 2014.

Goods and Services Tax (GST)
GST is a broad-based consumption tax levied on the supply of most

TABLE 3
Income tax rates for Australian residents

Taxation income (AU$)	Marginal tax rate (%)	Tax on this income
0–18,200	0	Nil
18,201–37,000	19	19¢ for each AU$1 over AU$18,200
37,001–80,000	32.5	AU$3,572 + 32.5¢ for each AU$1 over AU$37,000
80,001–180,000	37	AU$17,547 + 37¢ for each AU$1 over AU$80,000
180,001 +	45	AU$54,547 + 45¢ for each AU$1 over AU$180,000

Source: Savills Research & Consultancy

TABLE 4
Income tax rates for non-Australian residents

Taxation income (AU$)	Marginal tax rate (%)	Tax on this income
0–80,000	32.5	32.5¢ for each AU$1
80,001–180,000	37	AU$26,000 + 37¢ for each AU$1 over AU$80,000
180,001 +	45	AU$63,000 + 45¢ for each AU$1 over AU$180,000

Source: Savills Research & Consultancy

goods and services in Australia, and on goods imported into Australia. The transfer of real estate located in Australia is generally subject to GST, which is calculated as 10% of the GST-exclusive selling price of the real estate and is payable by the seller. However, in the purchase of non-residential property, the GST liability is generally passed to the buyer as they can claim the GST as an input tax credit, subject to satisfying certain requirements.

There are two methods of calculating GST in respect of the supply of certain types of real estate: 1) the ordinary method, and 2) the margin scheme. The ordinary method calculates GST as 10% of the GST-exclusive sale price of the property. The purchaser of a property under the ordinary method may be entitled to claim the GST paid as an input tax credit, subject to satisfying certain requirements. The margin scheme is generally applied to the sale of newly constructed residential premises. A number of conditions must be satisfied for the margin scheme to apply, including written agreement between the seller and purchaser. The margin scheme calculates GST as 10% of the margin, which is the difference between the GST-exclusive sale price and, generally, the price paid for the acquisition of the real estate (subject to certain exceptions). It is important to note that where the margin scheme is used to calculate GST, a purchaser of real estate is not entitled to claim input tax credit.

The sale of farm land, commercial real estate subject to lease, and grants of vacant land by the federal government may all be GST-free supplies, subject to satisfying a number of requirements.

Managed investment trust (MIT)
Australia has also recently implemented the following major reforms in relation to the taxation of MITs:

- the ability for MITs to make an election to treat gains and losses on the disposal of certain assets, including land, as subject to capital gains tax (CGT) treatment, thereby allowing certain investors in an MIT to access a CGT discount on the disposal of underlying assets;

- the extension of the definition of MIT so that a greater range of funds may take advantage of the 15% withholding tax rate which applies to certain distributions to overseas investors.

Withholding tax and tax treaties
Withholding tax is imposed in certain circumstances on dividends, interest and royalties.

For example, a borrower must withhold 10% of the gross amount of the interest paid to a non-resident creditor. Most of Australia's DTAs do not affect the rate of interest withholding tax imposed, as the DTA allows for a rate of 10% or higher.

Royalties paid by an Australian tax resident to a non-Australian tax resident are also subject to withholding tax at a rate of 30% of the gross royalty amount, generally reduced to 10% if paid to a resident of a country with which Australia has a DTA.

Dividends paid by an Australian tax resident company to a non-Australian tax resident which are unfranked (ie, no Australian company tax has been paid in respect of the profits from which the dividend has been paid) are generally subject to 30% withholding tax. The rate of dividend withholding tax is generally reduced to 15% if paid to a resident of a country with which Australia has a DTA. Payment of a franked dividend by an Australian tax resident is exempt from withholding tax.

DTAs have been signed by Australia with the following countries:

Argentina, Austria, Belgium, Canada, Chile, Czech Republic, Denmark, Fiji, Finland, France, Germany, Hungary, India, Indonesia, Ireland, Italy, Japan, Kiribati, Malaysia, Malta, Mexico, Netherlands, New Zealand, Norway, Papua New Guinea, People's Republic of China (PRC), Philippines, Poland, Romania, Russia, Singapore, Slovakia, South Africa, South Korea, Spain, Sri Lanka, Sweden, Switzerland, Taipei, Thailand, Turkey, UK, US and Viet Nam.[6]

6 Information current as of 1 December 2014.

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China

Overview

China is the world's second largest economy after the US. It is also the world's fastest growing major economy, with average growth rates of 10% per annum over the past 30 years. The country is also the second largest trading nation in the world, being the largest exporter and second largest importer of goods.

Types of property ownership

Under Chinese legislation, all land within urban areas is owned by the state while land within rural areas is owned by collectives for the exclusive purpose of agriculture. According to a landmark property law passed in 2007, all land, whether urban or rural, or containing existing privately owned structures, can be acquired by the state for public purposes providing fair compensation has been paid.

While land itself cannot be owned by private individuals, use of the land can be granted based on usufruct land rights. This essentially involves private entities or individuals being granted the use of land for a given period of time. The time for which land-use rights are given varies depending on the specific use of the site.

While land cannot be owned, property that is constructed on the land can, and private owners of that property are legally allowed to transfer ownership of that property to other private entities. The legal recognition of this right to transfer property, in the aforementioned legislation released in 2007, was a major milestone towards a more transparent property ownership system.

Overseas ownership restrictions

In China, property ownership by overseas nationals is restricted to those who have been resident in the country for a period of more than one year and buyers are restricted to the purchase of one property for self use. In addition to individuals, there are a number of restrictions on ownership by overseas companies, of which the major legislative directives are detailed in the later section on key legislation.

TABLE 5

Key statistics

Official name	People's Republic of China
Currency	Renminbi US$1 = RMB6.49185 (31 December 2015)
Population	1.37 billion (2014)
Land area	9.6 million sq km
GDP per capita	RMB46,628; US$7,620 (2014)
GDP growth	7.4% per annum (2014)
Principal business centres	Shanghai, Beijing, Guangzhou, Shenzhen, Chengdu

Source: FocusEconomics

Measurement of areas

Measurements are typically quoted as gross floor area (GFA), with the exception of the retail market which quotes on a usable floor area basis, and are generally quoted in sq m by practitioners in the real estate industry.

Transaction costs

Brokerage/agency fees

Where a real estate broker has been used in the transaction of a property, either the buyer or seller is usually liable for payment of commission. Generally speaking, commission is around 1%, although this may vary according to the nature of the property. Major considerations for agreeing on the amount payable are the total value of the asset, the asset type and respective market conditions.

The party responsible for payment usually depends on who the broker is working on behalf of. For example, if the broker transacts the property on behalf of the seller, then the seller will usually be liable for payment and likewise for property transacted on behalf of the buyer. This can also vary according to prevailing market conditions. For example, where demand for an asset is low the seller may need to pay the commission as an incentive for brokers to pitch their project, and conversely where

TABLE 6

Type of land use

Land-use type	Lease period (years)
Residential	70
Education, science, culture, public health and physical education	50
Industrial	50
Commercial, tourism and recreation	40
Mixed-use or other	50

Source: Savills Research

TABLE 7

Office lease terms

Lease period	Typically 3 years (often with a renewal option for a further 3 years), occasionally up to 5 years.
Rent reviews	Only for longer-term leases and lease renewals.
Sub-letting/ assignment	Usually only allowed to affiliated companies and only if allowed in the lease agreement.
Termination	Sometimes allowed after second year as long as 3 months' prior notice is given.
Repairs	Carried out by the property manager, who bears the cost, dependent on the circumstances/fault.
Security of tenure	Protected by law.

Source: Savills Research

competition is fierce and buyers are lining up, the buyer may pay the commission as an incentive for the broker to push with negotiations.

Tax legislation

Stamp duty (payable by buyer and seller)
A stamp duty of 0.05% is levied on the contracted value of the property and is payable by both the buyer and seller of property in China.

Business tax (payable by seller, also as part of operating costs)
Business tax of 5% is levied on the gross amount of all business transactions:

- rental income.
- property management income.
- disposal income (the gross disposal price).

NB: In practice, individuals leasing residential or non-residential properties will be subject to a comprehensive tax, which replaces the business, real estate and income tax on rental income.

NB: Tabled tax reforms include the transition of the real estate and construction industry from a business tax to value added tax in 2016. By the end of 2014, there was no official indication as to what rates would be applied or how the tax would be introduced, though it is speculated that the tax will be introduced in July 2015 at a rate of 11%.

Urban real estate tax
Real estate tax can be levied in one of two ways which can be negotiated with local authorities:

- 12% of the rental income after business tax.
- 1.2% of the adjusted cost – set at 70% to 80% of the book value of the property. The book value of a property is set at the time of the asset's construction completion, and will not be reset unless the asset is sold through a direct asset transaction.

Corporate income tax (CIT) (payable by seller, also as part of operating costs)
CIT is levied at 25% on the profits of rental income and gains from the Chinese real estate of foreign investment enterprises (FIEs) and overseas enterprises maintaining establishments in China.

Land value appreciation tax (LVAT) (payable by the seller)
LVAT, as set out by the central government, is applicable to the taxable gain based on the sales of proceeds after a number of deductions, including but not limited to the cost of land-use rights, construction costs and taxes incurred during the transfer of land and property. A detailed summary is shown in Table 8.

Deed tax (payable by buyer)
Deed tax is shouldered by the buyer and ranges from 3% to 5% of the total value of the land-use rights or real property transferred depending on the location.

According to Circular 137 issued by the State Administration of Taxation, for an individual buying their first residence which is smaller than 90 sq m, the deed tax is 1% of the total value of the property, effective from 1 November 2008.

Land-use tax (operating costs)
Effective from the start of 2007, overseas enterprises are subject to the same land-use tax that was previously borne only by domestic enterprises. The tax is applied to the project's total GFA and varies from region to region, with first-tier cities, such as Shanghai, typically carrying the highest rates. A detailed summary is shown in Table 9.

Property tax
Chongqing and Shanghai announced, with the State Council's approval, details of the trial property tax which became effective on 28 January 2011.

Shanghai trial property tax details
Tax target
- newly acquired second or more home units for local households.
- newly acquired first or more home units for non-local households.

Valuation basis
- 70% of the transaction price (eventually to be based on regular appraisal price).

Applicable tax rate (per annum)
- 0.4% for units with prices equal to or lower than double the previous year's average first-hand price.
- 0.6% for all other units.

Exemptions
Local residents:
- 60 sq m GFA exemptions will be granted on a per head basis.
- for newly acquired first homes resold within one year, the paid tax amount will be refunded.
- for independent children who acquire the first home for marriage, no tax will be levied.

Non-local residents:
- first homes of qualified experts/ talent working in the city will be exempt.
- first homes of those residing and working in Shanghai for more than three years will be exempt.

Chongqing trial property tax details
Reference price
- the average transaction price in Chongqing's nine major districts

TABLE 8
LVAT

Profits (%)	Tax rate (%)
Below 50	30
50–100	40
100–200	50
Above 200	60

Source: Savills Research

TABLE 9
Land-use tax

City size	Tax rate (RMB per sq m)	
	1988	2007
Large city	0.5–10	1.5–30
Medium city	0.4–8	1.2–24
Small city	0.3–6	0.9–18
Towns and mining areas	0.2–4	0.6–12

Source: Savills Research

(Yuzhong, Jiangbei, Sapingba, Jiulongpo, Dadukou, Nan'an, Beibei, Tubei and Banan) in the previous two years.

Tax target
Only applicable for the nine major districts:

- all villas, both existing and newly acquired.

- newly acquired high-end residential units priced more than double the reference price.

- newly acquired second, ordinary units for non-local residents.

Valuation basis
- transaction price (eventually to be based on regular appraisal price).

Applicable tax rate (per annum) – please refer to Table 10.

Exemptions (for locals)
- for existing villa units, 180 sq m GFA will be exempt per household.

- for newly acquired villas or high-end residential units, 100 sq m GFA will be exempt per household.

Property tax summary
Tables 11 to 16 provide a breakdown of the tax considerations related to different real estate activities (acquisition, disposal, leasing and development) of companies/organisations and individuals.

Personal income tax (PIT)
PIT is based on monthly income, with the statutory monthly deduction allowance being RMB3,500. For expatriates the monthly deduction allowance is RMB4,800. Expatriates can also package up to 40% of their salary as housing budgets, education costs, etc, which is tax free as long as receipts to that value can be produced.

The tax of non-residents or resident expatriates is also calculated in accordance with their length of residency in China. For example, those who reside in China for less than one year will be taxed only on their China-sourced income. Residents of more than one year but less than five years will be subject to tax on both their China-sourced income and their overseas-sourced income. However, upon application to, and approval from, the tax authorities, the taxation of overseas-sourced income can be limited to that received from Chinese enterprises, Chinese establishments, Chinese economic organisations and Chinese individuals. Expatriates who reside in China for more than five consecutive years will be subject to tax on their worldwide income from the sixth year onwards. Those expatriates who travel in China and derive income

TABLE 10

Applicable tax rate (per annum)

Tax rate (%)	Local/ non-local	Pricing	Property type
0.5	All	<3 times reference price	Villa and high-end residential units
1.0	All	<3–4 times reference price	Villa and high-end residential units
1.2	All	>4 times reference price	Villa and high-end residential units
0.5	Non-locals	N/A	N/A

Source: Savills Research

TABLE 11

Institutional buyers – acquisition taxes and fees

Types of taxes	Tax rate
Key costs	
Deed tax (契税)	3–5% of total value
Ancillary costs	
Stamp duty (印花税)	0.05% of contract price
Notary fee (公证费)	Selective, 0.01–0.3% of contract price

Source: Savills Research
Note: There are several other smaller fees and taxes involved in the acquisition of properties or development sites, they include but are not limited to: Legal fees (法律费用), title deed registration fees (转移登记费), land registration fees (土地登记费), survey fees (调查费), handling fees for property ownership certificate (房产证转移费), real estate ownership certificate (房产证收费), stamp duty for real estate ownership certificate (权证印花税).

TABLE 12

Institutional sellers – disposal taxes and fees

Types of taxes	Tax rate
Key costs	
LVAT (土地增值税)*	30–60% of value appreciation on transfer of land or/and property
Business tax (营业税)	5% of sales value (for first-hand projects) or 5% of profit (for second-hand projects)
Enterprise income tax (企业所得税)	≤10% of taxable income if FIE has no establishments in China 25% of taxable income for others
Ancillary costs	
City construction and maintenance tax (城市建设税)	7% of business tax for tax payers located in a city 5% of business tax for tax payers located in a county or township area 1% of business tax for tax payers located in other urban regions
Education surcharge (教育费附加)	3% of business tax
Stamp duty (印花税)	0.05% of contract price

Source: Savills Research
*LVAT is applicable to the taxable gain (aka, value appreciation) based on sales proceeds after a number of deductions.

TABLE 13

Institutional landlords – leasing taxes and fees

Types of taxes	Tax rate
Key costs	
Real estate tax (房产税)	12% of rental income
Business tax (营业税)	5% of income (rental, management and other incomes)
Income tax (所得税)	25% of taxable income, taxed quarterly
Ancillary costs	
Urban and township land-use tax (城镇土地使用税)	RMB0.9–RMB30 per sq m at total site area
City construction and maintenance tax (城市建设税)	7% of business tax for tax payers located in a city 5% of business tax for tax payers located in a county or township area 1% of business tax for tax payers located in other urban regions
Education surcharge (教育费附加)	3% of business tax
Stamp duty (印花税)	0.1% of total aggregate rental

Source: Savills Research

TABLE 14

Individual buyers – acquisition taxes and fees

Types of taxes	Tax base	Tax rate			
Scenario		Primary normal residence smaller than 90 sq m	Primary normal residence larger than 90 sq m	Non-primary residential property	Commercial property
Key costs					
Deed tax (契税)	Contract price	1%	1.5–2.5%	3–5%	3–5%
Ancillary costs					
Stamp duty (印花税)	Contract price	0–0.05%			

Source: Savills Research
Note: Other fees potentially include but are not limited to: title deed registration fees (转移登记费), real estate ownership certificate (房产证收费), stamp duty for real estate ownership certificate (权证印花税), handling fees for property ownership certificate (房产证转移费), transaction charges (交易手续费).

TABLE 15

Individual sellers – disposal taxes and fees

Types of taxes	Tax base	Tax rate					
Scenario		Normal residential property held for more than 5 years	Non-normal residential property held for more than 5 years	Normal residential property held for 2-5 years	Non-normal residential property held for 2-5 years	Residential property held for less than 2 years	Commercial property
Key costs							
Business tax (营业税)	Contract price	-	-	-	-	5%	-
	Profit	-	5%	-	5%	-	5%
PIT (个人所得税)	Profit after deductions	20% (primary residence exempted) OR		20% OR			
	Contract price**	1–3% (primary residence exempted)		1–3%			
LVAT (土地增值税)#	Profit after deductions	0%					30–60%
Stamp duty (印花税)	Contract price	0%					0.05%
Ancillary costs							
City construction and maintenance tax (城市建设税)	Business tax	7% for tax payers located in a city 5% for tax payers located in a county or township area 1% for tax payers located in other urban regions					
Education surcharge (教育费附加)	Business tax	3%					

Source: Savills Research
#LVAT is applicable to the taxable gain based on the proceeds of sales after a number of deductions. **Only applicable if purchase documents indicating the value at the time of purchase are unavailable. Note: Other fees potentially include but are not limited to: local education surcharges (地方教育附加费), channel maintenance fees (河道工程维护费), transaction charges (交易手续费).

TABLE 16

Individual landlords – leasing taxes and fees

Types of taxes	Tax base	Tax rate	
Scenario		Residential	Commercial
Key costs			
Business tax (营业税)	Rental income	1.5%	5%
Real estate tax (房产税)	Rental income	4%	12%
PIT (个人所得税)	Taxable income	10%	20%
Stamp duty (印花税)	Contract price	Null	0.1%
Ancillary costs			
City construction and maintenance tax (城市建设税)	Business tax	7% for tax payers located in a city 5% tax payers located in a county or township area 1% tax payers located in other urban regions	
Education surcharge (教育费附加)	Business tax	3%	

Source: Savills Research
Note: Other fees potentially include but are not limited to: local education surcharges (地方教育附加费), channel maintenance fees (河道工程维护费). In practice individual landlords will pay a comprehensive tax which covers business, income and real estate tax for the leasing of a residential and non-residential property. This tax rate will vary depending upon the tax authority and total monthly rental income.

from an overseas employer with no permanent establishment in China will be tax exempt if they do not physically stay in China, consecutively or cumulatively, for more than 90 days in a calendar year. The 90-day test is extended to 183 days if the individual is a tax resident of a country/region that has executed a taxation treaty/ arrangement with China.

Withholding tax and tax treaties
International enterprises without establishments or places in China shall be subject to a unilateral concessionary rate of withholding tax at 10% on gross income from dividend, interest, lease of property, royalties and other China-sourced passive income unless reduced under a tax treaty.

The State Administration of Taxation released new tax regulations on indirect equity transfers by non-resident enterprises (Bulletin 7), providing a broader scope of indirect transfer, stricter provisions on scrutinising indirect transfers of China's taxable assets, and new reporting obligations.

Foreign owners were previously required to report offshore equity transfers and pay a 10% withholding tax; however, a lot of the time these rules were not enforced. As result, investors were able to avoid paying capital gains taxes on offshore holding structures, leading to higher returns. This new regulation is expected to result in a noteworthy tax obligation increase for foreign sellers, together with an important impact on the investment market.

China is a signatory to a treaty for the prevention of double taxation with many countries all over the world. Draft agreements with additional countries are also in discussion. A Double Taxation Agreement (DTA), in principle, enables the offsetting of tax paid in one of two countries against the tax payable in the other, in this way preventing double taxation. Another important factor is the grant of an exemption or tax at a reduced rate on certain receipts such as interest, royalties, dividends, capital gains and others that are connected with a transaction carried out between parties associated with the DTA. When certain income is taxable under the Chinese Income Tax Ordinance but there is an exemption (reduced tax) under

TABLE 17
Detailed tax bands for PIT

Monthly salary (RMB)	Tax rate (%)
Less than 1,500	3
1,500–4,500	10
4,500–9,000	20
9,000–35,000	25
35,000–55,000	30
55,000–80,000	35
More than 80,000	45

Source: Savills Research

any taxation treaty, the income may be taxed, but only according to the provisions of the taxation treaty.

Countries include:
Albania, Algeria, Armenia, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Brazil, Brunei, Bulgaria, Canada, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, India, Indonesia, Iran, Ireland, Israel, Italy, Jamaica, Japan, Kazakhstan, Korea, Kuwait, Kyrgyzstan, Laos, Latvia, Lithuania, Luxembourg, Macedonia, Malaysia, Malta, Mauritius, Mexico, Moldova, Mongolia, Morocco, Netherlands, New Zealand, Norway, Oman, Pakistan, Papua New Guinea, Philippines, Poland, Portugal, Romania, Russia, Saudi Arabia, Seychelles, Singapore, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Sweden, Switzerland, Thailand, Trinidad and Tobago, Tunis, Turkey, UAE, UK, Ukraine, US, Uzbekistan, Venezuela, Viet Nam and Yugoslavia.

Legal issues

The legal landscape pertaining to real estate in China has changed rapidly and continues to do so, with the regulatory environment considered to be significantly complex. Detailed below is recent key legislation pertaining to real estate.

Simplified registration procedure for foreign-invested real estate companies (November 2015)
The Ministry of Commerce (MOFCOM), together with the State Administration of Foreign Exchange (SAFE), recently issued a simplified registration procedure for foreign-invested real estate companies. Foreign-invested real estate companies will no longer need to go through the filing procedure with MOFCOM or display their company's information on the official MOFCOM website.

Foreign investment rules rolled back (November 2015)
Six governing ministries, including People's Bank of China (PBoC) and MOFCOM, issued a statement on 27 August 2015 detailing the rolling back of restrictions put in place to curb foreign investment in the Chinese real estate sector. The two key points include: 1) the dropping of restrictions requiring individuals to have resided in China for more than one year before purchasing a property (as long as it is still for self-use); and 2) The lowering of registered capital requirements for foreign-investment real estate enterprises, while at the same time foreign investors will not need to pay their registered capital in full before borrowing loans locally.

Loosened down-payment requirements (September 2015)
The Ministry of Housing and Urban-Rural Development (MOHURD), Ministry of Finance and PBoC jointly announced in a circular to lower the minimum down payment requirement of housing provident fund loans. Buyers that already own a property but have no outstanding mortgage can also apply for use of the housing provident fund, with a minimum down payment of 20%, decreasing from 30%. Beijing, Shanghai, Guangzhou and Shenzhen can adopt their own policies, given the different market conditions.

The Central Bank has issued loosened down payment requirements on first-home buyers. The minimum down payment requirement was lowered to 25% for first-home buyers purchasing normal residential property when using mortgages. The new regulation is only applicable in cities without implementations of home purchase restrictions.

Supportive policies for the residential sales market (March 2015)
PBoC, MOHURD and China Banking Regulatory Commission (CBRC) jointly announced further supportive measures for the property market on 30 March 2015.

1) The holding period at which higher rates are applicable was shortened from five years to two years.

2) Down payment requirements for second-home buyers were reduced to a minimum of 40%, including those who have not fully repaid their first mortgage – down from the previous 60-70%. First-home buyers were also allowed to use a housing provident fund with a minimum of 20% down payment. Buyers that already own a property, but have no outstanding mortgage, can also apply for use of the housing provident fund, with a minimum down payment of 30%.

Removal of all restrictive regulations on Foreign Investment Industrial Guidance Catalogue (March 2015)
MOFCOM has released the 2015 Foreign Investment Industrial Guidance Catalogue, covering three main types of foreign-invested enterprises: wholly-foreign owned; equity joint venture; and cooperative joint ventures. All restrictive lists regarding real estate investment have been completely removed from the new guidance catalogue.

Cancellation of Housing Purchasing Restrictions for 42 Cities (June–October 2014)
A total of 42 cities have cancelled their policy of house purchase restrictions (HPRs) between June and October in 2014. The policies were originally introduced in early 2010. As a result, only five cities, Beijing, Shanghai, Guangzhou, Shenzhen and Sanya, continue to enforce their previous HPRs.

State Council's Circular 17 (February 2013)
The government, in response to rising house prices and red-hot transaction volumes, introduced yet another round of policy tightening. Policies focused on:

- average sales price targets for individual cities (no longer effective);
- 20% Capital Gains Tax;
- extension of the home purchase restrictions (no longer effective);

- tighter mortgage lending standards (no longer effective);
- increasing land supply;
- increasing social welfare housing.

Land and property registration
The Property Law proposes that China's real property registration system be unified nation-wide and property rights holders and interested parties may apply to retrieve the information filed with the registry. Currently, information on land-use rights, building ownership and mortgage rights may be separately filed with different local real estate or construction administration authorities. That information is usually not accessible except with the registrant's written consent. The new law therefore ought to facilitate searches on title and related property rights. However, it remains unclear whether just anybody will be entitled to search the registry or whether applicants must establish some relationship to the property at issue. Implementation of these provisions of the Property Law will need to be monitored closely.

Foreign exchange controls
In addition to the hurdles presented by legislation outlined previously, there are also strict procedures that companies and individuals must abide by for conversion into local currency. Generally this applies to onshore purchasing of assets paid for with the use of overseas funds. Foreign exchange is overseen by SAFE. A general overview of foreign exchange regulations is as follows:

- individual purchases of no more than US$50,000 – this is essentially the same process as for the above, however, the purchase amount is lower for individuals.
- purchases of greater value – for purchases of greater value, the purchasing body is subject to the examination and approval of the foreign exchange authorities and hence may undergo a more rigorous evaluation on a case-by-case basis.

Other real estate issues

Sales approval
In contrast to many markets overseas, where developers will achieve a certain sales target before being able to gain funding and start construction, developers in China usually construct property on a speculative basis, which brings an added risk to the development of real estate in China.

Prior to commencement of onshore strata-title sales for units within a project, the developer must first acquire sales approval from the Municipal Bureau of Land Resources and Real Estate. For onshore sales of residential, office or retail units, the following criteria must be met to be eligible for attaining sales approval:

- the full amount of the land-use rights transfer fee must have been paid and the land-use rights certificate must have been formally obtained.
- the project must have a project planning licence, construction licence, real estate development licence and land-use rights certificate.
- 25% of the project must have been completed, assessed on the basis of 25% of the total project cost having been invested, and construction progress, as well as completion and handover dates, must have been determined. For low-rise projects, properties must be topped out.

Building completion
For newly developed projects, developers must apply to the local government for issue of a building completion certificate. Depending on the scale and significance of a project, the pre-completion assessment may be delegated to one or more higher levels of government authority, such as in the case of projects involving public interest, national security or state funding. This certificate should be obtained prior to the formal handover and occupation of the building. The following tasks are generally involved in attaining a building completion certificate:

- assessment of compliance with all planning requirements, including zoning, GFA restrictions, height restrictions, etc.
- assessment of compliance with health, fire, safety, labour and environmental protection requirements.
- settlement of contracts for building materials and services carried out by contractors.
- formal acceptance by the project owner that they are satisfied with the work carried out by contractors.

Major property legislation

The previous legal section provides a comprehensive review of recent legislation related to property. To summarise, these include:

- State Council's Circular 17 (February 2013) – suppressing investment demand while increasing supply
- Restrictions of land development (June 2012) – land for pure villa use is no longer allowed
- Property tax (January 2011) – Shanghai and Chongqing property tax
- Cooling measures (January 2011) – State Council announces further policies to control housing prices
- Circular 80 (October 2010) – domestic insurance companies allowed to invest in real estate
- Circular 151 (September 2010) – management of idle land banks
- Cooling measures (September 2010) – State Council announces further policies to control house prices
- Circular 53 (April 2010) – pre-sales restrictions
- Circular 10 (April 2010) – down-payment and mortgage-rate restrictions
- SASAC Announcement (March 2010) – SOEs required to withdraw from property business
- Circular 4 (January 2010) – notice on stabilising the development of the real estate market
- Circular 157 (December 2009) – property sales tax applicable timeframe extended to five years
- Circular 74 (November 2009) – notice of further regulations on land grant fee
- Circular 27 (May 2009) – minimum equity threshold for developers lowered
- Circular 23 (July 2008)
- China Property Law (October 2007)
- Circular 130 (June 2007)
- Circular 50 (May 2007)
- Circular 171 (July 2006)

Key cities overview

Beijing

TABLE 18
Key statistics

Permanent population	21.5 million (2014)
Land area	16,410.5 sq km (municipality) 1,368.3 sq km (urban area)
GDP	RMB2,133 billion (2014)
GDP per capita	RMB99,995; US$16,112 (2014)
GDP growth	7.3% per annum (2014)
Principal business centres	CBD and its vicinity, Beijing Financial Street, Lufthansa, East Second Ring Road, East Chang'an Avenue, Zhongguancun

Source: Savills Research

Overview

Beijing is the capital city of China and is recognised as the nation's centre for a wide variety of functions, including politics, economics and cultural heritage, and as a transportation hub. As one of the four municipalities directly under the central government, Beijing leads economic and political reform, and has 21.5 million residents and the country's second largest GDP.

The capital city for five dynasties, Beijing's history stretches back 3,000 years, making it a preferred international tourist destination. Multinational companies and large SOEs have therefore established their regional and national headquarters in Beijing to benefit from preferential policies, supported by the government, and to have closer ties to the decision-making centre.

Beijing's GDP experienced consecutive double-digit growth from 1998 to 2007, but started to slow down since 2012, echoing the economic slowdown of the country. In 2014, the tertiary industry continued to be the largest contributor to the city's GDP, accounting for 77.9% of the total.

Beijing-specific legislation

Detailed below are a number of property related legislations that are unique to Beijing.

Increased restrictions for Tongzhou district (August 2015)
On 15 August 2015, an announcement was made outlining guidelines for individuals purchasing housing units in the Tongzhou District of Beijing. Individuals must meet one of the following criteria:

- Beijing Hukou holder with no current housing unit.
- Tongzhou Hukou holders who already own one housing unit must hold the property for more than three years before buying a second.
- Beijing Hukou holders (excluding Tongzhou) who already own one housing unit must have paid social insurance in the Tongzhou District for more than three years.
- Non-Beijing Hukou holders with no housing units in Beijing must have paid their social insurance in the Tongzhou district for more than three years.

Catalogue of prohibited and restricted Industries for new projects "Announcement [2015] 42" (August 2015)
In August 2015, government authorities announced new restrictions on the development of new industries in six downtown districts in Beijing – Dongcheng, Xicheng, Chaoyang, Haidian, Fengtai and Shijingshan. These restrictions include:

- Non-Beijing SOEs are prohibited from relocating their headquarters to any of the six downtown districts.
- Residential, hotel and office projects are prohibited from being developed in the Dongcheng and Xicheng districts.
- Hotel and office projects are prohibited from being developed in the section of Chaoyang, Haidian, Fengtai and Shijingshan districts that fall within the inside of Fifth East West and North Ring Roads and the Fourth South Ring Road.
- Exhibition facilities are forbidden from being established in any of the six downtown districts.
- Food & Beverage operators are forbidden from operating a business in a basement within any of the six downtown districts and additionally are restricted from establishing a business that is less than 60 sq m within any of the areas.

Adjustment of deed tax standard (October 2014)
The Beijing Municipal Housing and Urban-Rural Construction Commission announced on 8 October the criteria for ordinary housing classification. Values cannot exceed those listed in the below table:

Ring roads	Total value (RMB mil)	Per sq m value (RMB per sq m)
Within fifth	4.680	39,600
Between fifth and sixth	3.744	31,680
Outside sixth	2.808	23,760

Self-use commodity residential property (October 2013)
In addition to the municipality's restrictions set out in Circular 17, Beijing municipal MOHURD announced new regulations on self-use commodity residential property.

- ensure self-use commodity residential supply of no less than 20,000 units by the end of 2013, and another 50,000 units by the end of 2014.
- the majority of units are required to be no larger than 90 sq m, with the largest unit no bigger than 140 sq m.
- sale prices are to be set at a 30% discount to other commodity

residences with equivalent specifications in a similar location.

- qualified purchasers (households) are allowed to buy self-use commodity residences, but the following applicants have priority:

- local residents without any properties, of which, single local households should be older than 25 years old

- Applicants on a waiting list for economical affordable housing and price-capped commodity houses.

- qualified purchasers are allowed to buy only one self-use commodity residential property.

- ownerships for such properties are registered as "self-use commodity residential property".

- purchasers are prohibited from property transfers within five years in principal.

- if self-use commodity residences are sold after five years, a 30% CGT will be charged and the seller will be prohibited from buying another self-use commodity property.

Increased down-payment requirements for second homes (April 2013)
The Beijing branch of the People's Bank of China office also announced changes to down-payment requirements for home purchasers:

- first home purchaser down-payments remained unchanged at 30%.
- second home purchaser down-payments are raised from 60% to 70%.

- third home purchasers are prohibited from having a mortgage.

Circular 17 (March 2013) – municipal interpretation of State Council's Circular 17
In addition to the State Council's restrictions set out in Circular 17, the Beijing municipal government also announced the following:

- keep first-hand commodity housing prices stable, along with a decline in end-use property prices during the remainder of 2013;

- single adults with Beijing hukou registration are allowed to purchase only one residential unit;

- down-payments for second-home purchases are increased to 70%;

- sellers of primary residences, after owning the property for five years, are exempt from the 20% CGT.

Land supply plan between 2011 and 2015 (March 2012) – no residential land supply within the Third Ring Road
Beijing Municipal Bureau of Land and Resources issued the "State-owned land supply plan during 2011 to 2015", declaring that no residential land plots are to be sold within the Third Ring Road during the 12th Five-year Plan period (2011–2015).

Circular 192 (May 2011) – developers prohibited from developing residential properties on commercial-zoned land
The Beijing government issued a circular forbidding developers from constructing residential buildings on land previously designated for commercial use. The regulation also states that developers of office or retail properties are prohibited from promising specific rates of return to investors purchasing premises.

Circular 16 (March 2011) – Beijing sets price target for residential pricing in 2011
Targets have been set to reduce housing prices or prevent prices in 2011 from exceeding those in 2010.

Circular 5 (March 2011) – pre-levy LVAT rate raised
Beijing's MOHURD announced that it would increase the pre-levy LVAT from 2% to 5% starting 26 March. Properties sold after more than five years of self use are exempt from income tax.

Circular 8 (February 2011) – restrictions on home purchase and social housing
The Beijing municipal government issued new restrictions on 16 February. According to the regulation the following are prohibited from buying residential properties:

- local residents (family units) who own two or more properties.

- non-local residents (family units) who own one or more properties.

- non-local residents (family units) who cannot provide five continuous years' worth of tax receipts or proof of social welfare payments in Beijing.

Additionally, the government will provide at least 100,000 affordable apartment units and provide housing subsidies to 20,000 low-income families this year. Low- to medium-income families can start applying for the next available 10,000 low-rent apartments by the end of the year.

Circular 265 (May 2010) – sale of hotel-transformed apartments prohibited
Beijing government issued a document on 14 May 2010 to ban the sale of residential properties whose original designation was for hotel use. After 31 May 2010, developers granted land-transferring contracts on hotel projects are prohibited from selling hotel rooms by floor or unit. They are not allowed to alter the land zoning or to transfer parcels of the land without permission. Those who already have permission to sell this kind of apartment should explain to buyers about issues such as length of ownership, tax and property fees, notify buyers about the original uses of the apartments, and cover these issues in purchase contracts.

Circular 13 (April 2010) – municipal interpretation of State Council's Circular 10
In addition to the State Council's restrictions put in place in Circular 10 in April 2010, the Beijing municipal government also announced the following:

- a single household is only allowed to purchase one property in the city.

- buyers without a Beijing hukou are required to provide one year's worth of tax receipts for mortgage approval.

- 70% or more of auctioned residential-zoned land is to be used for mid- to small-sized homes, of which 50% or more should be government-assisted properties.

Key cities overview

Shanghai

TABLE 19

Key statistics

Permanent population	24.3 million (2014)
Land area	6,340.5 sq km (municipality) 3,248.7 sq km (urban area)
GDP	RMB2,356 billion (2014)
GDP per capita	RMB97,343; US$15,908 (2014)
GDP growth	7.0% per annum (2014)
Principal business centres	Huaihai Road (M), Nanjing Road (W) and 'Little' Lujiazui

Source: Savills Research

Overview

As one of the cities pioneering China's economic reforms, Shanghai is the powerhouse of the Chinese economy, and one of the largest cities in the country with more than 24 million residents and the country's largest GDP. Shanghai has benefited greatly from its strategic location on the East China Sea, acting as the window to the world for much of the Yangtze River Delta, one of China's largest production regions. Shanghai has also had immense support from the central government, with preferential policies and a greater degree of openness, allowing the city to lead the way in the country's economic reforms.

Manufacturing has traditionally been the core of Shanghai's economy; however, in 1999 the services industry overtook manufacturing as the largest contributor to GDP and at the end of 2014 accounted for 64.8% of the city's economy.

Shanghai-specific legislation

Detailed below are a number of property related legislations that are unique to Shanghai.

Increase housing provident fund loan ceiling (April 2015)

A household is allowed to use a housing provident fund in Shanghai for up to RMB1.2 million, increasing from RMB800,000 million.

Ordinary housing standards changed (November 2014)

Shanghai municipal government lowered ordinary housing standards. Residential units that satisfy the criteria below could be considered ordinary houses, with effect from 20 November 2014.

Ring roads	Old criteria (RMB mil)	New criteria (RMB mil)
Within Inner	3.3	4.5
Between inner and outer	2.0	3.1
Outside outer	1.6	2.3

Other criteria remain the same, namely:

- a residential building should be no less than five storeys, or any old-style apartment.
- unit size is required to be below 140 sq m.
- transaction price per sq m is required to be less than 1.44 times the average price of comparable properties of the same class of land.

Industrial land usage term shortened to 20 years (March 2014)

In order to free up and improve utilisation of industrial land, the Shanghai municipal government announced reforms on industrial land usage:

- new industrial land (including warehouse and R&D-zoned land) supplied by the government will carry a lease term usually not exceeding 20 years, compared with 50 years previously.
- industrial land stock can be rezoned for R&D headquarters' use, commercial, education and health care use. Before the conversion of land usage, owners should pay the difference in market price for the land. This trial is effective from 1 April 2014 to 31 March 2016.

Further restrictions on the real estate market (November 2013)

In response to a significant price increase in 1H/2013, the Shanghai municipal government announced the following additional restrictions:

- residential land supply target for 2013 is more than 30% above the past five-year average; supply of 10 million sq m of site area will be ensured; and the portion of small- to medium-sized units will be increased.
- second home purchase down-payments raised from 60% to 70%.
- non-local residents (households) are required to provide two years of tax receipts or proof of social welfare payments for the last three years in Shanghai.

State Council's Circular 17 – local interpretation (March 2013)

In addition to the State Council's restrictions set out in Circular 17, the Shanghai municipal government also announced the following:

- keep first-hand commodity housing prices stable.

- implement a differentiated mortgage policy.

- ensure land supply equals or exceeds the average for the past five years.

- enhance database sharing across different government bodies – “one price for one unit”.

Definition for ordinary housing revised (March 2012)
The Shanghai municipal government revised the definition for what qualifies as ordinary housing. Significant changes include:

- the specification of what property types classify as ordinary housing.

- unit price and price per sq m criteria were both elevated according to latest market transaction prices.

The revisions lead to a number of properties previously defined as non-ordinary housing being reclassified as ordinary housing and therefore subject to lower tax rates, with purchase costs potentially falling from 5% of the property value to 3%.

Circular 6 (January 2011) – restrictions on home purchase
The Shanghai government issued Circular 6 in January 2011, according to which the following are prohibited from buying residential properties:

- local residents (family units) who own two or more properties.

- non-local residents (family units) who own one or more properties.

- non-local residents (family units) who cannot provide one year’s worth of tax receipts or proof of social welfare payments in Shanghai.

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Hong Kong

Overview

Hong Kong, a small city of seven million people, is conveniently located in a time zone between the US and Europe, and has the sixth largest stock market in the world. The city has been voted the world's freest economy for 19 consecutive years by the Heritage Foundation. The Hong Kong economy is highly influenced by the services industry, which dominates over 90% of its GDP. Finance and real estate are the main foundations of the economy, with 23% of the working population employed in these sectors.

TABLE 20

Key statistics

Official name	Hong Kong Special Administration Region (HKSAR)*
Currency	Hong Kong dollar (100 cents), Pegged to the US dollar (US$1 = HK$7.8)
Population	7.26 million (2014 year-end)*
Land area	1,104 sq km*
GDP per capita	HK$296,152; US$37,968 (2014)*
Real GDP growth	2.3%* per annum (2014) 1.0–3.0%# per annum (2015E)
Principal business centres	Central, Wanchai, Causeway Bay, Tsim Sha Tsui and Island East*

*Source: Census and Statistics Department
#Source: HKSAR Government

Types of property ownership

All land in Hong Kong, with a few minor exceptions, is held by the HKSAR Government. The government grants companies or individuals the right to occupy or develop land in return for the payment of government rent. Leases are often granted for a period of 75 years with an automatic right to renew for another 75 years upon expiry. Under the Sino-British Agreement, leases due for renewal after July 1997 were automatically renewed until 2047.

Strata-title ownership is commonly practised in Hong Kong. Owners are required to sign a deed of mutual covenant guaranteeing collective up-keep and maintenance of the building.

Overseas ownership restrictions

Under the Sino-British Joint Declaration there are no restrictions on overseas ownership of property.

Measurement of areas

All areas are quoted in sq ft. There are various area measurements which are often quoted in agreements, as follows:

- net area: net usable area including columns.
- lettable area: net area plus washrooms and lobbies.
- gross area: all area contained within the outside of the external walls.
- net usable area: carpetable area excluding columns and service core.

Estate agents are required to provide information on the saleable area of a second-hand residential property to their clients in advertisements and in provision of the floor area information of the property effective from 1 January 2013.

- saleable area: a domestic unit is measured on the basis of 'saleable area' which is defined as the floor area exclusively allocated to the unit including balconies and verandahs but excluding common areas such as stairs, lift shafts, pipe ducts, lobbies and communal toilets. It is measured from the outside of the exterior enclosing walls of the unit and the middle of the party walls between two units. Bay windows, yards, gardens, terraces, flat roofs, carports and the like are excluded from the area.

TABLE 21

Lease terms

Lease period	In most cases 2- to 3-year leases are common although longer leases are available.
Rent reviews	Usually rent reviews are conducted every 3 years, while a price ceiling and price floor are typically set when the contract is signed to protect both parties.
Sub-letting/ assignment	Not an accepted market practice.
Termination	Usually prohibited, though break clauses can be included in a lease.
Repairs	The exterior and common areas of the building are the landlord's responsibility. Tenants should be expected to be responsible for internal repairs.
Security of tenure	Security of tenure is not guaranteed beyond the term of a lease. A right to renew can be included in the lease if required.
Dilapidation	Tenants are expected to reinstate a building to its original condition although allowances are made for fair wear and tear.

Source: Savills Research & Consultancy

Transaction costs

Brokerage/agency fees

Leasing fees are typically one month's rent paid by the landlord, while purchase fees are usually 1% of the agreed price.

Security deposit
Commonly a non-interest-bearing returnable deposit of two or three months' gross rent plus service charges and rates.

Legal costs
Legal costs are based on guidelines issued by the Law Society of Hong Kong. Notably, due to increasing competition among solicitors, most fees are now subject to negotiation.

TABLE 22
Stamp duty on sales and purchases (HKPR)

Amount or value of the consideration		Rate
Exceeds (HK$)	Does not exceed (HK$)	
	2,000,000	HK$100
2,000,000	2,351,760	HK$100 + 10% of excess over HK$2,000,000
2,351,760	3,000,000	1.5%
3,000,000	3,290,320	HK$45,000 + 10% of excess over HK$3,000,000
3,290,320	4,000,000	2.25%
4,000,000	4,428,570	HK$90,000 + 10% of excess over HK$4,000,000
4,428,570	6,000,000	3%
6,000,000	6,720,000	HK$180,000 + 10% of excess over HK$6,000,000
6,720,000	20,000,000	3.75%
20,000,000	21,739,120	HK$750,000 + 10% of excess over HK$20,000,000
21,739,120		4.25%

Source: Savills Research & Consultancy

TABLE 23
Stamp duty on sales and purchases (non-HKPR)

Amount or value of the consideration		Rate
Exceeds (HK$)	Does not exceed (HK$)	
	2,000,000	1.5%
2,000,000	2,351,760	HK$30,000 + 20% of excess over HK$2,000,000
2,351,760	3,000,000	3%
3,000,000	3,290,320	HK$90,000 + 20% of excess over HK$3,000,000
3,290,320	4,000,000	4.5%
4,000,000	4,428,570	HK$180,000 + 20% of excess over HK$4,000,000
4,428,570	6,000,000	6%
6,000,000	6,720,000	HK$360,000 + 20% of excess over HK$6,000,000
6,720,000	20,000,000	7.5%
20,000,000	21,739,120	HK$1,500,000 + 20% of excess over HK$20,000,000
21,739,120		8.5%

Source: Savills Research & Consultancy

Tax legislation

Stamp duty
With effect from 1 April 2010, stamp duty on the sale of immovable property in Hong Kong is charged at rates which vary with the amount or value of the consideration. For a residential property transaction taking place after 23 February 2013, where the purchaser/transferee is a Hong Kong permanent resident (HKPR) acting on his own behalf and who does not own any other residential property in Hong Kong at the time of acquisition, the rates are shown in Table 22. For other buyers and situations, the rates are shown in Table 23.

After 23 February 2013, stamp duty on a non-residential transaction is charged on a sale and purchase agreement instead of charging when a conveyance on the sale of the property is executed.

Special stamp duty (SSD)
Any residential property acquired on or after 20 November 2010, either by an individual or a company (regardless of where it is incorporated), and resold within 24 months (if the property was acquired between 20 November 2010 and 26 October 2012) or 36 months (if the property was acquired on or after 27 October 2012) will be subject to the proposed SSD:

SSD rate
The SSD is calculated based on the stated consideration for the transaction or the market value of the property, whichever is higher, at the following rates for different holding periods by the seller before the transaction if the property was acquired between 20 November 2010 and 26 October 2012:

1) 15% if the vendor has held the property for six months or less;

2) 10% if the vendor has held the property for more than six months but for 12 months or less;

3) 5% if the vendor has held the property for more than 12 months but for 24 months or less.

For property acquired on or after 27 October 2012, SSD will be calculated at the following rates:

1) 20% if the vendor has held the property for six months or less;

2) 15% if the vendor has held the property for more than six months but for 12 months or less;

3) 10% if the vendor has held the property for more than 12 months but for 36 months or less.

Buyers' stamp duty (BSD)
Any residential property acquired on or after 27 October 2012, either by an individual who is not a permanent Hong Kong resident or a company will be subject to the proposed BSD:

BSD rate
The BSD is calculated as 15% of the stated consideration for the transaction or the market value of the property, whichever is higher.

Property tax
Government rent is payable quarterly in advance, namely in January, April, July and October. It is currently calculated as 3% of the rateable value of the property, payable by the landlord.

Government rates are also payable quarterly in advance. They are currently calculated as 5% of the rateable value, payable by the tenant.

Land and buildings are generally taxed at 15% on actual rents received, less a maximum of 20% for repairs and maintenance.

Properties owned by enterprises doing business in Hong Kong are exempt from property tax, but profits derived from ownership are chargeable to profits tax.

Limitation on mortgages
Banks have to comply with a 70% loan-to-value (LTV) guideline on residential mortgage lending. Banks can only approve mortgage loans of more than 70% of the value of the property without incurring additional credit risk by joining a mortgage insurance plan. As long as an application meets the relevant eligibility criteria, the bank can approve a mortgage loan of up to a 90% LTV ratio under the mortgage insurance plan.

Mortgage insurance plans will not be available to applicants whose income is derived mainly from outside Hong

Kong unless they can demonstrate that they have a close connection with Hong Kong.

- the maximum debt servicing ratio (DSR) of mortgage loans assessed based on the debt servicing ability of a mortgage applicant who has more than one property is 40%.

- the maximum LTV ratio for mortgage loans assessed based on the net worth of a mortgage applicant is limited is 30%.

- the maximum LTV ratio for mortgage applicants whose principal income is derived from outside Hong Kong is 20 percentage points lower than local buyers.

- the maximum loan tenor of all new property mortgage loans is 30 years.

The following are new requirements released by the Hong Kong Monetary Authority on mortgage lending for properties transacted after 23 February 2013:

- the assumed increase in mortgage rates when stress-testing mortgage applicants is raised from 200 basis points to 300 basis points.

- the maximum LTV ratio of mortgage loans for all commercial and industrial properties is further lowered by 10 percentage points (local buyers: 40%; others: 20%).

- the maximum LTV ratio of mortgage loans for standalone car park spaces and the maximum loan tenor will remain at 40% and 15 years respectively.

- other requirements on maximum LTV ratios and DSR which apply to commercial and industrial property mortgage loans are applicable to standalone car park space mortgage loans.

The following are new requirements released by the Hong Kong Monetary Authority on mortgage lending for properties transacted after 27 February 2015:

- the maximum loan-to-value (LTV) ratio for self-use residential properties with a value below HK$7 million will be lowered by a maximum of 10 percentage points. For example, the maximum LTV ratio applicable to properties with a value of HK$6 million or below and subject to the LTV cap of 70% will be lowered to 60%.

- the maximum debt-servicing ratio (DSR) for borrowers who buy a second residential property for self-use will be lowered to 40% from 50%, and the stressed-DSR cap will be lowered to 50% from 60%.

- the maximum DSR of mortgage loans for all non-self use properties, including residential properties, commercial and industrial properties and car park spaces, will be lowered to 40% from 50%, and the stressed-DSR cap will be lowered to 50% from 60%.

Capital allowances
Tax depreciation allowances are given for capital expenditure incurred in the construction of industrial buildings and structures, the construction of commercial buildings, and the provision of plant and machinery for trade and business purposes.

- industrial buildings: an initial allowance of 20% is available in relation to the cost (excluding the cost of land) of an industrial building or structure occupied for the purposes of a qualifying trade. An annual allowance of 4% of the original capital expenditure is also given.

- commercial buildings: these are buildings or structures used for business purposes other than industrial buildings. An annual allowance of 4% of the capital expenditure incurred on construction has applied since 1 April 1998.

- refurbishment concession: capital expenditure on the renovation or refurbishment of a building or structure, other than a domestic building or structure, is deductible at the rate of 20% a year over a five-year period.

CGT
None. Equally, capital losses are inadmissible for profits tax purposes. Where gains are part of normal trading activities, they become taxable as profit at 16.5% for incorporated entities or 15% for unincorporated entities.

TABLE 24
Stamp duty on leases

Term		Rate
Exceeds	Does not exceed	
	1 year	0.25% × the total rent payable over the term of the lease*
1 year	3 years	0.5% × the yearly or average yearly rent*
3 years		1% × the yearly or average yearly rent*
Not defined or is uncertain		0.25% × the yearly or average yearly rent*
Key money, construction fees, etc mentioned in the lease		3.75% of the consideration if rent is also payable under the lease. Otherwise, same duty as for a sale of immovable property.
Duplicate or counterpart		HK$5 each

Source: Savills Research & Consultancy
Note: 1) *The yearly rent/average yearly rent total has to be rounded-up to the nearest HK$100; 2) Any deposit which may be mentioned in the lease will not be taken into account in assessing the stamp duty.

TABLE 25
Actual calculation of PIT

Income – sliding scale (HK$)	Tax rate (%)
First 40,000 (after deductions)	2
Next 40,000	7
Next 40,000	12
Remaining income	17

Source: Savills Research & Consultancy

Corporation tax
Detailed below is the normal rate of corporate tax and the concessionary rate:

- normal rate: incorporated and unincorporated entities are taxed annually at a flat rate of 17.5% and 16% respectively.

- concessionary rate: a tax rate of 50% of the normal profits tax rate will be applied to trading profits and interest income received or derived from qualifying debt instruments issued in Hong Kong, and to the offshore businesses of professional reinsurance companies.

All taxpayers are subject to the same corporation or unincorporated business tax rate irrespective of their residential status.

Net losses may be carried forward indefinitely.

PIT
Individuals are taxed on income arising in or derived from Hong Kong, deducting any allowances applicable (the most common one being the

basic allowance, which is HK$100,000 for the time being), on a rising scale subject to a limit of 15%. The actual calculation is shown in Table 25.

Value-added tax (VAT)/GST
None.

Withholding tax and tax treaties
There is no withholding tax on dividends, interest or royalties. However, the tax on royalties received by non-residents is in effect similar to a withholding tax. It requires resident consignees to provide quarterly returns to the Hong Kong Inland Revenue Department (HKIRD) showing the gross proceeds from sales on behalf of their non-resident consignors and to pay to the HKIRD Commissioner a sum equal to 0.5% of such proceeds.

Hong Kong has reached an understanding with the relevant tax authorities in the PRC government for avoidance of double taxation between the mainland and Hong Kong. The arrangement covers airline and shipping operations as well as other business activities. In addition, Hong Kong has concluded DTA for shipping and airline incomes with other countries.

To date, Hong Kong has entered into comprehensive DTAs with Austria, Belgium, Brunei, Hungary, Indonesia, Ireland, Kuwait, Liechtenstein, Luxembourg, Netherlands, PRC, Thailand, UK and Viet Nam. The agreements with Austria, Brunei, Hungary, Indonesia, Ireland, Kuwait, Liechtenstein, Netherlands and the UK have not yet come into force pending the completion of the ratification procedures of the governments concerned.

Legal issues

Land registration (Source: Land Registry)
The Land Registry maintains a public land register for recording interests in land and real property. This public register provides the means whereby the title to real and immovable property may be easily traced and ascertained, and secret or fraudulent conveyancing can be detected. The assurance that it gives about the ownership of property encourages investment and supports economic development.

The present land registration system has been in operation since 1844. It is a deeds registration system governed by the Land Registration Ordinance. Under the deeds registration system, instruments affecting real properties are lodged with the Land Registry for registration.

Town planning
The Town Planning Board is responsible for guiding and controlling the development and use of land in order to promote the health, safety, convenience and general welfare of the community.

In accordance with town planning regulations, the Board may also require the Director of Planning to prepare plans or sketches for carrying out its functions as laid down in the Ordinance. Headed by the Director of Planning, the Planning Department is the executive arm of the Board which is responsible for formulating, monitoring and reviewing town plans, planning policies and associated programmes for the physical development of Hong Kong. It deals with all types of planning at the territorial and district/local levels and provides services to the Board.

Under the Town Planning (Amendment) (No. 2) Ordinance which came into operation in November 1991, the Town Planning Appeal Board has also been set up to hear appeals against the Board's decisions to reject planning applications upon review.

Major property legislation

There are a number of key pieces of legislation pertaining to real estate, which are detailed below:

- Application of English Law Ordinance
- Building Ordinance
- Companies Ordinance
- Conveyancing & Property Ordinance
- Inland Revenue Ordinance
- Land Registration Ordinance
- Landlord and Tenant Ordinance
- Law of Property Amendment Ordinance
- Multi-storey Buildings Ordinance

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Indonesia

Overview

Indonesia, in Southeast Asia, is the world's largest archipelagic country. With a total population of around 252 million, Indonesia is the fourth largest nation in the world after China, India and the United States.

For centuries, Indonesia has been famous for its abundance of natural resources, from agricultural commodities (such as rubber, coconut, coffee and spices), mining reserves (such as oil and gas) and maritime resources, including flora and fauna. In the energy sector, around 40% of the earth's geothermal energy is located underneath Indonesia's archipelago.

Indonesia is a young nation, with a large working age population. Around 70% of Indonesia's total population is between 15 and 64 years of age, of which the majority are between 20 and 54 years old. This particular group is very important as they provide a vital contribution to the economy due to their strong income and solid expenditure.

Indonesia's demography and abundant natural resources are two key factors which provide a strong boost for the engine of economic growth in Indonesia. Statistics show that over the past few decades, Indonesian economic growth (measured by Gross Domestic Product or GDP growth) had been consistently driven (IDR by domestic consumption growth as well as new investment.

Indonesia is the largest economy in Southeast Asia and the only member of both the ASEAN and the G20. BPS data shows that the size of the Indonesian economy in 2014, measured by GDP, was approximately US$856 billion. Based on that figure, The World Bank ranked Indonesia as the world's 17th largest economy, measured by nominal GDP.

TABLE 26

Key statistics

Official name	Republic of Indonesia
Currency	Indonesian Rupiah (IDR) US$1 = IDR14,000 (December 2015)
Population	241.4 million (2014)
Land area	1,904,569 sq km (2014)
GDP per capita	US$3,492 (2014)
Real GDP growth	5.1% (2014)
Principal business centres	Jakarta CBD ('Kawasan Segitiga Emas' or Golden Triangle Zone)

Source: World Bank, BPS (Indonesia's Central Statistics Bureau)

Land and property ownership

In Indonesia, types of land rights are basically divided into two categories:

Adat land (customary land)

Indonesian law recognises customary land, defined as land that is not registered with the national land agency (Badan Pertanahan Nasional).

- Rights are generally transmitted by inheritance and these rights can be converted to a certified title issued by the national land agency.

- Usually held through a (hereditary) traditional joint community ownership structure.

- A (joint) community may temporarily 'release' valid customary land to be used for agricultural purposes by granting another person a Right of Cultivation (Hak Guna Usaha) and/or a Right of Use (Hak Pakai) over the customary land, for a limited tenure.

- Customary land is generally not a consideration for developers.

Certified land

Certified land is land that is registered at the national land office. There are five forms of title recognised under UU No.5 Tahun 1960 (Basic Agrarian Law) that forms the foundation of modern day title law in Indonesia.

<u>A. Right of Ownership (Hak Milik or HM)</u>

This is an absolute or freehold form of ownership in common law jurisdictions. This form of title can only be held by Indonesian individuals and can be sold, transferred, bequeathed or hypothecated.

<u>B Right of Exploitation (Hak Guna Usaha or HGU)</u>

This is a right to cultivate or exploit state-owned land for agricultural, fishery, or husbandry purposes. This form of title is valid for an initial period of 35 years, but can be extended for an additional 25 years with an option for further renewal.

This land right can be mortgaged, and can be held by Indonesian citizens or entities as well as foreign joint-venture companies.

<u>C. Right to Build (Hak Guna Bangunan of HGB)</u>

This is by far the most common form of title used by developers and this grants the holder the right to build on the land. This title is granted for an initial period of 30 years and may be extended for 20 years, with the possibility of further extension.

This title is not held by private individuals but may be held by both Indonesian organisations and foreign joint-venture entities. Land developed with such a title can be sold, exchanged, transferred, bequeathed or mortgaged.

D. Right of Use (Hak Pakai or HP)
This form of title provides the right to use land or a structure that sits upon the land for a specific period of time of time for a specific purpose, such as habitation, social activities or work activities. This form of title is valid for a maximum of 25 years but extendable for another period of 20 years, or occasionally for an indefinite period as may be stated in the grant or agreement.

This form of title is the most accommodating in terms of who may hold it: Indonesian citizens, foreign citizens resident in Indonesia, foreign embassies, and representative offices of foreign entities. The Hak Pakai rights generally cannot be sold, exchanged, or transferred unless explicitly provided for in the grant or agreement.

E. Right to Operate (Hak Pengelolaan or HPL)
This form of title allows the holder the right to operate state-owned land for a specific purpose as approved by the authorities. This title is only granted to government institutions or state-owned companies for an unspecified period and can be transferred to a third party in the form of HGB or Hak Pakai.

Overseas ownership restrictions

Generally, foreign individuals or foreign companies residing in Indonesia enjoy only the Right of Use (Hak Pakai).

Under the Agrarian Law No. 5/1960, which is stipulated by Government Regulation No. 41/1996, individual foreigners are allowed to own a residential property.

Foreigners who provide benefits to the national development, reside permanently or temporarily in Indonesia, and have immigration documents or visa, may purchase:

- Non subsidized houses on land with Right of Use title;
- Strata-titled apartment units on land with Right of Use title; and
- Vacant land with Right of Use title or other land use agreements with the land title holder, and build a house on it.

The Indonesian government is currently reviewing the 1996 Government Regulation, with a view to possibly opening up the ability for foreign individuals to hold a Right of Use (Hak Pakai) title for a longer period of time (i.e. for 95 years and extendable), although it may be restricted to properties valued over a certain threshold. Whether these changes are implemented remains to be seen.

Measurement of areas

In the Jakarta office market, the standard unit of measurement is square metres (sq m); the type of measurement adopted by landlords for calculating the rentable space (in the agreement) is semi gross area (SGA).

A semi gross measure includes a pro-rata apportionment of service areas and common passages in the lettable area. The precise definition of semi gross area varies from building to building, but one such definition is that semi gross is defined as being measured from the internal face of the dominant portion of the exterior wall of the building, from the centre line of any partition walls dividing adjoining lettable areas, and from the external face of any walls enclosing adjoining non-lettable areas.

Measurements shall be made at a height of 1.50 m above floor level and the lettable area shall include all structural columns either freestanding or protruding into the premises, together with a pro-rata apportionment of the total lettable common or service area of the floor, calculated in the same proportion that the net area of the premises represents as a part of the total net area contained on the floor concerned.

The common area shall include the lift lobby, common corridor, service corridor, toilet, pantry, wudhu, fire hose reel and other similar facilities, together with any stairwells, utility cupboards, lift shafts and other facilities intended for the exclusive use of a particular lessee and not provided as standard facilities in the building.

The non-lettable common area shall include the fire escape stairwells, lift shafts, other vertical service risers and plant rooms, including their enclosing walls where provided as standard facilities in the building.

Lease terms

The lease terms typical to commercial (office) property in Indonesia are detailed in the following table. However, there are a number of other terms and practices that are also worth highlighting, as detailed below:

- Office rent: prices are quoted as gross figures per sq m SGA per month. The gross rent is made up of base rent per sq m SGA per month, plus an amount for service charge and other outgoings per sq m SGA per month.
- Rent-free period: Usually intended as an allowance to cover the period required for fitting-out. Also used as an incentive to bring down the effective rent.
- Security deposits: The equivalent of three months' gross rent is required as a security deposit. Deposits may also be required for mailbox keys, car parking passes and employee security passes.

Transaction costs

Brokerage/agency fees
The typical agency fee for leasing transactions is around 3-5% of total gross rent for the initial lease. Agency fee is payable by the landlord.

Meanwhile, standard brokerage fee for sales transactions is mostly between 2%-3% of total deal price and is payable by the seller.

Legal costs
Each party (buyer and seller) bears their own legal costs.

Tax legislation

Taxation in the property sector can be broadly divided into:

(1) taxes on acquisitions and transfer of real estate; and

TABLE 27

Typical lease terms

Lease period	A typical tenancy is 3 years (5-10 years for larger tenants)
Rent reviews	Rent reviews are typically conducted at the expiry of the tenancy or every 3 years during a lease term
Sub-letting/ assignment	The landlord's consent to sub-let should not be unreasonably withheld
Termination	Not an accepted market practice but it can be agreed provided a tenant secures a new tenant that is acceptable to the landlord and that the tenant pays for any estate agency services
Early Termination	Only by break clause (negotiable, subject to penalty). Typical penalty imposed is security deposit being forfeited
Repairs	The exterior and common areas of the building are the landlord's responsibility.
Security of tenure	Security of tenure is not guaranteed beyond the tenancy/lease term. An option for a further term should be agreed in the first term.
Dilapidation	Tenants are required to reinstate a property to its original handover condition at the expiry of the term.

Source: Savills Research & Consultancy

(2) taxes on the possession and operation of real estate.

Taxes on acquisition and transfer of real estate

A. Building Transfer Duty
Individuals or companies obtaining rights to land or buildings are required to pay a Land and Building Transfer Duty (BPHTB) of 5%.

The 5% duty is computed based on the transaction value or the assessed value, whichever is higher.

The non-taxable threshold amount for BPHTB varies by region, and the maximum threshold currently is IDR60 million. For acquisitions by inheritance, the non-taxable property value is stipulated by the regional authorities, but may not exceed IDR300 million.

B. Value Added Tax
A Value Added Tax (VAT or PPN) of 10% applies to the delivery of most goods and services at import, manufacturing, wholesale and retail levels.

The sale of raw land is not subject to VAT, but the sale of land already prepared for development is subject to a VAT of 10%. VAT on rental payments and service charges is 10%.

Sales, leasing and construction services rendered for low-cost housing, modest flats and student accommodation may be exempted from VAT.

VAT can generally be passed on to customers, such as from contractors, architects, engineers and consultants, to developers, from developers to purchasers, and from owners to tenants.

In addition to VAT, there is a sales tax on luxury goods (PPNBM). This is a one-time tax imposed on a wide range of luxury goods at import or manufacturing levels at rates of 10% to 75% (but potentially up to 200%).

A 20% sales tax on luxury goods is applicable to luxury houses. 'Luxury houses' include condominiums with a unit size of more than 150 sq m and landed houses with a building size of above 400 sq m.

Taxes on possession and operation of real estate

A. Property & Building Tax
The Property and Building Tax (PBB) rate on land and buildings is 0.5%, with the actual tax calculated against the taxable sale value (NJKP) of the property. The NJKP is a fixed proportion of the sale value of the property (NJOP), which is determined by the Directorate General of Tax (DGT) on behalf of the Ministry of Finance on average every one to three years.

NJKP is currently 20% for NJOP of up to IDR1 billion or 40% for NJOP above IDR1 billion. As a result, the effective PBB rates are 0.1% of the assessed value for land and buildings worth up to IDR1 billion, and 0.2% of the assessed value for land and buildings worth more than IDR1 billion.

The non-taxable thresholds of property are stipulated by each regional government. For example, in Jakarta, it is IDR60 million. A 50% reduction in the property tax rate is given to land and buildings used for non-profit activities, including social and educational activities and healthcare services.

Land and buildings used for religious worship, nature reserves, parks, diplomatic offices and designated international organisations are exempted.

PBB is payable annually following assessment by the DGT.

B. Withholding Tax on Property Income
Income derived from rental payments and service charges are subject to a final withholding tax (PPh) of 10% of the transaction value. The party from which the payment is due is responsible for the deduction and payment of the withholding tax to the tax authorities. If not, the lessor must pay the 10% themselves.

Corporate taxation
The income of resident and non-resident corporate entities is taxed at a flat rate of 25%. Small enterprises with a turnover of no more than IDR50 billion are entitled to a 50% discount off the standard rate, imposed proportionally on the taxable income of the part of gross turnover up to IDR4.8 billion. Public companies that have at least 40% of their shares listed are entitled to a tax discount of 5%, essentially giving them an effective tax rate of 20%.

Resident corporations are taxed on their worldwide income, with an allowable credit for taxes paid to foreign countries. Non-resident corporations are taxed only on income derived in Indonesia, as regulated under Article 26 of the Income Tax Law or Tax Treaties.

Dividends of a non-resident corporation not covered by tax treaty protection are subject to a 20% withholding tax.

Losses may be carried forward for five years. For certain categories of business in certain regions provided with 'tax incentives allowances', losses may be carried forward up to ten years. No carry back of losses is allowed.

Personal taxation
Residents (i.e., staying in Indonesia for at least 183 days per annum) are taxed on their worldwide income, subject to certain allowances and deductions, on a graduated scale ranging from 5% to 30%.

Non-residents are taxed at 20% of gross income derived in Indonesia.

Employing entities are responsible for collecting and paying the tax due on employee remuneration (be it cash or benefits-in-kind 'BIK'). Cash income is taxed on a monthly basis. BIKs, e.g., cars, housing, etc. provided by the company to the employee, are not taxable in the hands of the employee, but the full cost of BIKs is non-deductible to the company (except for employees of companies under final tax regime and representative offices, where cost of the BIKs must be taxed in the hands of employees the same as cash remuneration).

Legal Issues

Foreign exchange controls
In general, there is very limited foreign exchange control in Indonesia. A person may freely hold, use and transfer funds in foreign currencies. However, the transfer of funds in foreign currencies to and from abroad is subject to a reporting obligation to Indonesia's central bank (Bank Indonesia).

Recently, Bank Indonesia introduced new measures to stabilise the value of the Rupiah and implement Indonesia's Currency Law. All companies operating in Indonesia need to be aware that this new regulatory obligation includes:

- A prohibition on the use of foreign currency for pricing goods and/or services.

- A requirement to use Indonesian Rupiah for a broad range of non-cash transactions, including transactions using electronic payments or bank transfers.

This has been done through a new regulation issued by Bank Indonesia (BI) on 31 March 2015 that imposes more stringent restrictions on the use of foreign currency than those currently provided under Indonesia's Currency Law.

Town planning
Public and privately-owned properties are governed by a structure or zoning plan provided by local town planning office that designates a certain use for the site.

Major property legislation

The following are major key legislations in the property sector that apply in Indonesia.

Basic Agrarian Law (UU Pertanahan) UU. No. 5 Tahun 1960
Agrarian law in Indonesia is regulated under Law (or UU, short for 'Undang-Undang') Number 5 Year 1960, concerning Agrarian Subjects ("UUPA") and its implementing regulations. The Law governs the rights over ownership of land in Indonesia, and this law covers land rights that apply to Indonesian citizens and foreigners.

The specific land title for foreigners is the hak pakai title. After the enactment of the Agrarian Law in 1960, there were several developments in the real estate sector in this regard; for example, in the late 1990s, a new government regulation was enacted allowing foreigners to purchase apartments and office space in Indonesia if the underlying land is hak pakai title.

The Government Regulation on Housing Ownership by Foreigners Domiciled in Indonesia, issued in 1996, states that foreigners who reside in Indonesia can purchase a home, apartment or condominium as long as it is not a part of a government-subsidised housing development; however, there are restrictions.

Foreigners can only hold land with hak pakai title and hak pakai title may only be granted for a maximum of 25 years, although it can extended for a further maximum of 20 years. In certain special cases (i.e., religious organisations etc.), such title may be granted for an indefinite period as long as the land is utilised for certain specified purposes.

While the government has hinted repeatedly that it will relax all restrictions on foreign ownership of land and property, we do not anticipate such regulatory changes in the near future.

Residential Development Policy (Kebijakan Rumah Berimbang) Peraturan Menteri Perumahan No 10/2012
According to this regulation from the housing ministry, developers are obliged to apply a "proportionate residential" concept to developments, which provides for lower, middle and luxury segments within the same land plot. In the case of insufficient land bank, then it can be built on another land plot somewhere in the same city/ region.

Based on the regulation, the proportionate ratio of lower, middle and luxury housing is 3:2:1, and the definition of each housing segment is as follows.

- Luxury housing: selling price of more than four times lower-segment housing.

- Middle segment: housing: between two to three times lower-segment housing.

- Lower segment housing: max. building size of 36 sq m and land size of 60-200 sq m.

For apartment projects, 20% of the total units must be allocated for public housing. These allocated units can be developed in a different building structure yet still be at the same project site.

Industrial Estate Regulation (Peraturan Kawasan Industri) Peraturan Pemerintah No 24/2009
As Indonesia has an abundant worker market, the growth of factory buildings is increasing significantly. However, there is no concentration of industrial activities – they are somewhat scattered and may impact surrounding residential areas. Therefore, in 2009, the government issued a regulation compelling industrialists to relocate their activities to industrial compounds, and expand therein.

Regional Autonomy (Otonomi Daerah)
UU No. 22 Tahun 1999
The law on regional autonomy (subsequently substituted by Law No. 32 of 2004 and its amendments) and Law No. 25 of 1999, as substituted by Law No. 33 of 2004 on financial balancing between central and local government, was issued to implement the decentralisation of autonomy for all Indonesian provinces and regencies, effective from 1 January 2001.

This package of laws allows each regional government to issue new government regulations on taxes and retributions for their regions.

These laws, together with other government regulations, also give the regional government the authority to issue permits for investment in forestry, fishery, mining (except oil and gas), etc.

Modes of Entry

Many international developers and investment groups interested in pursuing opportunities in the Indonesian market are aware of specific opportunities, but at the outset often lack the requisite local knowledge in terms of the basic foundations of the regulatory environment and the common deal structures.

Foreign companies wishing to enter the property development market in Indonesia must first register their business entity under Indonesian law.

In terms of setting up a local corporate entity in Indonesia, there are generally two options:

■ Representative Office
A representative office can be created to conduct marketing, market research, or function as buying and/or selling agents, however, these offices are not allowed to conduct direct sales and cannot issue commercial invoices. Regional representative offices, which are classified as those offices serving two or more other ASEAN nations, can also be established in Indonesia. The regional representative office is limited to more of a liaison role and is restricted from participating in many business transactions.

■ Limited Liability Company
Legally known as Perusahaan Terbatas (PT), this can be 100% foreign-owned or jointly-owned by foreign and local shareholders. Under Indonesian law, a foreign-owned company has the same treatment as a local company licensed to conduct the same business.

Foreign investors or companies registered in Indonesia as a PT (company) have the same rights and ability to conduct business like any other local companies.

A foreign-owned PT (company) is allowed to operate and execute all kinds of business transactions and activities, which are protected by the law.

According to the law, a foreign-owned PT (company) in the real estate business is allowed to do asset transactions (i.e. buying and selling), own or hold assets, develop and manage their own properties.

Savills Indonesia

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Japan

Overview

The size of Japan's economy is approximately US$4.7 trillion in terms of nominal GDP. Banking, insurance, real estate, retailing, transportation, telecommunications and construction are all major industries. Japan has a large industrial capacity and is home to some of the most technologically advanced corporations in the world. The service sector accounts for around 73% of the country's GDP.

Types of property ownership

All land and buildings in Japan can be privately held. Since land and buildings are regarded as independent real estate, there are two types of real estate ownership: 'land ownership' and 'building ownership'. Ownership structure is commonly divided into the following categories: 1) fee simple; 2) strata title; 3) joint ownership; and 4) land lease.

Overseas ownership restrictions

There are no restrictions on overseas ownership of land and buildings.

Measurement of areas

All areas are quoted in either sq m or tsubo (1 tsubo = 3.3 sq m). There are various area measurements which are often quoted in agreements:

- net rentable area (NRA): net useable area including columns.
- gross floor area (GFA): total area contained within the outer surface of the external walls.

Transaction costs

Brokerage/agency fees

Leasing fees typically aggregate to the value of the monthly rental amount, and are paid by the landlord and/or the tenant.

Purchasing fees have the following structure: 1) up to 3% of the purchase price plus JPY60,000 if the purchase price is more than JPY4 million; 2) up to 4% of the purchase price plus JPY20,000 if the purchase price is between JPY2 million and JPY4 million; or 3) up to 5% of the purchase price if the purchase price is less than JPY2 million.

Security deposit

Typically a non-interest-bearing, returnable deposit of two or three months' net rent for residential properties. For office and retail properties, typically a non-interest-bearing, returnable deposit of ten to 12 months net rent.

Legal costs

Legal cost is based on guidelines issued by the Nihon Bengoshi Rengokai (Japan Federation of Bar Associations).

Tax legislation

Stamp duty

Stamp duty is payable on purchase and sale agreements (PSA),

TABLE 28

Key statistics

Official name	Japan
Currency	Yen US$1 = JPY121.85 (December 2015)
Population	127.0 million (October 2015)
Land area	377,962 sq km
GDP per capita	JPY4.1 million; US$37,595 (2005 base)
Real GDP growth	-0.1% per annum (2014) 0.8% per annum (2015F)* 1.3% per annum (2016F)*
Principal business centres	Marunouchi/Otemachi, Akasaka/Roppongi/Toranomon, Shinjuku

Source: Bank of Japan, Ministry of Internal Affairs and Communications, Ministry of Land, Infrastructure, Transport and Trade, Cabinet Office, World Bank
*GDP growth forecasts from World Bank Global Economic Prospects January 2016

TABLE 29

Lease terms

Lease period	Traditional standard leases are 2-year rolling contracts, automatically renewed upon expiry unless termination notice is given in advance. Fixed-term leases are also available, typically of 3- to 5-year tenors for offices and up to 20 years for retail and logistics facilities, depending on the agreement.
Rent reviews	Typically conducted at the end of the lease period. For standard leases, rent levels may be reviewed during the lease period if: 1) market conditions drastically change; or 2) tax amounts increase. Lease renewal rates are negotiable and usually fall somewhere between the contract and market rent with limited recourse in dispute. Fixed-term leases do not include rent reviews unless pre-agreed.
Sub-letting/ assignment	Not an accepted market practice, but is practiced at times.
Termination	Standard lease structures allow the tenant to terminate unilaterally on the provision that at least 6 months' notice is given. Fixed-term leases are subject to a breakage fee, although a termination provision can be pre-agreed, usually after an initial 3-year lock-in period.
Repairs	The exterior and common areas of the building are the landlord's responsibility. Tenants will be expected to be responsible for internal repairs.
Security of tenure	Security of tenure is protected by Japan's House and Land Lease Law, which makes it practically impossible for landlords to initiate lease termination. Fixed-term leases provide no statutory right to renewal and re-contracting terms are by negotiation.
Dilapidation	Tenants are expected to reinstate a building to its original condition; although allowances are made for fair wear and tear.

Source: Savills Research & Consultancy

TABLE 30

Stamp duty on sales and purchases (as of April 2015)

Selling price (JPY)	Stamp duty (JPY)	Deduction for PSA until 31 March 2018 (JPY)
10,000,000–50,000,000	20,000	10,000
50,000,000–100,000,000	60,000	30,000
100,000,000–500,000,000	100,000	60,000
500,000,000–1,000,000,000	200,000	160,000
1,000,000,000–5,000,000,000	400,000	320,000
5,000,000,000 or higher	600,000	480,000
No fixed amount	200	200

Source: National Taxation Agency, Savills Research & Consultancy

conveyance agreements (CA) or land-lease agreements. For PSA and CA transactions, stamp duty ranges from JPY20,000 to JPY600,000 depending on the agreed transaction price. The stamp duty of sales and purchases is detailed in Table 30.

Property tax
A registered owner of real estate is subject to payment of a fixed-asset tax and city planning tax. The tax rate for fixed-asset tax is 1.4% of the tax assessed value; while the tax rate for city planning tax is 0.3%. Payments are due quarterly and dates vary depending on the location of the property.

A purchaser of real estate is subject to payment of real estate acquisition tax of 4%. However, a tax relief policy is in place, reducing the applicable rate to 3% for land and residential buildings until the end of March 2018.

A purchaser of real estate is subject to payment of real estate registration tax. Tax rates vary widely depending on asset type and registration type (ie, registration of ownership is different from that of a lien).

Consumption tax
An 8% consumption tax is charged for purchases and sales of buildings. Consumption tax is not imposed on the land portion of the purchase price.

It is usual for the seller to pass on the cost of the consumption tax to the buyer by adding it to the purchase price. For commercial properties, it is generally possible for the buyer to obtain a refund of consumption tax paid on the sale.

For lease agreements other than residential, an 8% consumption tax is charged.

Under the revised Consumption Tax Act, the consumption tax rate was initially scheduled to be raised to 10% on 1 October 2015, but this hike is now expected to be postponed until 1 April 2017.

Upon the introduction of the 10% consumption tax, reduced tax rates for selected goods are currently discussed as of December 2015.

Tax depreciation
There are two ways of conducting depreciation: 1) the fixed amount method, and 2) the fixed rate method. In principle, the fixed amount method is applied to individuals, and the fixed rate method is applied to corporates. Further, since 1 April 2012, the fixed amount method should be applied if the value based on the fixed rate method falls below the guaranteed depreciation value (shokyaku hosho gaku).

1) The Fixed Amount Method
Depreciation Amount = Purchase Price x Depreciation Rate

2) The Fixed Rate Method
Depreciation Amount = (Purchased Price - Accumulated Depreciation) x Depreciation Rate

The depreciation rate is changeable depending on useful life of the building, and is provided by National Taxation Agency.

If the building has no remaining years in statutory useful life:

■ Useful Life = Statutory Useful Life x 20%

If the building has remaining years in statutory useful life:

■ Useful Life = (Statutory Useful Life – Years in Operation) + (Years in Operation x 20%)

From a tax depreciation perspective, the 'useful life' of a building differs depending on the structure and use of the property. For example, the useful life for a condominium building constructed with a reinforced concrete structure and heavyweight steels are 47 years and 34 years, respectively, whereas a wooden detached house would have a useful life of 22 years for tax purposes.

CGT
When a capital gain is generated on the disposal of a fixed asset, the following capital gains tax is applied:

a) Short-term capital gains (for real estate held for five years or less): 39.63% (comprising an income tax and special reconstruction tax rates of 30.63% and a resident's tax of 9.0%).

b) Long-term capital gains (for real estate held more than five years): 20.315% (comprising an income tax and special reconstruction tax rates of 15.315% and a resident's tax rate of 5.0%).

Certain tax advantages are available in the case of the sale of the seller's primary residence, including special deductions, loss carry-forward and a lower tax rate.

The holding period is calculated from the acquisition date through to 1 January of the year in which disposition of the property takes place.

Withholding tax and tax treaties
Non-residents pay Gensen-kazei (withholding tax) at 10.21% of transaction value per transaction. Then, they declare Kakutei-shinkoku-shotoku (taxable income) at the aforementioned tax rate (but without resident's tax).

For non-residents, withholding taxes are applicable if they have accrued capital gains in Japan from selling assets, or income from any business activities including rental revenues, dividends, deposit interests and loan interests.

As of 1 November 2015, Japan has entered into 64 tax treaties with 93 countries with rates typically varying from between 0% and 20.42% depending on the type of dividend, country and other specific considerations.

Corporate taxation
Detailed below are the normal and concessionary corporate tax rates:

- normal rate: corporations are subject to a 23.9% corporate tax rate. Business tax and prefectural/ municipal inhabitant tax are also charged, typically increasing the effective tax rate to around 32.11%, which the government is likely to lower to below 30% next fiscal year.

- concessionary rate: small- to medium-sized corporations with a capital of JPY100 million or less receive a concessionary rate of 15% on the first JPY8 million of annual income.

Overseas corporations without a permanent establishment in Japan are exempt from payment of normal corporate tax. However, income gained from interest and dividends is generally subject to withholding tax at a rate between 15.315% and 20.42%.

TABLE 31

Personal income tax rates

Taxable income (JPY)	Tax rate (%)	Total tax rate, including Special Reconstruction Tax rate (%)
1,950,000 or under	5	5.105
Between 1,950,000 and 3,300,000	10	10.21
Between 3,300,000 and 6,950,000	20	20.42
Between 6,950,000 and 9,000,000	23	23.483
Between 9,000,000 and 18,000,000	33	33.693
Between 18,000,000 and 40,000,000	40	40.84
Higher than 40,000,000	45	45.945

Source: National Taxation Agency, Savills Research & Consultancy

Net losses equivalent to a 65% of income (50% after 1 April 2017) may be carried forward for ten years.

Corporate tax rates will be revised at the FY2016 corporate taxation revision sessions.

PIT
Income is calculated using methods established for each of a number of income classifications. The tax is calculated by subtracting the various income deductions from the total amount of income and then multiplying the difference, which is the amount of taxable income, by the progressive tax rates below. Any withholding income tax levied on the income beforehand will be deducted from the calculated tax. The bands are shown in Table 31.

From 1 January 2013 to 31 December 2037, Special Reconstruction Tax is applicable at the tax rate of 2.1%.

Total Tax Rate (%) = Personal Income Tax Rate (%) x 102.1%

Legal issues

Planning areas are divided into urban promotion areas (UPA) and urban control areas (UCA). UPA are areas in which the local government is to promote urbanisation, and include existing urbanised areas and areas to be developed within ten years. UCA are areas where urbanisation/development is essentially prohibited except for special cases such as agriculture and forestry. There are also a number of areas, depending on their location, where zoning is not carried out. Development within such areas requires permission from the government. However, the demarcation of urbanised areas and UCA is occasionally reviewed.

Japan has 12 different types of zones for commercial, industrial and residential uses, which are designated on the basis of existing land-use patterns and future orientation.

There are regulations on the types of facilities that can be built in specific areas or specific zones. Regulations also exist in relation to floor ratio and building-to-land ratio.

Any development that requires a change of building/land form or use is required to obtain development permission.

Major property legislation

There are a number of key pieces of legislation pertaining to real estate, all of which are detailed below:

- Civil Law
- City Planning Law
- Building Regulation Law
- Land and Building Lease Law

- Apartment Law
- Real Estate Registration Law
- Real Estate Brokerage Law
- Strata-title Ownership Law
- Land Use Planning Law
- Land and Building Development Restriction Law
- Agricultural Land Law
- Land Readjustment Law
- Land Price Law

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Malaysia

Overview

Malaysia is rich in natural resources such as fossil fuels and tin, and is also a big producer of agricultural products such as palm oil, rubber and timber. Being a tropical country, there is also potential to exploit sunlight and other sustainable resources, and in 2011 the Renewable Energy Act was passed establishing a Feed-In Tariff for producers of sustainable energy.

Malaysia is a federal parliamentary democracy with a constitutional monarch. The United Malays National Organisation has held political power in coalition with other parties uninterrupted since independence from the UK in 1957. The main opposition alliance is Pakatan Rakyat, helmed by de-facto leader former Deputy Prime Minister Anwar Ibrahim, and they currently control three state assemblies out of a total of 13.

Vision 2020 is an initiative to develop Malaysia into a fully developed industrialised nation by the year 2020. The latest Eleventh Malaysia Plan covers the period 2016 to 2020 with six strategic thrusts including: 1) enhancing inclusiveness towards an equitable society; 2) improving wellbeing for all; 3) accelerating human capital development for an advanced nation; 4) pursuing green growth for sustainability and resilience; 5) strengthening infrastructure to support economic expansion; 6) re-engineering economic growth for greater prosperity. Previously the Tenth Malaysia Plan covers the period 2011 to 2015 and the five main drivers are: 1) moving the economy up the value chain; 2) raising the capacity for knowledge and innovation, and nurturing a 'first-class mentality'; 3) addressing persistent socio-economic inequalities constructively and productively; 4) improving the standard and sustainability of quality of life, and; 5) strengthening institutional and implementation capacity.

TABLE 32

Key statistics

Official name	Malaysia
Currency	Ringgit Malaysia (RM1 = 100 sen) US$1 = RM4.292 (31 December 2015)
Population	30.48 million (2015)
Land area	330,290 sq km
GDP per capita	US$8,463 (Q3/2015)
GDP growth	6.0% (2014) 4.7% (Q3/2015)
Principal business centres	Kuala Lumpur, Selangor, Penang, Iskandar Malaysia/Johor Bahru

Source: Department of Statistics Malaysia; Economic Report 2014/2015, Ministry of Finance, Central Bank of Malaysia

To enhance development and sustainability of economic growth in Malaysia, the Federal Government introduced the 'Economic Transformation Programme' in 2010. The main objective is to ensure that local citizens (Malaysians) benefit from the country's development in various aspects such as social needs, cost of living and quality of life of the people as the country moves towards its goal of becoming a high-income nation.

Recently, the 2016 budget was announced by the federal government. This focused on the government's approaches to strengthening the country's economic resilience, increasing productivity, innovation and green technology, empowering human capital, advancing the Bumiputera agenda and easing the cost of living for its citizens. From an economic perspective, Goods & Services Tax (GST) was implemented in April 2015; the abolishment of Sales & Services Tax (SST) is being considered. The latest budget also highlights improvement in the GST, by further adding zero-rated GST items or expenditures.

As announced in the 2016 budget, no further cooling measures are being implemented from the previous tabled budget of 2014. Therefore, regulations related to property sectors, such as overseas buyers' threshold and Real Property Gains Tax (RPGT), remain unchanged.

Types of property ownership

The land registration system in all states of Malaysia is the Torrens system, administered by the State Land Offices and coordinated by the Department of Land and Mines. The Torrens system is a registration system on titles of land.

Properties can be either:

- freehold (held in perpetuity); or
- leasehold (land owned by the state and leased for a term of usually 30, 60 or 99 years).

Freehold or leasehold properties are either issued with:

- individual title (issued under the National Land Code 1965) for land, houses and commercial properties that are commonly not multi-storey; or

- strata title (issued under the Strata Titles Act 1985).

Property ownership is governed by the National Land Code and Strata Titles Act.

Strata-title ownership is common for apartments, condominiums and office suites. The land a building rests on may be freehold or leasehold. Owners of strata-title property are required to sign a deed of mutual covenants governing the maintenance of the common areas, and use of the units and common facilities.

Many houses (landed property) rest on freehold land which grants absolute possession of the land to the owner.

Overseas property restrictions

In general, the threshold for overseas purchasers is set at RM1 million and above (varies according to state rules and guidelines).

Overseas purchasers are required to obtain state government approval by applying to the relevant land office for consent to purchase a property.

Measurement of areas

All areas are quoted in sq ft. There are various area measurements that are often quoted in agreements, including:

- gross area: the total area of an office floor from the outside of the exterior walls including the columns, stairwells, lift lobby, service areas, common areas and toilets.

- lettable area: the total area of an office floor measured from the inside face of external walls including lift lobbies, toilets and structural columns.

- net lettable area: the carpet area used exclusively by the tenant measured from the inside face of the external walls excluding columns, toilets, common areas and service areas.

Lease terms

The lease terms typical to commercial property in Malaysia are detailed in Table 33. However, there are a number of other terms/practices that are also worth highlighting, as detailed below:

- local incorporation: most landlords will only enter into a tenancy or lease agreement with a locally incorporated company with adequate paid-up capital. In addition, a board resolution may be required noting the decision to enter a tenancy or lease and authorising one director to sign the agreement on the company's behalf.

- rent-free period: usually intended as an allowance to cover the period required for fitting-out. Also used as an incentive to bring down the effective rent.

- rent: prices are quoted as gross figures per sq ft per month. The gross rent is made up of net rent per sq ft per month, plus an amount for service charge per sq ft per month.

- deposits: the equivalent of one month's gross rent is required to secure premises and this becomes the first month's rent due after the execution of a tenancy or lease. The equivalent of three months' gross rent is required as a security deposit. Deposits may also be required for

TABLE 33

Typical lease terms

Lease period	A typical tenancy is 3 years with options for further periods of up to 3 years. A lease is for a period exceeding 3 years.
Rent reviews	Rent reviews are typically conducted at the expiry of the tenancy or every 3 years during a lease term.
Sub-letting/ assignment	The landlord's consent to sub-let should not be unreasonably withheld subject to the quality of the sub-tenant.
Termination	Not an accepted market practice but it can be agreed provided a tenant secures a new tenant that is acceptable to the landlord and that the tenant pays for any estate agency services.
Repairs	The exterior and common areas of the building are the landlord's responsibility.
Security of tenure	Security of tenure is not guaranteed beyond the tenancy/lease term. An option for a further term should be agreed in the first term.
Dilapidation	Tenants are required to reinstate a property to its original handover condition at the expiry of the term.

Source: Savills Research & Consultancy

TABLE 34

Scale of fees chargeable by a registered estate agent

Period	Scale of fees
Up to 3-year tenancy	1.25 months' gross rent
3–4-year lease	1.50 months' gross rent
4–5-year lease	1.75 months' gross rent
Exceeding 5-year lease (with option for renewal)	1.75 months' gross rent
Exceeding 5-year lease (without option for renewal)	1.75 months' gross rent + 0.25 months' rent for every additional year
Rent reviews	50% of the fees chargeable above
Sales of land or buildings	Maximum fee of 3%

Source: Valuers, Appraisers & Estate Agents (Amendment) Rules 2000 & 2009

TABLE 35

Scale of fees for negotiating a tenancy or lease agreement

Monthly rent (RM)	Scale of fees	
	Tenancy agreement	Lease agreement
The first 10,000	25% (subject to a minimum fee of RM300)	50% (subject to a minimum fee of RM600)
The next 90,000	10%	20%
Where the rent is in excess of 100,000	Negotiable on the excess (but shall not exceed 10% of such excess)	Negotiable on the excess (but shall not exceed 20% of such excess)

Source: Solicitors Remuneration Order 2005 mailbox keys, car parking passes and employee security passes.

Transaction costs

Brokerage/agency fees

The Board of Valuers, Appraisers and Estate Agents Malaysia – Malaysian Estate Agency Standards defines the various types of estate agency instructions and dictates a set scale of fees chargeable by registered estate agents as shown in Table 34.

Legal fees

This is governed by the Solicitors Remuneration Order 2005 and the scale of fees for negotiating a tenancy or lease agreement is shown in Table 35.

Tax legislation

Stamp duty on tenancy or lease agreements

((Gross rent × 12) – 2,400) ÷ 250 (round-up to the nearest figure) × 1 (for a tenancy of two years or more × 2).

RPGT

Effective from 1 January 2014, RPGT rates are shown in Table 36.

From 1 January 2015, one of the cooling measures in the real estate sector is the increase in the sum withheld by the purchaser to 3% (previously 2%) of total value of consideration, which will be remitted to the Inland Revenue Board for purposes of RPGT. There will also be an extension of stamp duty exemption of up to 50% for the purchase of a buyer's first residential property up to RM500,000 (previously RM400,000). Such a purchase will need to be made between 1 January 2015 and 31 December 2016 (i.e. signing of sale and purchase agreement).

There is also an implementation of a self-assessment system for RPGT which will take effect from 2016. The system is expected to mirror the self-assessment system that is currently in place for the assessments of corporate and personal income tax.

Government service tax

Service tax is imposed on taxable services provided by professionals (lawyers, engineers, architects, surveyors and consultants), advertising firms, private hospitals, insurance companies, communication companies, hotels and restaurants. The current rate is 6%. This tax is to be replaced with GST in April 2015.

Corporate tax

For companies with paid-up capital of not more than RM2.5 million:

On the first RM500,000: 20% (will be reduced to 19% effective for year of assessment 2016)

Subsequent balance: 25% (will be reduced to 24% effective for year of assessment 2015)

Companies with paid-up capital of more than RM2.5 million: 25%

PIT

The maximum rate is currently 26% (will be reduced to a maximum rate of 25% effective for year of assessment 2015).

Excise duty

Excise duty is levied on imported and locally manufactured goods under the Excise Act 1976. The goods are listed under the Excise Duties Order 2004. Goods include motor cars, for which the duty rate varies between 75% and 105%.

Multimedia Super Corridor (MSC) Malaysia

The MSC status is administered by the Multimedia Development Corporation and can be awarded to both local and overseas companies that develop or use multimedia technologies to produce or enhance their products and services. MSC Malaysia status companies benefit from generous tax and employment benefits if they also locate themselves in an MSC Malaysia status building.

Green buildings

The Green Building Index (GBI) was established in 2009 and is Malaysia's own rating system for new and existing buildings. It is a voluntary rating system but it is increasingly in demand, mainly from office occupiers. The top GBI-rated office building in Malaysia is the Energy Commission building in the government district of Putrajaya. Developers and owners of new and existing office buildings have generous tax incentives if they have obtained a rating before 2014.

TABLE 36

RPGT rates

Year of property disposal	Tax rate (%)		
	Personal (citizen and PR)	Company	Non-Citizen
Disposed within 3 years	30	30	30
Disposed in 4th year	20	20	30
Disposed in 5th year	15	15	30
Disposed after 5 years	0	5	5

Source: Savills Research & Consultancy

Withholding tax and tax treaties

Corporations making payments in relation to interest, royalties and certain rents to non-residents and corporations are required to withhold tax. The rate of withholding tax is dependent on the country in which the corporation/individual is based but ranges between 5% and 25%. Dividends are not subject to withholding tax.

Legal issues

Foreign exchange controls

Malaysia continues to maintain liberal Foreign Exchange Administration rules, which are mainly prudential measures to support the overall macroeconomic objective of maintaining monetary and financial stability. There rules are applicable for residents and non-residents.

Town planning

City or town properties are governed by a structure or zoning plan that designates a certain use for the site.

Major property legislation

There are a number of key pieces of legislation pertaining to real estate as detailed below:

- National Land Code 1965
- State Land Rules
- Strata-titles Act 1985
- Real Property Gains Tax Act 1976
- Solicitors Remuneration Order 2005
- Housing Development (Control & Licensing) Act 1966
- Land Development Act 1956
- Land Acquisition Act 1960
- Local Government Act 1976
- Town & Country Planning Act 1976

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New Zealand

Overview
New Zealand is an island country in the southwestern Pacific Ocean, located some 2,000 km east of Australia. It has a population of 4.6 million.

Auckland is the country's largest city with a population of 1.5 million people and Wellington is the capital (population of 0.4 million). Other main centres are Christchurch, Dunedin and Hamilton.

Political power is held by a democratically elected government with general elections held every three years.

TABLE 37

Key statistics

Official name	New Zealand
Currency	New Zealand dollar US$1 = NZ$0.63 (2015)
Population	4.6 million (2015)
Land area	268,021 sq km
GDP per capita	NZ$52,817 (June 2015)
GDP growth	3.0% (June 2015)
Principal business centres	Auckland, Wellington, Christchurch

Source: Savills Research

Types of property ownership
Land ownership is under the Torrens System or "title by registration". Registers are kept by the government and copies of titles are available online. The majority of transfers and other dealings in property are registered and upon registration of a transfer the buyer is said to have a title to the property which is "indefeasible".

Different types of land title that can be acquired are:

- freehold title to individual parcels of land, including improvements on the land.
- leasehold title, a right to exclusive possession and use of the land for the term of the lease.
- strata and unit titles that relate to commercial units and mid- to high-density residential developments, ie, home units, condominiums, flats and townhouses.

Overseas property restrictions
Overseas ownership restrictions include the requirement for Overseas Investment Commission approval for an overseas person to acquire or take more than a 25% stake in:

- properties or businesses worth more than NZ$100 million.
- land over 5 hectares and/or worth more than NZ$10 million.
- land is deemed sensitive.
- land on most offshore islands.

Measurement of areas
Areas are typically quoted in sq m.

Leasing
Principle terms
Leases of land in excess of 35 years are deemed to be "subdivision", for which planning permission is required.

Security of tenure
There is no statutory right to renew a tenancy but an option for renewal is usually given, similar to the tenancy term or multiple of strata terms.

Basis of rent payment
Rents are quoted as NZ$ per sq m per annum, which generally excludes operating expenses.

Gross rents are typically quoted in Wellington, and net rents in Auckland and elsewhere in New Zealand.

Rent payment
Rents are typically paid monthly in advance.

Rent reviews
These are typically every two to three years to market, ratcheted to commencement of rental or adjusted to CPI. Some leases contain predetermined set rental increases.

Security deposits
Deposits are generally two months' gross rent.

Car parking fee
Car parking lots are allocated to proprietors/tenants in non-residential developments, usually at a fee and charged in the monthly rental payment.

Property rates
Rates are levied on the landlord but are payable by the tenant as an operating expense.

Service and maintenance charges
These are payable by the tenant for the provision of services to common

areas such as air-conditioning during office hours, security, building maintenance, including water and electricity, insurance for public and fire risk, building repairs and management fees.

Repairs and maintenance, utilities and insurance coverage
Tenants are responsible for all repairs and maintenance, utilities and insurance coverage pertaining to the tenanted premises, while the landlord is responsible for the common areas.

Lease disposal
Generally, subletting and assignment are allowed but the landlord's permission must be granted.

Sale and purchase

Principle terms
Standard sale and purchase agreements have been approved by the Auckland District Law Society.

The option to purchase is agreed between parties with the payment of a non-refundable deposit.

The typical settlement period for residential properties is three to five weeks and for non-residential properties about one to three months.

Basis of sale
The sale of the property is based on the rights as defined on the certificate of title and the sale and purchase agreement.

Financing
Loans can be obtained from banks and financial institutions at up to 80% of the valuation or sale price, whichever is lower, for residential properties, and typically 50% to 75% for non-residential properties.

Transaction costs

Legal fees
Fees typically range between 0.8% and 1.2% of the value and are negotiable.

Stamp duty
There is no stamp duty.

Agency fees
Agency fees vary with the size of the assignment. Typically, agent fees range from 4% to 5% for residential properties, and 1% to 2.5% for commercial/industrial properties depending on the size of the transaction. Agency fees are typically paid by the vendor, however, in certain circumstances the agent is paid by the purchaser.

Establishing an investment vehicle

Modes of entry
Government approval is not required for overseas nationals to do business in New Zealand and 100% overseas ownership is freely permitted.

The common vehicles are:

- sole proprietorship
- partnership
- joint venture
- incorporated company
- subsidiary or branch company
- foreign representative offices

Registration and licensing requirements
Generally, there are no fixed requirements for local equity participation and no restrictions as to the type of business organisation.

All companies must be registered with the Registrar of Companies.

Timescale and cost
The time required to incorporate a company is usually one to two weeks. Typical costs involved are the minimum authorised and paid-up capital of NZ$1 and NZ$1 respectively, incorporation forms, Memorandum and Articles of Association, professional fees and other expenses.

Tax legislation

Corporate tax
Resident entities are taxed annually on adjusted net profits less capital allowances. Profits include changes in value on properties held as investments. The corporate income tax rate is 28%.

The non-resident withholding tax rate ranges from 15% to 30% depending on the type of income earned. The withholding tax rates are reduced when the non-resident is a taxpayer in a country with which New Zealand has a DTA.

Personal tax
Personal income tax for residents is levied on a graduated scale shown in Table 38.

A person is deemed to be a resident for tax purposes if they are in the country for 183 days in any 12-month period of the tax year.

CGT
There is no CGT in New Zealand for the sale of any real property, except for individuals or other entities who are traders in property. The capital gains, if applicable, are taxed as income in the year the sale occurs.

VAT/GST
The GST is a tax levied on the sale of goods and services in New Zealand

TABLE 38
Personal tax rates

Income (NZ$)	Tax rate (%)
Income up to 14,000 is taxed at	10.5
Income over 14,000 and up to 48,000	17.5
Income over 48,000 and up to 70,000	30
Remaining income over 70,000 taxed at	33

Source: Savills Research

and on goods imported into New Zealand.

GST is charged at 15% on the supply of most goods and services in New Zealand.
The sale of land between registered persons is zero rated.

GST is not payable for going concern investments.

The sale or lease of a residential property in New Zealand and certain financial activities are exempt from GST.

Estate duty
There is no estate duty.

Property tax
The local authorities (city, district, and regional councils) levy property taxes on all property. The taxes are levied using capital value or land value systems. The system used varies between local authorities.

The rate in the dollar levied on the property also varies with each local authority.

Capital value and land value rating systems use the value of each individual property as set by the valuers contracted by the local authority to assess the rating value for all properties in their area.

Legal issues

Foreign exchange controls and repatriation of funds
There are no exchange controls on the movement of capital and profits in and out of New Zealand. There is also no restriction on the repatriation of profits.

Overseas investors require Overseas Investment Office approval for investments above NZ$100 million or if the investment is in 'sensitive land' or 'special land'.

Regulatory framework

Development and buildings controls
The local authorities (city, district, and regional councils) control planning and development within New Zealand.

The appropriate authority issues a District Plan which provides detailed construction, development and subdivision regulations.

Resource consent must be obtained prior to any construction, development or subdivision work commencing (Resource Management Act). Planning regulations vary between local authorities and are subject to revision every five years.

Building consent must be obtained prior to the commencement of any construction work.

Development charges
Local authorities charge for each resource consent issued. The charge varies with each council.
In addition, developers may have to pay the council a contribution for infrastructure costs associated with the subdivision of any title.
This is likely to be a percentage of value and/or a fixed charge per title created.

Savills New Zealand

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Philippines

Overview

The Philippines is a constitutional republic with a democratic presidential system. Its incumbent president Benigno "Noynoy" Aquino III, whose term is limited to six years, will remain as the head of state and government until the presidential elections in May 2016.

Under Aquino's term, the country has enjoyed substantial economic growth supported by his agendas. Aquino's programmes and platforms have focused on maintaining the country's political and economic stability and creating reforms to promote good governance. The current administration has also concentrated on the improvement of infrastructure, education, healthcare and other public services mainly through Public-Private Partnerships (PPP) with local and foreign investors to ensure more sustainable growth in the country.

TABLE 39

Key statistics

Official name	Republic of the Philippines
Currency	Philippine peso (PHP) US$1 = PHP47.166 (29 Dec 2015)
Population	102.4 million (2015)
Land area	300,000 sq km
GDP per capita	PHP124,876; US$2,661 (Q3/2015)
GDP growth	6.0% (Q3/2015)
Principal business centres	Makati Central Business District, Bonifacio Global City, Ortigas Center

Source: National Statistical Coordination Board, Banko Sentral ng Pilipinas

Types of property ownership

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. Title registration also requires completion of an eight-step procedure, which may take around 33 days.

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

- freehold land: private freehold land is exclusively available 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.

- 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

Although there are some restrictions, owning real estate or land in the Philippines is not impossible. The 1987 Constitution generally reserves ownership of private land for Filipino citizens. To some extent however, overseas nationals and former Filipino citizens are allowed to own properties. However, there are legal exemptions to the general rule and these are:

- properties acquired by non-Filipino citizens before the ratification of the 1935 constitution;

- property acquisition by a foreigner through hereditary succession;

- foreigners are allowed to acquire not more than 40% of the total units in a condominium project;

- property acquisition of those with dual citizenships under RA 9225;

- Filipino citizens who marry foreigners but have not renounced their citizenship; and

- former natural born Filipinos acquiring properties for residential or business purposes subject to the following limitations:

Residential use: not more than 1,000 sq m for urban areas, and not more than 1 hectare for rural areas

Business use: a maximum of two lots located in different cities/ municipalities with a combined area not exceeding 5,000 sq m for urban areas and 3 hectares for rural areas

Condominium ownership

Overseas nationals can own condominiums under the principle of the 60%/40% rule. Condominium developers are allowed to sell a maximum of 40% of the condominium stock to non-Filipino citizens. Once the purchase is complete, the shares of the non-Filipino citizens can entitle them to be a stockholder of the condominium corporation. Most condominiums in the country are usually vertical developments and high-rise buildings.

Holders of a Special Resident Retirement Visa (SRRV) can also gain additional benefits aside from being allowed to buy a condominium property and lease a parcel of land or a house and lot. 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. Information regarding other benefits of the SRRV is available on the Philippine Retirement Authority Website.

Leasing

Article 1643 of the Civil Code of the Philippines defines the lease of things as one party binding himself "to give to another the enjoyment or use of a thing for a price certain, and for a period which may be definite or indefinite." Under the same article it is also stipulated that no lease for more than 99 years shall be valid. For lease transactions of more than one year, it is required that the lease contract be in writing to be enforceable (Article 1403, Civil Code of the Philippines). While the ownership of private lands is exclusive to Filipino citizens, land can be leased to overseas nationals or international corporations on a long-term contract. While Filipino citizens are allowed a maximum lease term of 99 years, non-Filipino citizens are allowed to lease land only for a maximum of 25 years renewable for another 25 years. However, if the lease is made under the terms and conditions of the Philippine Investors' Lease Act, the lessee is allowed a maximum lease term of 50 years renewable for another 25 years. Escalation rates are usually stipulated in the contract of lease.

Measurement of areas

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

- gross floor area (GFA): total area contained within the outside of the external walls.
- gross leasable area (GLA): the aggregate floor space contained within a tenancy at each floor.

Lease terms

- rent: rental levels are quoted as net figures per sq m (GLA) per month.
- Common Use Service Area (CUSA): CUSA fees are paid on top of the net rent and shared among all the building tenants to cover maintenance of open and common spaces. Utility rates are paid for by the lessee.
- escalation: rent escalation is fixed and usually pegged at 5%-10% per annum. Rent reviews are typically done annually.
- deposits: deposits are usually the equivalent of three months' rent with advance payments for three months.
- rent-free period: this constitutes the period wherein the lessee is allowed to occupy the space and also provides a period for fit-out. The usual rent-free period in the Philippines ranges from one to two months.

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.

TABLE 40

Income tax rates for Philippine residents

Amount of net taxable income (PHP)	Tax rate
>0–<10,000	5%
>10,000–<30,000	PHP500 + 10% of the excess over PHP10,000
>30,000–<70,000	PHP2,500 + 15% of the excess over PHP30,000
>70,000–<140,000	PHP8,500 + 20% of excess over PHP70,000
>140,000–<250,000	PHP22,500 + 25% of excess over PHP140,000
>250,000–<500,000	PHP50,000 + 30% of the excess over PHP250,000
>500,000	PHP125,000 + 32% of the excess over PHP500,000

Source: KMC MAG Group Research, BIR

TABLE 41

Income tax rate for non-Philippine residents

	Tax rate
Non-resident aliens engaged in trade or business	Table 38 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 MAG Group Research, BIR
*of gross income tax; **of final income tax

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 for leases it may depend on the lease period, as shown in Table 42. 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 is usually subject to negotiation.

Taxes

Real Property Tax (RPT) is paid every year by the owner and it varies from one local government unit to the next. RPT ranges from 2-3% of assessed value which is derived from the market value or the zonal value whichever is higher.

Apart from the purchase price, there are other fees and taxes associated with every real estate transaction and these are listed in Table 43. The amount of tax to be paid on the sale of real estate depends on the classification of the real estate asset. It can either be tagged as a capital asset or an ordinary asset. Capital assets are subject to a capital gains tax (CGT) equivalent to 6% of the gross selling price or the zonal value of the property, whichever is higher. Capital gain is always presumed and the tax is thus applied to the fair market value instead of actual capital gains. An ordinary asset, on the other hand, is subject to withholding tax and value-added tax equivalent to 12% of the gross selling price or fair market value, whichever is higher. Other fees include documentary stamp tax (1.5% of purchase price), local government tax (around 0.5% of purchase price) and new title issuance registration fee (around 0.25% of purchase price).

The usual fees associated with 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.

TABLE 42

Residential and commercial lease terms

Lease term (years)	Broker's fees
Residential	
1	1 month's rent
2–3	1.5 months' rent
Commercial	
1–3	1 month's rent
4–5	2 months' rent
5 and above	3–4 months' rent (negotiable)

Source: KMC MAG Group Research

TABLE 43

Commercial and residential transaction costs

Cost	Percentage of transaction	Payer
Legal fees	0.5–1.0	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	Seller
Real estate agent's fee	3–5	Seller

Source: KMC MAG Group Research

PEZA

Companies can also opt to register with the Philippine Economic Zone Authority (PEZA), a government agency that specialises 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
- information technology service export
- tourism
- agro-industrial export manufacturing
- agro-industrial bio-fuel manufacturing
- logistics and warehousing services
- facilities providing
- utilities

Major property legislation

- 1987 Philippine Constitution
- Condominium Act (RA 4726) and the law amending it (RA 7899)

- Dual Citizenship Law (RA 9225)
- Property Registration Decree (PD 1529)
- National Building Code (PD 1096)
- The Subdivision Development Act (PD1216)
- 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)
- Real Estate Service Act of 2009 (RA 9646)

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Singapore

Overview
As a developed and successful free-market economy, Singapore enjoys an open and corruption-free environment. The city-state's economy depends heavily on exports, particularly in consumer electronics and information technology products. As a result of the government's reform policies aimed at sharpening economic competitiveness, the economy has grown robustly since 2004. Singapore now serves as regional headquarters for thousands of multinational companies, has world-class financial and service sectors and above all, a highly efficient physical infrastructure.

TABLE 44

Key statistics

Official name	Republic of Singapore
Capital	Singapore
Currency	Singapore dollar (100 cents), US$1 = S$1.4139 (December 2015)
Population	5.54 million (June 2015)
Land area	719.1 sq km (2015)
GDP per capita	S$71,318; US$56,284 (2014)
Real GDP growth	4.4% (2013) 2.9% (2014)
Principal business centres	Raffles Place, Marina Bay, Shenton Way, Tanjong Pagar, City Hall/Marina and Orchard Road

Source: Singapore Department of Statistics, Monetary Authority of Singapore (MAS)

Types of property ownership
There are two types of property ownership in existence in Singapore:

- freehold estate ownership which includes fee simple (grant in fee simple) and estate in perpetuity (statutory land grant).
- leasehold estate ownership which may be for a period of 15, 30, 60, 99 or 999 years.

Overseas ownership restrictions
The only restrictions on ownership apply to residential properties, covering:

Landed properties or non-strata-titled properties
Non-Singaporeans are not allowed to buy detached, semi-detached, terraced and cluster houses. They can, however, apply to the Minister of Law through the Land Dealings Unit (LDU) for approval to purchase such properties. The criteria for approval are generally based on the likely economic contribution the expatriate can make to the country. If the expatriate is allowed to purchase the property, he/she must use the house strictly for owner occupation.

Overseas ownership of landed properties in Sentosa Cove is permitted under a special arrangement. Overseas individuals or companies, as stipulated under the Residential Property Act, have to obtain in-principle approval from the LDU prior to tendering and submission, and upon success in their tender bids must seek formal approval from the LDU. Under the special arrangement, housing developers need not obtain in-principle approval from the LDU. They are only required to obtain formal approval, or a Qualifying Certificate (QC), from the Controller of Residential Property (CRP) upon successful tender.

En-bloc apartments and condominiums
An expatriate is not allowed to acquire all units in a residential development without the Minister of Law's approval.

Vacant land zoned 'residential'
Overseas developers are required to obtain a QC from the CRP before they are allowed to purchase residential land. A banker's guarantee in the amount equivalent to 10% of the land price is needed to obtain the QC.

The developer is prohibited from reselling land, and with effect from 12 January 2013, for residential sites released under the Government Land Sales Programme, the developer will be levied an extra 15% stamp duty on the land portion of the unsold units five years after the award of the land.

Measurement of areas
Measurements are typically quoted as GFA, strata floor area or lettable floor area and are generally given in sq ft by practitioners in the industry. However, the government has adopted the metric system and official government statistics, including those for real estate, are given in sq m.

Transaction costs
Brokerage/agency fees
Typical agency fees are equivalent to one month's gross effective rent and are payable by the landlord. Brokerage fees on investment

transactions are normally 1% of the transaction price and are payable by the vendor.

Legal costs
Conveyancing fees for all types of property transactions, including leases and reassignment of mortgaged properties, are negotiable.

Tax legislation

Stamp duty: sales
There are two stamp duties payable on private residential real estate transactions. These are the BSD and the seller's stamp duty (SSD).

BSD
Effective from 8 December 2011, an additional buyer's stamp duty (ABSD) on private residential purchases is payable by overseas nationals, companies and PRs. This is over and above the usual BSD payable. The ABSD was subsequently revised upwards with effect from 12 January 2013. The details of the BSD/ABSD are shown in Table 46.

Stamp duty is payable by the buyer within 14 days of agreeing to buy if the PSA is signed in Singapore.

SSD
Effective from 14 January 2011, an SSD will be imposed if residential properties are sold within four years of purchase. The SSD levied on residential properties bought on or after 14 January 2011 will be revised as follows:

TABLE 45
Lease terms

Lease period	Typically 3 years, with an option to renew for a further term of 3 years, to be mutually agreed by landlord and tenant.
Rent reviews	Upon lease renewal.
Sub-letting/assignment	Most leases do not allow the tenant to sub-let or assign the lease.
Termination	Early termination of the lease is prohibited. In practice, the landlord may allow the outgoing tenant to source a replacement tenant at terms and conditions to be agreed by the landlord.
Repairs	The tenant will usually be directly responsible for all repairs within the demised premises. General building repairs and maintenance of building services will be carried out by the landlord, or management corporation, and recovered through the service charge.
Security of tenure	Protected by law.
Dilapidation	Not relevant.

Source: Savills Research & Consultancy

- sold within the first year of purchase, ie, the property is held for one year or less from its purchase date, the SSD is 16% of the full consideration.
- sold within the second year of purchase, ie, the property is held for more than one year and up to two years, the SSD is 12% of the full consideration.
- sold within the third year of purchase, ie, the property is held for more than two years and up to three years, the SSD is 8% of the full consideration.
- sold within the fourth year of purchase, ie, the property is held for more than three years and up to four years, the SSD is 4% of the full consideration.

No SSD will be payable by the seller if the property is sold more than four years after it was bought.

Stamp duty: mortgages
Stamp duty payable is S$4 for every S$1,000 of the loan or part thereof, subject to a maximum of S$500.

Stamp duty: leases
Leases with annual rents not exceeding S$1,000 are exempt from stamp duty. For those with annual rents of more than S$1,000, stamp duty is levied as a percentage of the average gross annual rent:

- up to a one-year lease period, S$1 for every S$250 or part thereof.
- more than one year and up to a three-year lease period, S$2 for every S$250 or part thereof.

TABLE 46
BSD/ABSD

Transaction	On or before 7 December 2011	On or after 12 January 2013	
	Existing BSD rates on the total purchase price or market value (whichever is higher)	Existing BSD rates on the total purchase price or market value (whichever is higher)	ABSD rates on the total purchase price or market value (whichever is higher)
Expatriates and non-individuals (corporate entities) buying any residential property	1% on first S$180,000 2% on next S$180,000 3% for the remainder	1% on first S$180,000 2% on next S$180,000 3% for the remainder	15%
PRs owning one and buying the second and subsequent residential property			10%
Singapore citizens owning two and buying the third and subsequent residential property			10%
PRs buying the first residential property	1% on first S$180,000 2% on next S$180,000 3% for the remainder	No change	5%

Source: Inland Revenue Authority of Singapore (IRAS)

■ more than a three-year lease period or for an indefinite term, S$4 for every S$250 or part thereof.

Estate duty
As of 15 February 2008, the government has removed estate duty.

Corporation tax
A company is taxed at a flat rate on its chargeable income. The CIT rate from the year of assessment (YA) 2010 onwards is 17%. CIT for the YA is levied on the taxable income of the previous year, which is the profit shown in the company's audited accounts after qualified allowances and deductions have been taken into account.

Effective from the YA 2008, a partial tax exemption is granted to companies on normal chargeable income of up to S$300,000. This allows for a 75% exemption on the first S$10,000 of chargeable income and a 50% exemption on the next S$290,000.

For new companies, full tax exemption may be granted on normal chargeable income of up to S$100,000 for each of its first three consecutive YAs. A further 50% exemption will be granted for the next S$200,000 starting from the YA 2008. With effect from the YA 2009, in order to qualify for tax exemption, the new start-up company must:

■ be incorporated in Singapore (other than a company limited by guarantee[7]);

■ be a tax resident in Singapore for that YA;

■ have no more than 20 shareholders throughout the basis period for that YA where:

1) all of the shareholders are individuals beneficially holding the shares in their own names;

2) at least one shareholder is an individual beneficially holding at least 10% of the issued ordinary shares of the company.

With effect from the YA 2006, losses of up to S$100,000 incurred by a company in the current year can be carried back for one year. For losses incurred in the YA 2009 and YA 2010, the S$100,000 cap is increased to S$200,000 and the time limit for loss carryback has also been extended to three preceding years.

To help companies cope with the rising costs of doing business, the government provided a set of one-off measures for companies in the 2011 Budget:

■ the 20% CIT rebate, subject to a cap of S$10,000, is computed based on the YA 2011 tax payable after deducting tax set-offs, eg, double tax relief, unilateral tax credits and tax deducted at source.

■ the one-off small and medium enterprises (SMEs) cash grant is computed based on 5% of the total company revenue for the YA 2011, subject to a cap of S$5,000. This is meant to help small companies which may not fully benefit from the CIT rebate as they pay very little tax. To qualify, these companies must have made Central Provident Fund contributions in the YA 2011.

Companies will automatically receive the higher of the CIT rebate or the grant when the IRAS assesses their tax returns.

PIT
Tax residents are those who have been in Singapore for a minimum of 183 days in a calendar year, or have been physically present or working in Singapore for three consecutive years, even if the number of days they are in Singapore is less than 183 days in the first and third years. From the YA 2007, tax rates are on a graduated scale ranging from 0% to 20%.

Tax residents are taxed on income derived in Singapore, and any overseas income received in Singapore, after provisions of certain tax deductions and personal relief. All overseas-sourced income and specified Singapore-sourced investment income from financial instruments received in Singapore by individuals are exempt from income tax.

Property tax
The amount of tax payable by owners is calculated based on a percentage of the annual value of the property, which is the estimated annual rent that the property can expect to obtain if it were rented out, regardless of whether the property is vacant, occupied by the owner or leased out. Exceptions to the standard definition of annual value include:

■ vacant land or land under development – 5% of the estimated market value of the land, assuming the land plot is vacant with no buildings erected on site.

■ gazetted hotels – 20% of the gross room receipts, while the other lettable areas in the hotel will be assessed based on estimated market rents. The increase in the assessment rate, which was due to increase to 25% on 1 January 2010, was deferred by one year.

7 With effect from YA 2010, the scheme will be extended to companies limited by guarantee, subject to the same conditions imposed on companies limited by shares.

TABLE 47

New progressive tax scale For non-owner–occupied residential buildings

Annual value (S$)	Tax rate (%) (effective 1 January 2014)	Tax rate (%) (effective 1 January 2015)
First 30,000	10	10
Next 15,000	11	12
Next 15,000	13	14
Next 15,000	15	16
Next 15,000	17	18
AV in excess of 90,000	19	20

Source: Savills Research & Consultancy

TABLE 48

New progressive tax scale For owner-occupied residential buildings

Annual value (S$)	Tax rate (%) (effective 1 January 2014)	Tax rate (%) (effective 1 January 2015)
First 8,000	0	0
Next 47,000	4	4
Next 5,000	5	6
Next 10,000	6	6
Next 15,000	7	8
Next 15,000	9	10
Next 15,000	11	12
Next 15,000	13	14
AV in excess of 130,000	15	16

Source: Savills Research & Consultancy

TABLE 49
Tax allowances

Type of property	Initial allowances (%)	Annualised allowances (%)
Qualifying industrial buildings	25	3
Approved hotels on Sentosa	20	2
Approved tourism projects (not hotels)	20	2

Source: IRAS

The property tax rate for all property types is 10% of the annual value. Owner-occupied residential units enjoy a concessionary rate of 4%. However, with effect from 1 January 2014 and 1 January 2015, a new progressive property tax rate will be implemented. Details are shown in Tables 47 and 48.

The tax is payable regardless of whether the property is vacant or occupied.

Tax exemptions are granted for buildings that are entirely used for public religious worship, charitable purposes, public schools which receive grant-in-aid from the government, and for purposes conducive to social development in Singapore. Partial exemption may be granted if only parts of the building qualify for exemption.

Tax depreciation
Tax depreciation is allowed on qualifying industrial buildings and structures, where eligibility will be based on the current use of the building. Approved hotels in Sentosa and approved tourism projects will also be entitled to similar allowances. The tax allowances are detailed in Table 49.

However, with effect from the new phase-out, tax appreciation will not be applied on capital expenditure on construction or purchase of industrial buildings or structures incurred after 22 February 2010, except for specified scenarios stated in the transitional rules[8].

GST
GST is charged on supplies of most goods and services by businesses, and on imports made by taxable persons in Singapore.

8 IRAS website: http://www.iras.gov.sg/irasHome/page04.aspx?id=618

It is a final consumption tax but collected at each stage of production. There are four bands of tax: the standard rate of 7% (applicable to standard-rated supplies comprising goods and services not considered zero rated and exempt supplies), zero rated (applicable only to international services and exported goods), exempt (sales and rental of unfurnished residential property and certain other financial transactions/services) and out-of-scope (goods which are sold but never enter Singapore).

All businesses with a turnover of taxable supplies in excess of S$1 million must register with the Controller of GST, whereas businesses with turnover of less than S$1 million may do so voluntarily.

The sale of residential properties and land are exempt from GST. Hence a developer cannot charge GST on the sale of a housing unit even if he is GST-registered with the Controller. Neither can he claim for a refund of the GST he has incurred in developing the building.

Withholding tax and tax treaties
Domestic corporations paying certain types of income are required to withhold tax to non-resident corporations/individuals on interests and royalties. The rate of withholding tax is dependent on the country in which the corporation/individual is based but ranges between 0% and 15%. Dividends are not subject to withholding tax.

There are two types of avoidance of DTAs (tax treaties) that the Singapore government has signed with other countries, which are:

- comprehensive treaties, which cover all types of income and are applicable to the following countries: Australia, Austria, Bahrain, Bangladesh, Belgium, Brunei, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Fiji, Finland, France, Germany, Hungary, India, Indonesia, Israel, Italy, Japan, Kazakhstan, Kuwait, Latvia, Lithuania, Luxembourg, Malaysia, Malta, Mauritius, Mexico, Mongolia, Myanmar, Netherlands, New Zealand, Norway, Oman, Pakistan, Papua New Guinea, Philippines, Poland, Portugal, PRC, Qatar, Republic of Korea, Romania, Russian Federation, Slovak Republic, South Africa, Sri Lanka, Sweden, Switzerland, Taiwan, Thailand, Turkey, UAE, UK, Ukraine, Uzbekistan and Viet Nam.

- limited treaties, covering only income from shipping and/or air transport, and which are applicable to the following countries: Bahrain (air transport), Chile (shipping), Hong Kong SAR (air transport and shipping), Oman (air transport), Saudi Arabia (air transport), UAE (air transport), and the US (air transport and shipping).

Other treaties that have been signed but not ratified, and thus do not have any force in law, are with Australia, Austria, Bahrain, Belgium, Brunei, Denmark, Finland, France, Georgia, Libya, Malta, Mexico, Morocco, Netherlands, New Zealand, Norway, Qatar, Slovenia and UK.

Legal issues

Land registration
The Land Titles Registry, which comes under the Singapore Land Authority's umbrella, handles the registration of property transactions in Singapore.

Two land registers exist, namely:

- the Register of Deeds for Common Law land under the Registration of Deeds Act;

- the Land Titles Register for land under the Land Titles Act.

Planning controls
Section 12 of the Planning Act 1998 stipulates that no person shall develop any land without the written permission of the competent authority.

'Competent authority' refers to the Urban Redevelopment Authority and 'written permission' may refer to the planning permission, subdivision permission or conservation permission.

'Development' is defined in Section 3 of the Act as either the execution of any building, mining, engineering, earthworks or other operations on, over or under land, or to making any material changes to the use of any land and buildings.

Master Plan 2008
The current Master Plan 2008 is a detailed statutory land use plan for

each of the planning regions (north, northeast, east, west and central regions). The Plan, which is revised every five years, guides the physical development of Singapore over the medium term of ten to 15 years. (The Master Plan 2013 is currently in its draft format. This should be approved in 2014 after an adequate period of exposure to the public to garner feedback.)

Other legislation which controls real estate development in Singapore includes:

- Housing Developers (Control and Licensing) Act
- Sale of Commercial Properties Act
- Land Titles (Strata) Act
- Land Titles Act
- Land Acquisition Act

Foreign exchange controls
All Singapore residents, both corporations and individuals are allowed complete freedom from exchange control on any form of investment and payment. Nonetheless, loans to non-residents may be subject to a 'non-internationalisation of Singapore currency' policy. Also, all syndicated loans in Singapore dollars require the approval of the MAS.

Major property legislation

There are a number of key items of legislation related to property, all of which are detailed below:

- Buildings and Common Property (Maintenance and Management) Act
- Building Control Act
- Building Maintenance and Strata Management Act
- Conveyancing and Law of Property Act
- Goods and Services Tax Act
- Housing Developers (Control and Licensing) Act
- Housing Developers (Control and Licensing) Rules
- Income Tax Act
- Land Acquisition Act
- Land Titles Act
- Land Titles (Strata) Act
- Planning Act
- Property Tax Act
- Registration of Deeds Act
- Residential Property Act
- Sale of Commercial Properties Act
- Stamp Duties Act
- State Lands Act
- Street Works Act

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South Korea

Overview

The Korean economy has grown rapidly over recent decades and is now the 15th largest economy in the world, and the third largest in Asia, behind Japan and the PRC. In recent years the key drivers of economic growth have shifted from low-cost manufacturing to the production of high-technology products, with Korea currently a world-leading producer of electronics, automobiles and ships.

Types of property ownership

Freehold title ownership, strata-title ownership, and long-term leasehold (for government-owned land) are all commonly practised.

Overseas ownership restrictions

Following substantial deregulation in 1997/1998, overseas buyers are generally free to acquire land in Korea, apart from areas where approval is required, such as military areas, cultural assets and ecological protected areas, as detailed in the Foreigners Land Acquisition Act.

If an overseas buyer makes a real estate acquisition for profit-making purposes, a branch or corporation must be established in Korea. In addition, acquisition/investment reports must be submitted. Details are shown in Table 49.

TABLE 50

Key statistics

Official name	The Republic of Korea
Currency	Korean won US$1 = KRW1,172.24 (December 2015)
Population	50.6 million*
Land area	100,284 sq km
GDP per capita	KRW29.45 million; US$26,795 (2014)*
GDP growth	2.7% per annum (2015E)#
Principal business areas	Seoul (CBD, Gangnam, Yeouido), Busan, Incheon

Source: FocusEconomics*
Source: Bank of Korea#

Measurement of areas

The most commonly used unit of area measurement remains the pyeong (3.3058 sq m), although the government is encouraging the adoption of sq m, with a law enacted in mid-2007 requiring the use of sq m in official documents.

There are three area measurements which are often quoted in agreements:

- GFA: all area contained within the centreline of the external walls, excluding vertical penetration and void areas.
- gross leasable area: usually GFA or GFA less underground parking areas.
- net leasable area: GFA less common floor areas and building common areas and parking.

Note that variations in these definitions are common, eg, with regard to what constitutes “common areas”. It is also worth noting that in relation to rents there are generally few restrictions on the fixing of rents.

TABLE 51

Acquisition/investment reporting requirements

Report	Governing institution	Deadline
Land acquisition report	Local property registration office	Within 60 days of acquisition
Overseas investment report	Invest Korea	Prior to bringing investment funds into Korea
Real estate acquisition report for inflow of foreign currency	Head office, branch of foreign exchange bank	When remitting funds

Source: Savills Research & Consultancy

TABLE 52

Lease terms

Lease period	Prevailing market practice is for leases of 2 to 3 years, although longer leases of up to 5 years are becoming more common, particularly for higher grade buildings.
Rent reviews	Contracts of longer than 1 year usually specify annual increases in monthly rent and maintenance fees. CPI indexing is a common practice.
Sub-letting/ assignment	Generally not an accepted market practice, consent required from landlord.
Termination	Pre-termination clauses are usually included in leasing contracts and require notification periods of 3 to 6 months. Longer term leases typically prohibit pre-termination in the early period of the lease.
Repairs	The exterior and common areas of the building are the landlord’s responsibility. Tenants are responsible for internal repairs.
Security of tenure	Security of tenure is not guaranteed beyond the term of a lease. A right to renew can be included in the lease if required.
Dilapidations	Tenants are expected to reinstate a building to its original condition.

Source: Savills Research & Consultancy

TABLE 53
Acquisition taxes

Tax	Special cases
Acquisition tax 4% of acquisition price Surtaxes: Special tax for farming and fishing villages 0.2% of acquisition price Local education tax 0.4% of acquisition price *Since 2011, acquisition tax and registration tax were consolidated to acquisition tax	Higher tax rate imposed for newly built or expanded factories, or newly built real estate for operating the head/main office of a corporation within the Seoul Metropolitan Area (SMA)#. An 8.4% tax rate for registering new establishments or for transfer of main offices within the SMA, and for the registration of all real estate acquired within 5 years of the establishment or transfer. A dormant corporate is also subject to the 6.8% tax rate if it has been more than 5 years since establishment. Reductions are available for high-technology businesses and for purchases in designated overseas investment zones.
Capital registration tax 0.4% of paid-in capital upon establishment of new company Surtax: Local education tax 20% of capital registration tax	Required when a new company is used as an acquisition vehicle. Higher 1.44% tax rate when surviving company is located in the SMA.
National housing bond - Building 2.0% of government-determined building value - Land 5.0% of government-determined land value	The obligation for overseas investors to purchase housing bonds is reduced by the proportion of overseas investment funds in the acquisition.
VAT 10% of building acquisition price	Businesses are exempted or refunded.

Source: Savills Research & Consultancy
#More specifically, this area is defined as the "Capital region overpopulation suppression area" and comprises Seoul, Incheon, Suwon, Anyang, Guri, Goyang, Bucheon, Gwacheon, Gwangmyung, Uijongbu, Namyangju (partially), Hanam, Seongnam, Uiwang, Gunpo, and Siheung (excluding industrial complexes, investment attraction areas and industrial regions).

TABLE 54
Possession and operation of real estate taxes

Tax	Special cases
Property tax Buildings: 0.25% of government-determined building value Land: 0.2–0.5% (including surtax*) of government-determined value *Surtax: (i) Local education tax: 20% of property tax (ii) City planning tax: 0.14% of tax base (iii) Public facility tax 0.24% of tax base	For newly built or expanded factories in the SMA the property tax is imposed at a multiple of 5 times the standard rate for 5 years. Reductions are available for high-technology businesses and for purchases in designated overseas investment zones.
General real estate tax (charged only for land): 0.5–0.7% of tax base	Reductions are available for high-technology businesses and for purchases in designated overseas investment zones.

Source: Savills Research & Consultancy

Typical rent structure comprises: 1) monthly rent; 2) monthly maintenance fee; and 3) refundable security deposit (usually set at ten times the monthly rent).

The traditional Korean lease system, "chonsei", involves the tenant paying an up-front, refundable deposit typically ranging from 40% to 60% of the value of the area leased, with no requirement for periodic rent payments. This leasing structure is increasingly rare.

Transaction costs

Brokerage/agency fees

Brokerage fees on transactions are normally between 0.5% and 1% depending on the deal, with the buyer tending to pay the fee. Fees on leasing are usually one month's rent for the entire leased space with the nature of the deal dictating who is liable to pay the fee.

Tax legislation

Note that certain investment structures (ie, REITs, ABS special purpose companies [ABS SPC], and real estate funds [REF]) provide significant deductions on acquisition, registration, capital gains and disposal taxes. These structures are discussed further under 'Investment structures' on page 50 and in Appendix 1 on page 51.

Tax depreciation

Only the straight-line method of depreciation is permitted for buildings.

Corporation tax

Details are shown in Table 56.

PIT

For tax-paying purposes, individuals are classified as either resident or non-resident. Residents are essentially defined as those who have resided in Korea for one year or more, or those who have an occupation that would require them to reside in Korea for one year or more. A resident is subject to income tax on all income derived from sources both within and outside of

TABLE 55
Disposition taxes

Tax	Special cases
Corporate – income tax 10–22% of capital gain*	Capital gain is levied as corporation tax.
Regional income tax (formerly inhabitant tax) 10% of transfer income tax or corporate tax	N/A
VAT 10% of building's transfer price (collected from transferee)	Businesses are exempted or refunded.

Source: Savills Research & Consultancy
*See rate thresholds under 'General taxes'.

TABLE 56
Corporation tax

Taxable income (KRW)	Marginal tax rate (%)
Below 200 million	10
200 million–20 billion	20
Above 20 billion	22
Regional tax	10% of corporate tax

Source: Savills Research & Consultancy

TABLE 57

PIT rates

Global income (KRW million)	Marginal tax rate (%)
0–12	6
12–46	15
46–88	24
88–300	35
Over 300	38

Source: Savills Research & Consultancy

TABLE 58

VAT

VAT exempt goods and services	■ Basic daily necessities and services for the general population ■ Goods and services for national health ■ Culture-related goods and services ■ Manufacturing-related goods and services ■ Work-like human services: human services (entertainers, composers, etc) ■ Import of tax-exempted goods
Zero-rated goods and services	■ Exported goods ■ Services provided abroad ■ Overseas transport services by ships and planes ■ Other foreign-currency-acquiring goods and services

Source: Savills Research & Consultancy

Korea. A non-resident is subject to income tax only on income derived from sources within Korea. Details are shown in Table 57.

Taxable income is divided into two categories:

■ global income: includes interest income, dividend income, real estate rental income, business income, wage and salary income, temporary property income, and pension income.

■ non-global income: includes retirement income, capital gains and income derived from the sale of timber.

Other items worth highlighting in regard to the PIT regime in operation:

■ a regional income tax surcharge is assessed at a rate of 10% of the income tax liability.

■ overseas buyers are able to choose either a 16.5% flat tax rate (including residence tax surcharge) or abide by the progressive rate scale shown in Table 56.

■ a range of other tax credits, exemptions and deductions (eg, for earned income) result in further substantial reductions in the effective personal tax paid in many cases. However, these reductions are not available if an overseas buyer chooses the 16.5% flat tax rate.

VAT

A standard 10% VAT is levied on all goods and services (including property), with the exception of those specified as exempt or zero rated. Businesses are exempt or refunded. The exemptions/zero ratings are detailed in Table 58.

Withholding tax and tax treaties

International corporations with no domestic place of business in Korea will be subject to tax on their Korean-sourced income (dividends, royalties, interest) on a withholding basis. Any income attributable to an overseas corporation which has a fixed place of business in Korea will be subject to Korean income tax. The rate of withholding tax is dependent on the country of origin of the corporation in question and the source of income (dividends, royalties, interest), and generally ranges between 10% and 15%.

Withholding taxes are also applicable to non-residents. However, there are limitations on these depending on the existence and nature of a tax treaty with Korea. Table 59 lists those countries with whom tax treaties exist in order to avoid double taxation of international residents (as of 24 September 2010).

Incentives for overseas investment

Tax incentives and cash grants are available for overseas investors if they are:

1) involved in attracting advanced technologies or industry-supporting services.

TABLE 59

Tax treaty countries

Countries	Countries	Countries
Albania	Iran	Poland
Algeria	Ireland	Portugal
Australia	Israel	PRC
Austria	Italy	Qatar
Azerbaijan	Japan	Romania
Bangladesh	Jordan	Russia
Belarus	Kazakhstan	Saudi Arabia
Belgium	Kuwait	Singapore
Brazil	Laos	Slovakia
Bulgaria	Latvia	Slovenia
Canada	Lithuania	South Africa
Chile	Luxembourg	Spain
Croatia	Malaysia	Sri Lanka
Czech Republic	Malta	Sweden
Denmark	Mexico	Switzerland
Egypt	Mongolia	Thailand
Estonia	Morocco	Tunisia
Fiji	Myanmar	Turkey
Finland	Nepal	UAE
France	Netherlands	UK
Germany	New Zealand	Ukraine
Greece	Norway	US
Hungary	Oman	Uzbekistan
Iceland	Pakistan	Venezuela
India	Papua New Guinea	Viet Nam
Indonesia	Philippines	

Source: Savills Research & Consultancy

2) located in a designated overseas investment zone.

Tax incentives include exemptions from and/or reductions in income, registration, property and aggregate land taxes, customs duties, special excise tax and VAT. More details on specific reductions available for property-related taxes are included overleaf.

Investment structures

Due to favourable tax treatment, many real estate investors choose to employ indirect investment structures for real estate acquisitions. The four most important of these structures are corporate restructuring REITs (CR-REITs), Paper REITs and Trust-REFs. The principle tax benefits and regulations associated with these structures are outlined in Appendix 1 on page 57.

Savills Korea

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Appendix 1

TABLE 60

Tax summary for REIT, Trust-REF and Outright investment structures

Structure	Acquisition			Holding period			Disposal
	Capital registration tax	Acquisition and registration tax^	Housing bond	Property tax*	General real estate tax	Corporate tax	Corporate tax
Outright	0.48% of paid-in capital (1.44% in SMA)	4.6%	2.0% of government-determined building value 5.0% of government-determined land value (reduced in proportion with foreign direct investment [FDI] ratio)	Buildings: 0.25% Land: 0.2–0.4%	Land: 0.5–0.7% of separate sum tax base (note: property tax credit provided when property taxes paid exceed specified threshold)	20% (22%, above KRW20 billion)	20% (22%, above KRW20 billion)
REIT	0.48% (triple rate not applied in SMA)	4.6%#	Exempt	Buildings: 0.25% Land: 0.2%	Exempt	Exempt	Exempt
Trust-REF	N/A	4.6%#	Reduced in proportion with FDI ratio	Buildings: 0.25% Land: 0.2%	Exempt	N/A	Exempt

Source: Savills Research & Consultancy

^Includes local education tax and special tax for farming and fishing villages. #Previously reduced acquisition tax rate for REIT and Trust-REF structures will no longer be applicable as of 2015 (subject to change upon government review).

*Tax base for land: Government-determined Land Price for Tax Assessment × Fair Market Rate (50–90%). Tax base for building: Government-determined Construction Cost for Tax Assessment × Fair Market Rate (50–90%).

TABLE 61

Major regulations associated with ABS SPC, REIT and Trust-REF investment structures

	CR-REIT	Paper-REIT	Trust-REF	ABS SPC
Summary of key constraints	- 70% of assets must be acquired from companies undergoing restructuring. - Limited lifespan, usually around 5 years, but longer terms can be negotiated. - Technically no shareholding limit for an individual investor, but usually limited to 90% in practice.	- No single investor may hold more than 40% (Trust-REIT) of total equity. - Requirement of public offering of 30% of total shares. - Property cannot be sold within 1 year of purchase.	- No single investor may hold more than 80% of total equity. - Property may not be sold within 1 year of purchase. - Some limits to investor control over asset management.	- Conditions regarding eligibility of originator. - Investment in development projects is prohibited. - Refurbishment prohibited.
	- Maximum of 30% of assets can be invested in development projects. *Note: 100% of assets in Development REITs can be invested in development projects. Developments REITs are not covered in this guide.			
Establishment	- Approval required from Ministry of Land, Transport & Maritime Affairs, may take 1 to 2 months from application. - Minimum paid-in capital of KRW500 million at inception, KRW5 billion (Trust-REIT) within 6 months of the receipt of license. - Must outsource: • Business activities to an asset-management company (AMC). • Corporate management to a business trustee. • Sales of shares to a selling company. • Holding of the real estate asset title to a custodian company.		- Established by agreement between AMC and a trust company (establishment of a corporation is unnecessary), requirement to submit a pre-filing of an ABS plan with the Financial Services Commission. - AMC can sell beneficiary certificates to investors worth up to the lower of either 20% of total asset value or KRW400 billion. Sales of remaining beneficiary certificates must be delegated to a sales company.	- Originator (seller to an ABS SPC) must be a financial institution, a listed company or must have an investment-grade credit rating. - Minimum paid-in capital of KRW10 million. - Must outsource business activities to an AMC.
	- Paper company with limited lifespan, usually five year maximum.	- Limited liability joint-stock company.		
Composition	- If the REIT is publicly listed, up to 30% of total assets can be invested in development projects.		Direct investment in development projects limited to 30% of total assets, but the following are permitted: 1) loans to real estate development companies up to 100% net assets; 2) 100% acquisition of a company that has limited duration for a specific real estate development purpose; or 3) obtaining rights to real estate in the process of development.	- Investment in development projects is prohibited.
	- 70% of assets must be acquired from companies undergoing insolvency or reorganisation, or from companies that intend to use at least 50% of sale proceeds to retire debt obligations.	- 70% of assets must be invested in real estate. - 80% of assets must consist of real estate, real estate-related securities, or cash.		
Distribution of stocks	- Technically no shareholding limits for an individual investor, but usually limited to 90% in practice. - No public-offering requirement.	- No single investor may hold more than 40% of total equity (exemption for some pension funds). - 30% of shares must be offered to the public at establishment state.	- No single investor (beneficiary certificate holder) may hold more than 80% of equity.	N/A
Debt financing	- Debt financing and bond issuance up to 10 times that of net equity is permitted, provided consent is given at a stockholders meeting.		- Debt from Korean financial institutions permitted up to 2 times net asset value. - Borrowed funds may only be used to invest in real estate assets.	- Thin capitalisation rule of 6:1 applies.
Disposal	- Limited lifespan, usually 5 years but longer terms can be negotiated.	- Properties cannot be sold within 1 year of purchase.	- Assets may not be sold within 1 year of purchase.	- Cooperation of originator is required if the ABS SPC investor intends to sell the asset and the new investor wishes to maintain an ABS SPC structure.
Control over assets	N/A		- Some limits on investor control over asset management, which is governed primarily through the agreement between trust company and AMC. However, control issues are not usually a problem in practice.	N/A

Source: Savills Research & Consultancy

Taiwan

Overview

Taiwan's economy is best described as an emerging market and is one of Asia's newly industrialised growth engines. Although growing at a slower pace than in the past, the economy has transformed itself from one that produced plastic toys and textiles, to one that dominates some electronics sectors. Today, 80% of the world's laptops and 40% of its LCD screens come from Taiwan as the nation's SMEs have successfully climbed further up the value chain.

According to the Directorate-General of Budget, Accounting and Statistics in 2012, 75% of gross domestic output is derived from exports, which leaves the open economy vulnerable to downswings in global demand for its goods. This reliance on the production of tech exports has also contributed to the manner in which the property market has evolved. Science and technology parks represent a large portion of investment-grade assets, and in some instances, are government-owned, leaving few opportunities for investors.

The high quality of human resources and relatively inexpensive wages are complimented by sound regulatory and legal systems, and a competent central bank. These factors make Taiwan an excellent location for regional operation or R&D centres, and as a logistics hub and production base to serve the Asia Pacific region.

TABLE 62

Key statistics

Official name	Republic of China (ROC)
Currency	New Taiwan dollar, US$1 = NT$33.006 (December 2015)
Population	23 million (2014)
Land area	3,600 sq km
GDP per capita	US$22,518 (2014) US$22,823 (2015F)
GDP growth	3.74% per annum* (2014) 1.56% per annum* (2015E)
Principal business centres	Taipei City, New Taipei City, Taichung City, Tainan City, Kaohsiung City

Source: National Statistics, ROC*

Types of property ownership

Most property on the island is freehold, although long-term leasehold, also called superficies right, is becoming more popular, particularly in Taipei City or on government build-operate-transfer infrastructure projects. Typical leasehold titles have 35-, 50- or 70-year terms. Renewal options are dependent on specific contract agreements.

Strata-title buildings are common throughout the island and regulations have been passed to create consensus on building maintenance and management. Ownership structures are commonly divided into the following categories: 1) fee simple; 2) strata title; and 3) superficies right.

Overseas ownership restrictions

Overseas investors and individuals are allowed to own most types of property in Taiwan with a reciprocal agreement that allows Taiwanese nationals to enjoy the same rights in those countries. The only exception to this applies to individuals or entities from mainland China, who are restricted from owning property unless it is for self use. The type of owner-occupied commercial property that mainland enterprises and individuals can acquire includes retail, factory and office property, as well as employee dormitories.

White-collar Chinese workers who are legally permitted to work in Taiwan and hold a Taiwan work certificate (Alien Resident Certificate) are allowed to buy homes to fulfil their individual housing needs. However, the purchase is subject to a stipulation that restricts the sale of the property for a period of three years following the title transfer. These same individuals are no longer required to state the source of their funds as they were in the past, and are entitled to the same mortgage terms that Taiwanese nationals can secure.

Overseas investors acquiring or leasing land for a particular purpose are required to obtain approval from the relevant government authority.

Overseas investors who have established a company in Taiwan are permitted to buy or lease property for their operations provided they have obtained overseas investment approval status.

Restrictions on overseas ownership

Overseas entities are prohibited from owning the following: military areas, cultural assets, forestry land, fisheries, hunting grounds, salt fields and ecologically protected areas.

Measurement of areas

The standard unit of measure is the 'ping' (1 ping = 3.305 sq m = 35.58 sq ft). This was adopted from Japanese tatami mats and is the same size as the Japanese 'tsubo' and Korean 'pyung'. As a rule of thumb, 1 ping has the same dimensions as a king-size bed.

There are two measurements for area that are commonly used in legal agreements:

- GFA: all covered areas contained within the external walls including common areas such as amenities, balconies and parking. In practice, GFA is used to calculate the property's rent and sales price, although parking and retail space will often be excluded.

- net floor area: the useable area exclusively occupied by the tenant, or the GFA less common areas (including lifts), balconies and walls. In Taiwan, the average efficiency ratio for Grade A office buildings is between 60% and 70% of the GFA

TABLE 63
Lease terms

Lease period	Typically from 3 to 5 years, although longer leases can be negotiated particularly for retail or industrial space.
Rent reviews	Generally uncommon for commercial properties, often as a reflection of a slower moving market.
Sub-letting/ assignment	Subject to specific terms in the contract and signed by all affected parties.
Termination	Usually specified within lease agreements and require notification in advance. The security deposit will be forfeited if the tenant chooses to terminate the contract early.
Rental deposit	The commercial leasing deposit is 2 to 3 months' rent regardless of lease duration.
Dilapidations	Tenants are expected to cover the costs of returning the building to its original handover condition.

Source: Savills Research & Consultancy

TABLE 64
Capital gain tax

Transaction	Taxable income	Tax rate (%)
Taiwanese residents	Taxable Income = selling price-buying price-deductions-assessed land increment value	Holding period: Less than 1 year: 45% 1 to 2 years: 35% 2 to 10 years: 20% Over 10 years: 15%
Non-Taiwanese residents		Holding period: Less than 1 year: 45% Over 1 year: 35%
Taiwanese company		17%
Overseas company		Holding period: Less than 1 year: 45% Over 1 year: 35%

Source: Savills Research & Consultancy

TABLE 65
Corporate tax

Taxable income (NT$)	Tax rates (%)
120,000 or less	None
Over 120,000	17

Source: Savills Research & Consultancy

Transaction costs

Brokerage/agency fees

Typically, leasing fees are equivalent to one month's rent from the tenant and one month's rent from the landlord.

Agency fees are charged to both the vendor and buyer at the conclusion of a transaction. The buyer is typically charged 1% to 2% of the transaction amount while the vendor is charged 3% to 4% of the transaction amount. Both of these fees may vary if the relevant parties have consented.

Valuation fees

The valuation fee is approximately 0.05% to 0.2% of the property value.

Notarisation costs

According to the charging standards for notarisation costs issued by the Judicial Yuan, the notarisation cost varies from 0.5% to 0.01% of the total amount of the contract. It is standard practice in Taiwan for each party to bear their own legal costs.

Tax legislation

Land stamp duty

Land stamp duty is charged at 0.1% of the government-assessed land value on the sale or transfer of deeds of property. Building stamp duty is also charged at 0.1% of the government-assessed value of the building. The stamp duty is to be paid by the purchaser.

Stamp duty tax

The Selective Goods and Services Sales Tax Act came into effect on 1 June 2011. The tax was introduced as a means to curb property speculation in the housing market. The tax is applicable to property owned by an individual or entity which is not for self use and has been subsequently sold within two years of purchase.

Any deed transfer or property disposal that does not fulfill the required two-year holding period is subject to a 15% levy if sold within the first year. The rate drops to 10% for property sold between the first and second year of the owner purchasing it. Furthermore, the tax base is the transacted price, not the government-assessed land value. The tax applies to the disposal of both residential and commercial property, as well as land.

Stamp duty tax will become invalid in 2016, and the new capital gains tax takes effect.

Deed tax
Deed tax is charged at 6% of the government-assessed building value and is paid by the purchaser.

Land value increment tax
Land value increment tax is applicable to taxable gains based on proceeds from a sale after a number of deductions, including land improvement costs, construction benefit fees, land rezoning fees and land premiums, have been made. The vendor will be charged at a progressive rate of 20%, 30% and 40%.

Land value tax
Land value tax will be paid on an annual basis by the owners and is commonly levied at regular progressive rates ranging from 1% to 5.5%. The tax base is the gap between the land value and the starting value evaluated by the government.

Buildings tax
The taxpayer is the building owner and buildings tax is levied on the government-assessed value of the building. The tax rates vary by city. In Taipei City, the annual tax rates are 3% for commercial buildings and 1.2% to 3.6% for multiple-residence owners.

CGT
Effective from 2016, capital gains generated from property will face an extra tax levy. For individuals it will range between 15% and 45%, depending on the length of the holding period. Furthermore, the tax rate for overseas nationals or overseas companies will be lifted much higher, to between 35% and 45%.

VAT
A standard 5% VAT is paid by the tenant. Real estate transactions will be taxed 5% VAT on the building's value, which is paid by the purchaser.

Corporation tax
In June 2010, the Income Tax Act was amended to lower the CIT rate from 20% to 17%. Corporate taxes are applicable to any company operating within the borders of Taiwan (ROC) including overseas entities whose head office is situated outside of Taiwan. Corporate taxes will be applied to any income generated in Taiwan at the rates shown in Table 65.

PIT
Tax residents are those who have been in Taiwan for a minimum of 183 days in a calendar year. Individuals are taxed on income arising in or derived from Taiwan and the progressive tax scale ranges from 5% to 45%.

Non-residents who stay in Taiwan for less than 183 days in a calendar year are not entitled to any deductions, with income tax being computed on gross income and taxes collected through withholding. The withholding tax rate is generally 20%. Details of PIT are shown in Table 66.

Withholding tax and tax treaties
Any enterprise in Taiwan, including subsidiaries and branch or representative offices of an overseas company, must withhold tax on payments, as shown in Table 67.

Taiwan's general tax treaty policy is to avoid double taxation, prevent fiscal evasion and strengthen economic relations. Taiwan's treaties follow the Organisation for Economic Cooperation and Development model treaty and take into consideration matters relating to political and fiscal status, the economy and bilateral trade. As of 30 April 2012, Taiwan had concluded 25 comprehensive income tax treaties and 13 international transportation income tax treaties as follows:

- comprehensive treaties – covering all types of income:

Australia, Belgium, Denmark, France, Gambia, Germany, Hungary, India, Indonesia, Israel, Macedonia, Malaysia, New Zealand, Netherlands, Paraguay, Senegal, Singapore, Slovakia, South Africa, Swaziland, Sweden, Switzerland, Thailand, UK and Viet Nam.

- limited treaties – covering only income from shipping or air transport:

Canada, EU, Israel, Japan, Korea, Luxembourg, Macau, Netherlands, Norway, Sweden and US.

TABLE 66

PIT

Net taxable income (NT$)	Tax rates (%)	Progressive difference (NT$)
0–520,000	5	0
520,001–1,170,000	12	36,400
1,170,001–2,350,000	20	130,400
2,350,001–4,400,000	30	365,000
4,400,001-10,000,000	40	805,000
10,000,000 and above	45	1,305,000

Source: Savills Research & Consultancy

TABLE 67

Payment of withholding tax

Type of income	Non-resident enterprises* (%)
Dividends	20
Professional fees	20
Rental income (royalties)	20
Commissions	20

Source: Savills Research & Consultancy
*A non-resident enterprise is an enterprise that does not have a fixed place of business in Taiwan but has received Taiwan-sourced income.

Legal issues

Foreign exchange controls

None.

Major property legislation

There are a number of key pieces of legislation pertaining to real estate, which are detailed below:

- Income Tax Act
- Value-added and Non-value-added Business Tax Act
- Land Tax Act
- House Tax Act
- Deed Tax Act
- Company Act
- Urban Planning
- The Land Act
- Building Act
- The Land Registration Regulation
- Real Estate Broking Management Act
- Construction Industry Act
- Statute for Investment by Foreign Nationals

Savills Taiwan

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Viet Nam

Overview

Vietnam is one of southeast Asia's premier emerging markets. Since the Asian financial crisis in 1997, Vietnam has maintained a continuous average growth of 6.80% per annum. Vietnam is the 14th most populated country in the world, with over 92 million people, of which nearly 70% is of working age.

Economic growth has slowed due to the recent financial crisis. The economy has now recovered following strong monetary policy. Year-on-year (YoY) GDP growth in the first nine months of 2015 was 6.50%, higher than the same period in 2014 (5.62%).

Vietnam has joined several regional alliances, including: the Trans-Pacific Partnership; the ASEAN Economic Community; and has Free Trade Agreements with the EU, Russia, Korea and the upcoming Regional Comprehensive Economic Partnership (RCEP).

TABLE 68

Key statistics

Official name	The Socialist Republic of Viet Nam
Currency	Vietnamese dong, US$1 = VND22,500 (December 2015)*
Population	92.55 million (2015)
Land area	331,210 sq km (28 October 2015)
GDP per capita	US$2,072.7 (2014)
Real GDP growth	6.5% (first 9 months of 2015 compared with the same period last year)
Principal business areas	Ha Noi, Ho Chi Minh City

Source: General Statistic Office of Viet Nam
* Based on the average inter-bank exchange rate published by The State Bank of Vietnam dated 20 November 2015.

Types of property ownership

Viet Nam's Land Law was updated since 2013 and is effective as of 1 July 2014. The land owner basically manages the land on the behalf of the state. Vietnamese land cannot be privately owned.

Organisations and individuals can acquire land-use rights (LURs) via a land lease or a land allocation which may require a land-use fee (LUF). The land allocation is also known as a land grant. The differences between a land lease and a land allocation under the LUF are:

1) for the land allocation, the land user pays a one-off fee while for the land lease, the land user has a choice to pay the land rental on an annual basis or a one-off sum for the entire term of the lease;

2) a land allocation term of agreement can be either for a definite or indefinite timeframe whereas a land lease is for a fixed term.

The land-use plan is approved annually by the local authorities, allowing land users to know which LURs are available on offer.

According to the revised law, foreign enterprises are now eligible to allocated land requiring land-use fees for developing residential projects for sale or for sale and lease. This will promote fairness between local and foreign investors in the property market. In addition, foreign investors may also acquire LURs through a land lease under which they can pay the land rental on an annual or lump-sum basis for developing residential projects for lease. The term of a land lease and a land allocation for foreign enterprises must not exceed 50 years, although for certain major projects under difficult circumstances there is the possibility to increase the term no longer than 70 years. However, house buyers attached to the LURs can get free-hold titles. For sites used for diplomatic purposes the lease term can be up to 99 years and can be extended.

The new law also states that foreign entities that are eligible for land allocation and land lease with a one-off payment of lease, are entitled to transfer, sub-lease, give, mortgage and contribute the LURs during the term.

Overseas ownership restrictions

The amended Housing Law granting greater property rights to overseas nationals has been effective since 1 July 2015, with an implementation guide recently issued under Decree No. 99/2015/ND-CP. There are two groups of overseas nationals that are allowed to own properties: legal entities such as foreign investment funds, and banks, Vietnamese branches and representative offices of overseas companies which are established in Vietnam, and overseas nationals who have an appropriate visa entry.

The new law limits overseas ownership to 30% of the total units within an apartment complex and a maximum of 250 houses in a ward. Overseas nationals are allowed to own properties as stated in the commercial contracts but are limited to a 50-year tenure and renewal 3 months before the expiry date is optional. An overseas national who is married to a Vietnamese citizen or a Vietnamese expat is entitled to freehold tenure.

The decree also allows foreigners to pay for the property via a financial organisation operating in Viet Nam. The retail banking sector is highly competitive, and this could promote property mortgage access for overseas nationals.

Measurement of areas

All areas are quoted in sq m. There are a variety of area measurements that are often quoted in agreements:

- net area: usable area within a building measuring the internal face of the walls' perimeter on each level, excluding columns.
- gross area: all area containing the outside of the external walls.

To protect apartment buyers' rights, The Ministry of Construction issued a new regulation relating to the unit area of apartments that took effect on 8 April 2014. The area of an apartment unit is the net area that is applied in S&P contracts and the titles issued to buyers. This area calculates the management fee chargeable to the apartment owners. The net area is the usable area including the separated walls within the apartment, balcony and loggia attached to the apartment but excluding the external walls, interior columns and the technical box.

Transaction costs

Agency fees

Leasing fees are equivalent to one month's rent and paid by the property owner, while purchase fees are usually 2% of the agreed price and paid by the seller.

Security deposit

This is commonly a non-interest-bearing, returnable deposit of three months' gross rent which includes the service charge and rates.

Legal costs

Legal costs vary on a case-by-case basis. Most fees are negotiable.

Tax legislation

Land stamp duty

Land stamp duty is charged at 0.5% of the total value. The stamp duty is paid by the purchaser.

Property tax

From 1 January 2015, sellers of any transaction will be taxed 2% of the selling price upon transference.

VAT

The amended VAT Law was implemented on 1 January 2014. The new law defines exported goods and services that benefit from a 0% VAT rate as those consumed outside Viet Nam and in non-tariff areas such as duty-free zones where goods and services are supplied to overseas clients as stipulated by the government. The new law added a 5% VAT rate to be applied to leasing and purchasing of social housing. Also entitled to a tax rate of 5% are 15 groups of goods and services required for agriculture production; basic daily necessities and services for production and daily life; cultural activities, exhibitions and sports activities not for business; art performances and film production, import, publication and projection. A standard 10% rate applies for all remaining categories.

Tax depreciation

The straight-line method of depreciation is used for buildings.

Corporation tax

From 1 January 2014, the Corporate Income Tax (CIT) rate is 22%, except for cases eligible for preferential tax. From 1 January 2016, enterprises paying 22% CIT rates will be charged 20% CIT.

Enterprises that are established according to Vietnamese law and have a total annual turnover of goods and services below VND20 billion (equivalent to about US$943,396) will be granted the CIT rate of 20%.

The income of the enterprises that engage in leasing and purchasing social housing will benefit from a CIT rate of 10%.

PIT

According to Resolution No. 26/2012/QH 13 of the Law on Personal Income Tax (LPIT), issued on 22 November 2012 and effective on 1 July 2013, the scale of progressive tax tariffs on each portion of income applies to business income and salaries, as shown in Table 70.

Table 70 applies to residential individuals with a taxable income from a business and/or from the salary after deductions for dependents, insurance premiums and contributions to charitable funds.

TABLE 69

Lease terms

Lease period	Typically a 3-year fixed period. Longer leases are possible.
Rent reviews	Rent reviews are typically conducted based on the inflation ratio as well as the market rent applied at the time of review.
Sub-letting/assignment	Not an accepted market practice. Possible to assign to subsidiaries or branches.
Termination	No early termination. In special cases, 4 to 6 months' written notice in advance is required.
Deposit	3 months.
Payments	Quarterly in advance (longer advance payments reduce the rental rate).
Rent-free period	During fit-out (normally 1 month, 45 days to be considered).
Repairs	The exterior and common areas of the building are the landlord's responsibility. Tenants would be expected to be responsible for internal repairs.
Security of tenure	The option for a further term should be agreed in the first term's contract.
Dilapidations	Tenants are normally expected to reinstate a property to its original condition at the expiry of the term.

Source: Savills Research & Consultancy

Family exemption is deducted from the amount of taxable income before levying income tax on business activities, salaries and wages of the taxpayers. Family exemption includes the following two parts:

- the deduction for taxpayers is US$432 per month (US$5,185 per year);

- the deduction for each dependent is US$173 per month. If the volatility of the CPI is over 20% compared to the date the law is going into effect or there is a recent adjustment in family exemption, the government will request the National Assembly Standing Committee to adjust the exemption based on the price volatility. This exemption will be carried forward to the next tax period.

With regard to assessing tax on other items of income, the tax rates are shown in Table 71.

Withholding tax and tax treaties
So far, Viet Nam has signed tax treaties with more than 50 nations and territories, which include: Australia, Austria, Bangladesh, Belarus, Belgium, Brunei, Bulgaria, Canada, China, Cuba, Czech Republic, Denmark, Finland, France, Germany, Hong Kong, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Japan, Republic of Korea, Democratic People's Republic of Korea, Laos, Luxembourg, Malaysia, Mongolia, Morocco, Myanmar, Netherlands, New Zealand, Norway, Oman, Pakistan, Philippines, Poland, Qatar, Romania, Russia, Saudi Arabia, Serbia, Seychelles, Singapore, Slovakia, Spain, Sri Lanka, Sweden, Switzerland, Taiwan, Thailand, Tunisia, UAE, UK, Ukraine, Uzbekistan and Venezuela.

Legal issues

Foreign currency control
Decree 70/2014/ND-CP allows foreign investors to use their revenues in Vietnamese dong to buy foreign currencies from authorised banks and transfer them abroad within 30 days from the exchange date if they have request to transfer their legal income in Vietnamese Dong from their direct investment in Viet Nam.

Land price framework
According to the Revised Land Law 2013, the local People's Committee will no longer establish a yearly frame for land prices. Instead, the government will regulate the general frame for land prices on a five-year basis. The local People's Committee will consider the decisions on a yearly frame on a case-by-case basis. Authorities can refer to the land prices surveyed through different valuation institutions for decisions and compensation prices that are not based on governmental frames. This policy will support investors who take an active approach during their projects' selection stage and in hiring valuation consultants.

Land-use taxation
Under the Law on Land Use Taxation as of 17 June 2010 the following kinds of LURs are subjected to taxation:
1) urban and rural residential land;
2) land used for non-agricultural production, such as industrial parks, production facilities and mines; and
3) other non-agricultural land uses for business or religious purposes, including cemeteries.

The law specifies methods of tax calculation and provides progressive tax rates beginning at a minimum of 0.03% and rising to a maximum of 0.15%.

Ban on apartments used as offices
The use of apartments for office or trading space is banned as ruled in the official document 2544/BXD-QLN (issued on 19 November 2009 by the Ministry of Construction), which maintains that the use of apartments as an office or a trading space would cause disruption to other apartment residents and would decrease the safety for the residents living in the same apartment building.

Sale of land plots without raw buildings
Decree 11/2013/ND-CP allows investors to sell land plots without any raw buildings. The investors have

TABLE 70

PIT

Tax bracket	Portion of annual assessable income (VND million)	Portion of monthly assessable income (VND million)	Tax rate (%)
1	Up to 60 (US$2,881)	Up to 5 (US$240)	5
2	Over 60–120 (US$2,881–US$5,761)	Over 5–10 (US$240–US$480)	10
3	Over 120–216 (US$5,761–US$10,371)	Over 10–18 (US$480–US$864)	15
4	Over 216–384 (US$10,371–US$18,437)	Over 18–32 (US$864–US$1,536)	20
5	Over 384–624 (US$18,437–US$29,960)	Over 32–52 (US$1,536–US$2,497)	25
6	Over 624–960 (US$29,960–US$46,092)	Over 52–80 (US$2,497–US$3,841)	30
7	Over 960 (US$46,092)	Over 80 (US$3,841)	35

Source: Savills Research & Consultancy

TABLE 71

Income tax rates on other items

Taxable income	Tax rate (%)
Income from capital investments (including interest from loan and dividend)	5
Income being royalties and income from franchises	5
Income being winnings or prizes valued more than VND10 million for each reward	10
Income from inheritances, gifts valued more than VND10 million for each recepit	10
Income from capital transfers pursuant to Clause 1 Article 13 of LPIT	20
Income from transfers of securities regulated in Clause 2 Article 14 of LPIT	0.1
Income from real property transfers regulated in Clause 2 Article 14 of LPIT	2

Source: Savills Research & Consultancy

to fulfil all necessary infrastructure requirements before handing over the title to buyers. This regulation will only apply to projects located in suburban districts.

Restriction on payment profile for development projects

The implementation of the Revised Housing Law has been effective since 1 July 2015. Residential developers can only accept payment upon the completion of the project's foundations. The first payment cannot exceed 30% of the unit value and the sum of all the payments is not to exceed 70% before the unit is handed over. The threshold is limited to 50% for overseas developers.

Real estate trading floor

The revised Law on Real Estate Business (LREB) was passed on 25 November 2014, and was effective as of 1 July 2015. The new law does not require individuals and enterprises to lease, sell and purchase their properties through a real estate trading floor. An enterprise that engages in real estate trading floor activities must have at least two employees that are certified real estate brokers.

Contract templates

Decree 76/2015/ND-CP regulating implementation of the LREB was finally issued on 10 September 2015, and was effective as of 1 November 2015. Decree 76 provides contract templates for a number of real estate transactions e.g. sale and purchase agreements, pre-sales contracts and hire-purchase contracts.

Major property legislation

There are a number of key items of legislation pertaining to real estate, all of which are detailed below:

- Revised Law on Real Estate Business 2014
- Revised Law on Residential Housing 2014
- Revised Land Law 2013
- Revised VAT Law 2013
- Decree 11/2013/ND-CP
- Decree 70/2014/ND-CP
- Decree 76/2015/ND-CP
- Decree 99/2015/ND-CP

Savills Viet Nam

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Disposals

Savills cross-border investment team works closely with all the Savills investment teams around the region on high-profile sales instructions of single assets and portfolios across sectors and often in multiple countries.

> "Savills offers fresh, challenging marketing concepts with an innovative approach."

For each instruction, an investment sales team will be formed to ensure all parts of the sales process are run effectively and delivered on time, and that the desired objective has the maximum chance of success.

- Recommendation of the most effective marketing process and target market.
- Real-time market intelligence through tracking global capital flows.
- Ability to systematically and comprehensively market an instruction in Asia Pacific, Europe, the Americas and the Middle East.
- Senior level contacts and relationships with all major investor groups.
- Ability to manage and run Asia Pacific portfolio sales with a proven track record.
- Ensuring a standardised approach to investment transactions through quality documentation and financial appraisals.

Acquisitions

Savills has an excellent track record of acting for cross-border investment clients on regional investment acquisitions.

Across countries and sectors, Savills has successfully acquired a wide range of single assets, portfolios and landmark properties. Our investment clients cover a broad spectrum from institutional Asia Pacific funds, private and public property companies, investment and private banks, open- and closed-ended and opportunity funds, as well as high net worth individuals.

- Ensuring that an investor's buying requirements are properly understood by our regional investment teams.
- Sourcing suitable investment opportunities, both on and off market to enable regular deal flow.
- Providing a full or tailor-made acquisition due-diligence service.
- Coordination of regional Asia Pacific (multi-country) acquisitions and advice.
- Educating investors on new markets and sectors.
- Leveraging a range of niche in-house expertise such as leisure, hotels, development and residential.
- Providing a full after service including agency, valuation and asset management.
- Liaising with regional valuation teams on loan valuations.

"Personal relationships through existing clients and contacts are our most powerful marketing tools."

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