

## The information for foreign purchasers

Buying a condominium is possibly the best investment possible for a foreigner in Thailand, as you can own it outright. But before you buy, make sure you understand exactly how to go about it. A good rule of thumb to follow when looking for a condo: It is better to buy the worst condo in a quality building, than the best condo in a poorly maintained building.

Buying a condominium in Thailand is actually a very straightforward process. However, there are a few things you need to be aware of before you start.

The Thai government has recently changed the rules governing condominium ownership. Previously, foreigners were only allowed to buy up to 40% stake in any condo building. This was recently increased to 49%. This means that more condo units are now available on the market.

### How can a foreigner own a Condominium in Thailand

A foreigner can own freehold a condominium in Thailand because a condominium's title deed (Chanode) does not have any land registered to or associated with the condominium. The land is owned by a Juristic Persons Group (Association) registered with the Thai Government and made up of a majority of Thai citizens. Buying a condominium is perhaps the simplest and easiest option available to foreigners. The only restrictions on purchasing a condominium are that the percentage of units sold to foreigners cannot exceed forty nine percent (49%) of the total number of units in the condominium block. If you really want to buy a unit in a building that already reaches the 49% ratio, you can still buy if you open a Thai company (ownership 49% foreign + 51% Thai).

A foreigner may also own a condominium with a leasehold agreement. In this case, the property remains in the Thai owner's name, but you sign a 30, 60, or 90 year leasehold agreement, with all the legal obligations and benefits that this offers, including the right to buy, sell, trade and will the lease to heirs. Lawyers can help set up all the correct legal procedures and paperwork needed for this type of purchase. Purchases of condominiums by foreign individuals come under the jurisdiction of the CONDOMINIUM ACT (No. 3) B.E. 2542 (1999).

### The Differences between Lease-hold and Free-hold property

**Leasehold** means that the buyer is only leasing the property from the land owner for a pre-determined period of time normally valid up to 30 years. Renewal for a further 30 years only is at the discretion of the lease holder (land owner). At the end of each term, both parties must register the renewal with the Land Department and pay government fees, including stamp duty. This gives the lessee "ownership" of the land. The downside is that the lessor may not wish to renew or the law may change to your detriment in the future. Any capital you invest into leased property is therefore liable to be lost. Property owned by the Crown Property Bureau is always Leasehold. Some private property owners may also sell their property with a leasehold title deed. These are the conditions in operation today (2005), but they may change at any time in the future.

**Freehold** foreigners can buy and own freehold condominiums, giving you full ownership rights purchasers, including the right to sell or lease the property and to develop the property within the guidelines under Thai law.

### The payment instruction for purchasing condominium in Thailand

Under the Condominium Act 1991, non-resident foreigners who purchase condominium units must bring in the funds to pay for the unit from overseas. That means that the entire payment

must be transferred into the country as "foreign currency". The beneficiary bank will issue a "Foreign Exchange Transaction" certificate which should be presented to the Land Department when registering the ownership of the condominium.

For each transfer, banks will only provide a "Foreign Exchange Transaction" certificate for amounts of over US\$ 20,000. For amounts of less than this, the bank will issue a credit note, which may be presented, with the confirmation letter from the bank, to the Land Office in order to register the condominium.

In case that you do not have a bank account in Thailand, you will remit the funds directly to the Developer account.

In such case, the developer, as the beneficiary, will obtain the Foreign Exchange Transaction certificate from the bank on behalf of the purchaser. The developer will keep all the certificates and/or credit notes with the letter from the bank until the date on which the ownership of the condominium units is transferred. In the event that the purchaser wishes to keep those documents, a request can be submitted to the developer.

If you have a bank account in Thailand the procedures will be the same but you will be the beneficiary and you will have to obtain the Foreign Exchange Transaction certificate from the bank by yourself.

To obtain a "Foreign Exchange Transaction" certificate, please ensure that you follow the instructions below.

1. The name of the remitter must be the same as the purchaser (as indicated in the S&P agreement). Please fill in full name and address of the remitter and the beneficiary.
2. The money is transferred as **foreign currency**. Do not convert in Thai Baht before making a transfer. The conversion into Thai baht will be done by the beneficiary bank.
3. Please indicate in the transfer instructions that the purpose of transfer is

**"To purchase a condominium unit No..... at ..... Condominium"**

Please use the exact wording above in order to avoid any misinterpretation by the Land Department. For example, the word "apartment", a term which is frequently used in other countries, has different meaning from "condominium".

### **Payment adjustment**

The conversion into Thai baht may result in the difference either a surplus or a shortfall amount regarding each payment. As such, the balance of all the payments will be adjusted in the final payment due upon registration of the ownership of condominium.

### **Transfer of ownership**

Prior to the transfer of ownership, the developer shall inform the buyer about the amount due, including the final payment (after adjustment), transfer fee, common area management fee, electricity meter deposit, and sinking fund as well as the means of payment and the recipient names.

The final payment needs to be paid by a cashier cheque which will be exchanged with the condominium's title deed on the date of transfer of ownership.

We recommend setting up a non-resident bank account at a local bank in Thailand for the purpose of issuing a cashier cheque.

### **How can a foreigner own a House and Land in Thailand**

Technically (and in most cases) a foreigner cannot own a house in Thailand as the Thai Government does not allow a foreigner to own land (which a house is obviously built on). In Thailand, a house would come with a title deed (Chanode) that will also show a certain amount of land with the house, which will be registered to the owner of the property as well. As stated above, legally and technically a foreigner cannot own land in Thailand. There are a few small cases and a few new laws (over a certain age.....with so much money.....in certain areas of Thailand.....married to a Thai National and have so much money.....etc.) that might accept foreign ownership of land in their name, but the above is the normal scenario. Most often, foreigners here form a company of dominantly Thai National share holders (usually about \$250 to \$500 U.S. Dollars to form and register the company properly). When a registered company's shareholders sign 'share release forms' one individual may 'become' the managing director and only signatory for the company. The managing director may then sign for property purchases and the company (managing director) owns the property (house and/or land). A Thai national must own 51% of the firm, but the firm will be organized so that you have all the economic and juridical rights. In addition, by using this system, it will be easier for you to buy a car or to get residence permit. You have to pay at least 30% as a deposit, and then the original owner of the house is committed to you. The company (managing director) is also able to transfer ownership by selling the position in the company which owns the property and/or sell the property outright at anytime in the future. Ownership of land is governed by the Land Code BE 2497 (1954), the Civil and Commercial Code, Land Reform for Agriculture Act BE 2518 (1975) and the regulations set forth by the Ministry of the Interior.

For a foreigner who is married to a Thai citizen, the Thai spouse can buy property using his or her name only.

A foreigner who invests 40 million baht or more in a Thai Company is eligible to purchase land and a house at the size of maximum 400 square wah maximum total land area. (1 square wah = 4 square meters).

A foreigner who invests with a Thai registered company at 49-51% ownership (unlimited amount), foreigner share holder at 49% of ownership can purchase land and house with unlimited size and amount of investment through company registered name.

### **A foreigner who married a Thai**

Prior to 1998, any Thai woman who married a foreigner would lose her right to purchase land in Thailand. She could, however, still retain land that she owned prior to marrying the foreigner. However, the recent (1999) Ministerial regulation now allows Thai national's married to foreigners the right to purchase land, but the Thai spouse must prove that the money used in the purchase of freehold land is legally solely theirs with no foreign claim to it. This is usually achieved by the foreign spouse signing a declaration stating that the funds used for the purchase of property belonged to the Thai spouse prior to the marriage and are beyond his claim.

### **A Mortgage Loan**

Foreigners can not get a mortgage loan from local banks in Thailand to buy property, unless they have a Thai partner willing to act as guarantor. There are numerous other conditions too, so if you wish to go this route, make sure you have a totally reliable Thai partner, and you have plenty of demonstrated income (either here in Thailand, or from overseas). The purchase money must be transferred from banks outside Thailand, in foreign currency form. The buyer must state that the purpose for the money transferred is to purchase a condominium unit in Thailand on the

funds transfer document. The Bank is then able to issue a Foreign Exchange Transaction Certificate, giving the foreign buyer authority to purchase.

### **The banks' current interest rate and repayment period in Thailand**

Currently annual interest rate is between 6-7 % but for repayment for foreigner is not more than 7 year. To check current interest rates:

[http://www.hsbc.co.th/th/personal/interest\\_rate/default.htm](http://www.hsbc.co.th/th/personal/interest_rate/default.htm).

### **The fees, taxes and costs are applicable to purchase a property**

Whenever a property in Thailand is bought and sold, these are taxes that need to be taken into account.

#### **Tax on purchasing of properties:**

- **Ownership Transfer fee** is paid to Land Department Office, the transfer fee normal rate is 2% of government appraised value or selling price depends on different cases.
- **Duty stamps fee** is paid to Land Department at 0.5% of the government appraised value or the selling price, depends on whichever is higher.

In case of duty stamps fee are following:

1. The seller has owned the property for at least 5 years.
  2. The seller has used the property as his primary residence for at least 1 year prior to the sale. Or the seller has registered living in House Registration Book (Blue Book) more than 1 year.
  3. The seller received the property as an inheritance.
- **Specific Business Tax** of 3.3% of the government appraised value or the selling price, depends on whichever is higher, this will be applied to all sales by company and to any private sales that occur within 5 years after the date of purchase and the seller has not used the property as his primary residence less than 1 year prior to the sale.
  - **Withholding income tax**
    1. For Private sales, is calculated on a very complex formula based on the assessed value of the property, the length of time owned and the applicable personal income tax rate.
    2. Corporate income tax is calculated at 1% of government appraised value or the selling price, depends on whichever is higher

Check the Tax calculation at: <http://www.acuterealty.com/Calculator.asp>

### **Appraisals price and valuations**

There are generally three different appraisal values; the government value, the appraisal company's value and the market value of the property. The government value is calculated every 5 year, the last updated is in 2004. Over the last few years all of these rates have begun to come closer together.

### **Purchasing procedure**

#### **a. Deposit**

Once you have found the property you made a decision to go for you must put a deposit of 10-15% is usually required to secure an agreement to purchase and sell such a property and remaining balance should be made within 15 to 30 days on the transfer date of the ownership and pay the transaction expenses to the Land Department. You can obtain longer periods but you will probably be required to pay a higher deposit. Deposits are normally non refundable, except by default of the vendor, so bear in mind that once the deposit is placed you are committed.

### **b. Purchasing Contract**

On the same date you put the deposit to the seller both parties have to sign a purchase and sell agreement that shall stipulate a time limit which both the buyer and seller will complete a ownership transfer and pay remaining balance to the seller. If either party fails to meet the obligation, the failing party will have to pay a penalty. For example, their deposit could be forfeited or if the seller was wrong, the deposit would have to be refunded

### **c. The documents that need when buying condominium**

To put a deposit and sign an agreement the buyer would need to give:

- A certified copy of the passport. (ID card if Thai citizen)

And the seller needs to give:

- A certified copy of the passport. (ID card if Thai citizen)
- A certified copy of the title deed.

Each party shall keep 1 identical copy of an agreement signed. And on the ownership transfer date at the land department a foreign buyer shall provide documents as follows:

- Foreign Exchange Transaction Certificate
- A certified copy of the passport
- A copy of marriage certificate (if any)
- A letter of consent from the wife or husband (if any) in case either is unable to attend the transaction of ownership transfer.

\*\*all the above documents must be translated in Thai.

### **Utilities Bill**

If you own a condominium unit the only utility bill that's not issued from the government is a water supply because the condominium building has to pump a water to it's own tank normally provide on a roof top of the building and use a gravity to flow to your unit that means the building has to pay an electricity bill incurred from the pump. This is a reason why a unit price for water supply in every condominium building is higher than private house. Normally the water supply unit price is between 16-25 baht/cu.m. For other utilities such as electricity, telephone, etc. shall be issued directly for a government or a service provider, no extra charge to the building. .

### **The Maintenance Fee**

The cost of maintenance for each condominium unit depends on the size. The cost varies from building to building and is charged per square meter per month and paid annually in advance. The normal rate is varied between 25-50 baht/sq.m./month.

## The sinking fund

A sinking fund is often a one time payment made upon transferring ownership. The purpose of the sinking fund is to accumulate funds for major maintenance and replacement of utilities systems and facilities which may be undertaken in the future. It ensures that the condominium will be well maintained. Some condos require a sinking fund payment each year, and others require it "on demand". Make sure you know in advance what their policy and how much it will cost you.

## How to prepare the property for sale

The condition and appearance of your property can have a dramatic effect on its sale price. Obviously, a residence that is clean and free from unpleasant odors makes a better impression on a potential buyer. It is reasonable to assume that better impressions lead to better offers. In addition, new carpeting, a fresh coat of paint, and minor repairs may be worth much more than their respective costs. The other "preparation" you need to do is to set your asking price, a sometimes difficult task. You want to ask enough that you don't lose money on the deal, but you don't want to ask so much that you scare off potential buyers. Your agent can help you set your asking price by comparing your property to similar properties that have sold recently, then using the selling prices of those properties as a guideline.

## Renovating

Renovating can be a great way to add value to your property. But it is important to keep in mind that the cost of renovations may not always be covered by the corresponding increase in sale price. Don't 'overcapitalize', or spend a lot of money on expensive renovations - like building on a new bedroom or re-tiling the roof - which you won't get back when the house is sold. Make a master list of all the repairs, touch-ups and improvements which need to be done. Renovations which suit the period of your home may well increase its value, but renovations which look too modern (or cheap!) may look 'tacked on' and turn off prospective buyers. Remember also that prospective buyers often pay a premium for the potential they can see in a 'renovator's delight'

## Visa types in Thailand

There are four basic types of visas available for visitors and residents to Thailand.

**Transit visa** - valid for 14 days will be issued to those people arriving in Thailand without a visa. Technically you must have an onward flight ticket, but in practice this visa will be issued almost without question. Note: There are a few countries (not many) that do not require visas and will get a three month entry stamp on arrival - in general these countries are the ones that grant the same rights to Thai nationals visiting their countries.

**Tourist visa** - issued by Thai embassy abroad - these visas will be valid for 60 or 90 days (varies from country to country). Of note is that you may apply for more than one Tourist visa at a time and these multiple visas may be used up consecutively. Many quasi resident visitors to Phuket (who do not work - or want to avoid the red tape of a Non Immigrant visa) live for years on a tourist visa (and go shopping in Singapore or Penang every three months). So long as you are solvent and not engaging in any local business activity, there is nothing wrong with this approach.

**Non Immigrant visa** - issued at an embassy outside Thailand and valid for a 90 day stay, this visa may be extended within Thailand for periods up to one year at a time. There are three basic grounds to obtain and renew a Non Immigrant visa. 1) That you are employed (and have a work permit) in Thailand. 2) That you have Thai family. 3) That you are retired and can prove adequate pension or other financial means to support yourself. Ownership (or long lease) of

property has no bearing on the extension of a Non Immigrant visa. Lengthy form filling and copying of personal documents (in duplicate) are required both when you first apply and for every subsequent renewal of this visa. If you hold a non Immigrant visa, you should obtain a Re-Entry permit if leaving the country if you do not wish your visa to lapse.

**Resident visa** - rarely issued and hard to obtain. These visas are issued on a very selective quota basis. Qualification requirements include reading and writing Thai, a fairly strong local financial status and some good (influential) Thai references.

### **How to get a Work Permit**

First, you must have a **Non-Immigrant visa** to apply for a work permit. **Thailand Work Permit Processing:**

We assist in securing Thailand work permits for qualified individuals employed by qualifying employers and the process is as follows:

- Confirm & Identify Your Correct Non-Immigrant Visa
- Preparation of Your Work Permit Application
- Preparation of Letter of Employment
- Assembly of All Required Documents

### **Factors to be aware of:**

- You must be present in Thailand on a non-immigrant status entry permit, on both the day your work permit application is submitted, and the day it is picked up.
- Your work permit will expire on the same date as the Visa entry permit you use to pick up your work permit. This generally means that your first work permit – if issued against a 90 day entry Visa permit, will have only 10 weeks validity, once issued. Most clients will need to use work permit to apply for extended entry permit – and once that entry permit extension is issued, apply for a renewed work permit whose expiration date matches the new entry permit.
- In most cases, for each work permit issued to a foreigner, the sponsoring company must have 2 million baht capitalization, and at least four Thai employees. If a company has four Thai employees, plus 2 million baht paid-in capital for each work permit requested, it is normally very easy to obtain a work permit.
- A job description is often the determining factor in the approval or denial of a work permit. Unless the written job description requires skills that a Thai does not or is unlikely to possess, the application will not be approved. Our licensed Thai lawyers are skilled in writing professional and accurate job descriptions in order for you to gain quick approval.
- The work permit once approved allows you to work at the noted company and location. If you change employers or place of work, you must make a new application. Also if you resign or are terminated or laid off, according to the law, within 10 days of this, you must return your work permit to the Labor Department. Don't count on your company doing it. It is your responsibility and you are liable to return it to the Labor Department.
- During the processing you must not let your visa expire. The Labor Department's system links the non-immigrant visa ("extension of stay") you listed on your application to the work permit paperwork. A typical time frame for approval of the work permit for a company of 2 million baht registered capital is up to 2 months in Phuket but the government is trying to reduce this.
- To satisfy new government tax rules, monthly salary of work permit holders generally needs to be at least 50,000 Baht (you must be paying monthly personal income tax on at least this amount).
- Your Work Permit is connected to the duration of your visa, so when your Extension of Stay expires, you will need to renew your work permit. If you have an unexpired multiple-entry

visa, all you have to do is go over the border and then return. If required to go outside Thailand to obtain a new visa, you will need to provide the Embassy or Consulate with copies of your work permit and new recommendation letter from your company, company registration documents, and financial and tax reports. This must be done prior to your work permit expiration.

- Ensure Visa is renewed at least 3 days prior to expiry to avoid any delays to renewal of work permit.

### **The taxes subject to pay for rent and rent out of property**

Once you have acquired the property, you must pay property taxes on it. If you rent out the property, the tax is 12.5% per year on the annual rental revenue (Tax on operation). This explains why so many local owners want their lessee to pay tax for them, as they don't want to lose 12.5% of their revenue.

### **The minimum rental contract, and the terms and conditions**

Most rental periods are for one year, although some shorter terms are available. In most cases you will need to pay a 2-month deposit, and 1 month in advance when you sign the contract. Your deposit is returned to you 1 month after the termination of your lease. This allows the landlord to ensure that all the bills incurred for phone and utilities are cleared before releasing the security deposit. Under Thai law they are liable for any outstanding bills on their premises.

### **What would a typical electricity bill and water bill be for an average size condo or house**

The average electricity bill ranges between 1,000 to 2,000 Baht per month. However, depending on how much one uses air-conditioning the cost can be around 4,000 Baht a month.

The average water bill for a condo or house ranges between 300 & 500 Baht a month. Some apartment buildings incorporate fixed water rates, which we will make aware to you.

### **Furniture**

There are plenty of fully furnished apartments and condominiums available. If you don't plan to stay in Thailand permanently, it may be better to leave your furniture in storage back home. It will probably be too heavy for the tropics anyway. Even if you plan to rent or buy a house, you can always get one fully furnished. If you prefer to furnish it yourself, we can advise you on the best places to shop.

### **How safe to live in Thailand**

Thailand has an enviable reputation as a very safe place to visit and to live. The people are friendly, and there is relatively little crime against foreigners. However, like anywhere else in the world, there is always the potential for crime. If we feel an area you visit is not safe, we should advise you and suggest alternatives. We all want you to enjoy your stay here!

You have probably read the recent news about the Muslim unrest in the three southernmost provinces. The government is working to solve this problem. Despite the rhetoric of a few Muslim hot heads, relations between Muslims, Thais and foreigners throughout Thailand have always been friendly and tension-free. Knowing some of the people involved in security work in the Kingdom, we are confident that Thailand will continue to remain a safe and pleasant country to live in.

**We hope the above information is useful and if you have any other queries, please feel free to ask our sales representative.**