

## REAL ESTATE GUIDE



### SUMMARY ABOUT THE PURCHASE OF REAL ESTATE IN ESTONIA

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This guide gives an overview introduction to the key requirements when buying or selling real estate in Estonia. This overview is not complete as each particular property has its own requirements in legal regulation. When you deal with purchasing of real estate it is always recommended to consult a lawyer in order to avoid possible inconveniences.

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**In today's Estonia, a foreign citizen or company in general stands in the same position as an Estonian citizen or in Estonia registered company when it comes to the purchase of the real estate and to the costs associated with buying the real estate in Estonia.** However, there are some exceptions where acquisition of real estate by certain non-residents is restricted. Firstly, it is allowed to acquire the real estate located in the border regions of Estonia (except 4 biggest islands in Estonia - Saaremaa, Hiiumaa, Vormsi, Muhu) only to citizens and legal persons of Estonia, of the European Union (EU) or the European Economic Area (EEA). Permissions to acquire such real property may be granted to other persons by the Government of the Republic only for reasons of national importance. Other restriction is related to forest land and agricultural land. Acquiring such land is restricted to the citizens and legal persons who are not citizens of Estonia, EU or EEA and they can buy this land only with permission of the county governor. Also there are some restrictions for EU and EEA legal persons regarding agricultural and forest land. It is allowed for them to acquire mentioned land types without restrictions if the size of the land altogether is less than 10 hectares. For the legal persons of EU and EEA it is allowed to acquire more if they meet certain requirements.

Buying or selling an apartment is the most common real estate transaction version in Estonia. The settlement process in Estonia is fairly swift and depends on how quickly an appointment can be arranged with the notary. The purchase of an apartment can be divided into following stages:

#### **1) Examination of the property and collecting data**

- a. Once a person has found desired property and got introduced with the property and its actual conditions it is important to check all the other relevant information about it. But for convincing of actual conditions it is suggested to consult with a construction specialist.
- b. Then the buyer should firstly check if the seller is the owner of the apartment and what the form of ownership of the apartment is. If it is an apartment ownership, then the land is registered and the apartment is a physical share of the residential building.
- c. After this it is suggested to check from land register if the apartment is immovable or movable (as in Estonia some apartments may be treated as movables if they are not registered in Land Register).
- d. Then it is important to check if the apartment is on sale as a whole or if it is possible to buy a legal share as a co-owner (in this case it is important that other co-owners have also rights regarding the real estate). This information is also reflected on the Land Register extract.
- e. Also in this stage the buyer should find out if the seller is married or not as then the property might be in joint ownership and the spouse's consent is required for selling the apartment.
- f. From Land Register extract buyer should also check about mortgages and other real rights that might encumber the immovable, also if there are any registered pre-emption rights.
- g. The next step is to check that the seller does not have debts for apartment utilities, taxes and other services. This information is not on the Land Register extract. Thus it is important to make sure if the building has an apartment association and if so, to turn to the apartment association of the building.
- h. Then it is suggested to make sure what the monthly expenses during summer and winter time are and that the apartment has no tenant.
- i. Additionally, the buyer should be informed about the obligations of the apartment association and if there are any debts on the Association.

#### **2) Concluding reservation contract**

After examining all the relevant information and documents the next step is concluding a reservation agreement. This is usually concluded when the buyer for example cannot come to Estonia but wishes to reserve a right to buy the apartment. A reservation fee will then need to be transferred in order to secure/reserve the property. A reservation agreement itself does not bring the obligation for buyer to buy

or for the seller to sell the apartment, but it obliges the seller not sell the apartment for third persons during validation of reservation contract. If reservation agreement ends, the seller can choose the buyer to whom to sell the apartment.

This contract is suggested to be concluded when the buyer is not absolutely sure about buying and still is willing to look around for other apartments as well. But if the buyer is absolutely sure of his will to buy the apartment, it is suggested to skip the reservation agreement part and conclude a pre-purchase agreement right away as a reservation contract does not give the buyer any guarantees and the reservation fee is not returned if the purchase agreement is not concluded.

### 3) Concluding pre-purchase agreement

A pre-purchase agreement is usually concluded if there is some reason which restricts the conclusion of the purchase agreement right away. A pre-purchase agreement shall be concluded between the seller and the buyer in notary. If this contract is not notarized then it is treated as void. Pre-purchase agreement is a legally binding document, setting out all the terms and conditions of sale, including the deposit amount and the price payable upon completion. After signing this agreement, if the buyer or seller withdraws from the sale, financial compensation will be necessary on both sides. A deposit of around 10-20% of the purchase price (less than Reservation Fee) is payable upon signing the Pre-purchase agreement.

### 4) Concluding a purchase agreement

Purchase agreement as a main contract shall be concluded between the seller and the buyer in notary. If this contract is not notarized then it is treated as void. This contract contains all the important terms and conditions, subject of the contract, the parties' rights and obligations. The notary will oversee the transfer of ownership and ensure that it is in accordance with Estonia law. Once approved by the Notary, the documents are then signed in the Notary's office. As notary's role is neutral then parties will not be advised on any aspects of title, searches or burdens that they property may carry. It is important to bear in mind that conclusion of the contract does not bring together the transfer of the right of ownership. For this it is required to make a respecting entry in Land Register.

### 5) Paying a state fee for the application to Land Register

After the conclusion of the purchase agreement the next step is to pay the state fee at a commercial bank prior to applying for registration. After paying the state fee a notarized application is made to the Land Register to transfer the ownership of the property to the buyer in the Land Register Book. After ownership registration on Estonian Land Register Book the title is legally valid. **Property deeds are not required in Estonia and in common practice they are not in use.**

#### State and notary fees

The notary fee is paid to a public notary for legal and technical services connected to the transaction. The notary fee depends entirely on the value of the transaction. It is based on a table of fixed fees and payable when signing the deed. The fee is based on the value of the transaction, which is the price of the property or rights declared by the transaction party. Below a few samples for some transactions:

Transaction value	Notary fee
EUR 30 678	EUR 53
EUR 102 260	EUR 160,40

As with the notary's fee, the State fee for submitting the entry for land Register is also based on a table of fixed fees. State fee usually paid by buyer. Below a few samples for some transactions:

Transaction value	State fee
EUR 30 680	EUR 36
EUR 102 260	EUR 110

### Taxes in Estonia

In Estonia the land tax is the only real property tax, buildings and forests are not taxed separately. Land tax is based on the market value of land and ranges between 0.1% and 2.5% of the market value of the land annually. Factors that affect the market value are location, land use and environmental characteristics. Land owners or, in some cases, land users (Local Government or state property) must pay Land tax.

Commissions, charged by real estate companies, vary in line with different objects (flats and apartments about 6-8%). In case of a transfer the commission is usually between 2% to 4%.

Commission fee is usually already included to the sales price and borne by buyer.

A company selling an improved property would have to pay Value Added Tax (VAT). A private person selling an improved property person is not required to pay VAT, but might have to pay income tax. The general VAT rate is 20% of the taxable value of the real estate. Income tax at a rate of 20% has to be paid over the amount of net profit in the case of the sale of an improved property, unless it is the registered address of the owner. The mentioned tax exemption is based on the use as the registered address of the owner and is not applied to more than one transfer in two years.