



GUIDELINE ON THE ACQUISITION OF PROPERTIES

Economic Planning Unit, Prime Minister's Department

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GUIDELINE ON THE ACQUISITION OF PROPERTIES

I. INTRODUCTION

1. The purpose of this Guideline is to clarify the procedure on the acquisition of properties.

II. APPLICATIONS

2. This Guideline **shall apply** to the following transactions:

- 2.1 All property acquisition, except for residential units, that **requires approval** of the Economic Planning Unit, Prime Minister's Department as follows:

- (a) **direct** acquisition of property valued at RM20 million and above, resulting in the dilution in the ownership of property held by Bumiputera interest and/or government agency; and
- (b) **indirect** acquisition of property by other than Bumiputera interest through acquisition of shares, resulting in a change of control of the company owned by Bumiputera interest and/or government agency, having property more than 50 percent of its total assets, and the said property is valued more than RM20 million.

- 2.2 All property acquisition by foreign interest that **do not require** the approval of the Economic Planning Unit, Prime Minister's Department but falls under the purview of the relevant Ministries and/or Government Departments as follows:

- (a) acquisition of commercial unit valued at RM500,000 and above;
- (b) acquisition of agricultural land valued at RM500,000 and above or at least five (5) acres in area for the following purposes:
 - (i) to undertake agricultural activities on a commercial scale using modern or high technology; or
 - (ii) to undertake agro-tourism projects; or
 - (iii) to undertake agricultural or agro-based industrial activities for the production of goods for export.
- (c) acquisition of industrial land valued at RM500,000 and above;

- (d) acquisition of residential units valued at RM250,000 and above. The said minimum threshold will be increased to RM500,000 beginning 1 January 2010; and
- (e) transfer of property to a foreigner based on family ties is only allowed among immediate family members.

III. CONDITIONS FOR ACQUISITION

3. Conditions for the acquisition of property as described in paragraphs 2.1 (a) and (b) are subject to equity and paid-up capital conditions as follows:

Equity Condition

- 3.1 Companies to have at least 30 percent Bumiputera interest shareholding;

Paid-Up Capital Conditions

- 3.2 Local company owned by local interest to have at least RM100,000 paid-up capital; and
- 3.3 Local company owned by foreign interest to have at least RM250,000 paid-up capital.
4. Acquisition of property provided for in paragraphs 2.2 (a), (b) and (c) are also subject to the condition that the said property must be registered under a locally incorporated company.

IV. COMPLIANCE PERIOD OF THE CONDITIONS

5. For **direct** acquisition of property, the equity and paid-up capital conditions imposed by the Economic Planning Unit, Prime Minister's Department must be complied with before the transfer of the property's ownership.
6. For **indirect** acquisition of property, the equity and paid-up capital conditions imposed by the Economic Planning Unit, Prime Minister's Department must be complied with within one (1) year after the issuance of written approval.
7. The conditions imposed on the acquisition of property in paragraph 2.2 must be complied with and notified to the Economic Planning Unit, Prime Minister's Department before the property is transferred.
8. Compliance of the equity and paid-up capital conditions must be notified to the Economic Planning Unit, Prime Minister's Department.

V. EXEMPTIONS

9. This Guideline **SHALL NOT APPLY** to transactions listed in **Appendix I**.

VI. RESTRICTIONS

10. Foreign interest is **NOT ALLOWED** to acquire:
- 10.1 Residential units valued less than RM250,000 per unit;
 - 10.2 Properties other than residential units valued less than RM500,000 per unit;
 - 10.3 Residential units under the category of low and low-medium cost as determined by the State Authority;
 - 10.4 Properties built on Malay reserved land; and
 - 10.5 Properties allocated to Bumiputera interest in any property development project as determined by the State Authority.

VII. PROCEDURES ON SUBMISSION OF APPLICATION

11. All applications must be submitted in accordance with the procedures described in **Appendix II**.
12. Applicants are responsible for the accuracy of the information submitted.

VIII. DECISION ON APPLICATION

13. Decisions on all **complete applications** will be given within ten (10) working days.

IX. APPEAL

14. Applicants must submit a completed UPE R/2009 form.
15. All appeals pertaining to the decision of the Economic Planning Unit, Prime Minister's Department will be considered based on the merit of each case.

X. CORRESPONDENCE ADDRESS AND ENQUIRIES

16. All applications that require the approval of the Economic Planning Unit, Prime Minister's Department must be submitted to:

Economic Planning Unit,
Prime Minister's Department,
Level –1, Block B5,
Federal Government Administrative Centre,
62502 Putrajaya, Malaysia.

17. Enquiries can be forwarded to the Economic Planning Unit, Prime Minister's Department at:

Tel. No. : 603-8888 2944
Fax No. : 603-8888 3917
Email : perolehan_hartanah@epu.gov.my

18. This Guideline and the application forms are also available on the Economic Planning Unit, Prime Minister's Department's website:

Website : <http://www.epu.gov.my>

XI. EFFECTIVE DATE

19. This Guideline is effective from **30 June 2009**.

XII. REPEAL

20. With the issuance of this Guideline, the Guideline on the Acquisition of Properties by Local and Foreign Interests and Guideline on the Acquisition of Interests, Mergers and Take-Overs by Local and Foreign Interests dated 1 January 2008, is repealed.

XIII. DEFINITIONS

21. In this Guideline, except when the context requires otherwise:

acquisition means any transaction involving direct and/or indirect transfer of property ownership from one party to another.

agricultural land means land categorized as agricultural land under the National Land Code 1965.

Bumiputera means:

(a) **for Peninsular Malaysia,**

Malay individual or aborigine as defined in Article 160(2) of the Federal Constitution;

(b) **for Sarawak,**

individual as defined in Article 161A (6)(a) of the Federal Constitution;

(c) **for Sabah,**

individual as defined in Article 161A (6)(b) of the Federal Constitution.

Bumiputera interest means any interest, associated group of interests or parties acting in concert, which comprises:

(a) Bumiputera individual; and/or

(b) Bumiputera institution and trust agency; and/or

(c) local company or local institution whereby the parties as stated in item (a) and/or (b) hold more than 50% of the voting rights in that local company or local institution.

control means any individual, company or parties acting in concert:

(a) having interests of more than 50% in a local company or local institution; or

	(b) empowered to make and implement decisions pertaining to the business or administration of a local company or local institution.
commercial unit	means area, premise or building used for business purposes such as shop house, shop office, shop lot, office space, business space or show room.
foreign company	means a foreign company as defined in the Companies Act 1965.
foreign interest	means any interest, associated group of interests or parties acting in concert which comprises: (a) individual who is not a Malaysian citizen; and/or (b) individual who is Permanent Resident; and/or (c) foreign company or institution; and/or (d) local company or local institution whereby the parties as stated in item (a) and/or (b) hold more than 50% of the voting rights in that local company or local institution.
government	means the Federal Government and State Government.
government agency	means the Statutory Bodies, non-listed Government Linked Companies, Government Linked Investment Companies including their subsidiaries.
industrial land	means land categorized as industrial land under the National Land Code 1965, factory or factory lot.
immediate family	means individuals related through marriage (husband and wife) or blood ties (grandparents, siblings and children including step children) and adopted children certified by the National Registration Department.
interest	means holding voting rights or equity or any other rights in a company.
local company	means a company incorporated in Malaysia under the Companies Act 1965.
local institution	means organization, association and corporation registered under the Corporations Act 1966.

local interest	means any interest, associated group of interests or parties acting in concert, which comprises: (a) individual who is a Malaysian citizen; or (b) local company or local institution whereby Malaysian citizens hold more than 50% of the voting rights in that local company or local institution.
permanent resident	means an individual who is not a Malaysian citizen and has been granted Permanent Resident status by the Government of Malaysia.
property	means commercial unit, agricultural land, industrial land and/or residential unit.
residential unit	means an area, premise or building for dwelling.
voting right	means: (a) for a local public company, the power to vote attributable to the share capital of a company, which is exercisable at an Annual General Meeting or Extraordinary General Meeting; or (b) for a private limited company, the power to vote in the company.
public company	means a public company as defined in the Companies Act 1965.

APPENDIX I

EXEMPTIONS

1. The transactions listed below are exempted from requiring the approval of the Economic Planning Unit, Prime Minister's Department:
 - 1.1 Acquisition of residential units by local and foreign interest. However, foreign interest is only allowed to acquire residential unit valued at more than RM250,000 per unit;
 - 1.2 Any acquisition of residential unit under the "Malaysia My Second Home" Programme;
 - 1.3 Multimedia Super Corridor (MSC) status companies are allowed to acquire any property in the MSC area provided that the property is only used for their operational activities including as residence for their employees;
 - 1.4 Acquisition of interest in a local company that operates in the approved area in any regional development corridor by companies that have been granted the status by the local authority as determined by Government;
 - 1.5 Acquisition of interest in a company that has obtained the endorsement from the Secretariat of the Malaysian International Islamic Financial Centre (MIFC);
 - 1.6 Acquisition of residential units to be occupied as a hostel for company's employees. However, local companies owned by foreign interest are only allowed to acquire residential units valued at RM100,000 and above and this matter is under the jurisdiction of the relevant state authorities;
 - 1.7 Transfer of property to a foreign interest pursuant to a will and court order;
 - 1.8 Acquisition of interest in a manufacturing company;
 - 1.9 Acquisition of property by Ministries and Government Departments (Federal and State), Ministry of Finance Incorporated, Menteri Besar Incorporated or Chief Minister Incorporated, State Secretary Incorporated and listed Government Linked Companies;
 - 1.10 Acquisition of interest under the privatization projects, whether at the Federal or State level, provided that it involves the companies that are the original signatories in the contracts for the privatized projects; and

- 1.11 Acquisition of interest in companies that have been granted the status of International Procurement Centres, Operational Headquarters, Representative Offices, Regional Offices, Labuan offshore companies and Bio-Nexus or other special status by the Ministry of Finance, Ministry of International Trade and Industry and other ministries.

APPENDIX II

PROCEDURES ON SUBMISSION OF APPLICATION

1. Each application must be accompanied by the following documents:
 - 1.1 Form UPE H/2009;
 - 1.2 Forms Proforma I/2009 and/or Proforma II/2009;
 - 1.3 One (1) copy of the relevant agreement;
 - 1.4 One (1) copy of the Board of Directors resolution;
 - 1.5 One (1) copy of the letter/license from the ministries or Government agencies (if applicable);
 - 1.6 One (1) copy of the approval letter on the same proposal from other ministries or Government agencies (if applicable);
 - 1.7 One (1) copy of the confirmation letter from the Company Secretary on the company's current equity structure;
 - 1.8 One (1) copy of the latest valuation report (transaction that involves Government agencies must be accompanied with a valuation report from *Jabatan Penilaian dan Perkhidmatan Harta*);
 - 1.9 One (1) copy of the company's current audited financial report;
 - 1.10 Declaration Letter UPE SA/2009 to be signed by the Chairman/Managing Director/ Chief Executive Officer of the company or any member of the company's Board of Directors or any authorized personnel/individual; and
 - 1.11 Any other document considered necessary by the Economic Planning Unit, Prime Minister's Department.