



PHILIPPINE REAL ESTATE LAWS AND TAXATION:

A REFRESHER COURSE

Scope of Presentation

Significant Laws in Condominium Selling

Philippines Land Ownership and Acquisition

Real Estate Transaction Costs in the Philippines



REPUBLIC ACT NO. 9646

**“Real Estate Service Act of the
Philippines”**



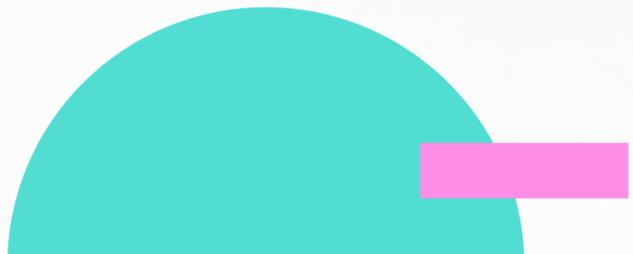
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REPUBLIC ACT NO. 9646

An act regulating the practice of real estate service in the Philippines, creating for the purpose of a professional regulatory board of real estate service, appropriating funds therefore and for other purposes.

REPUBLIC ACT NO. 9646

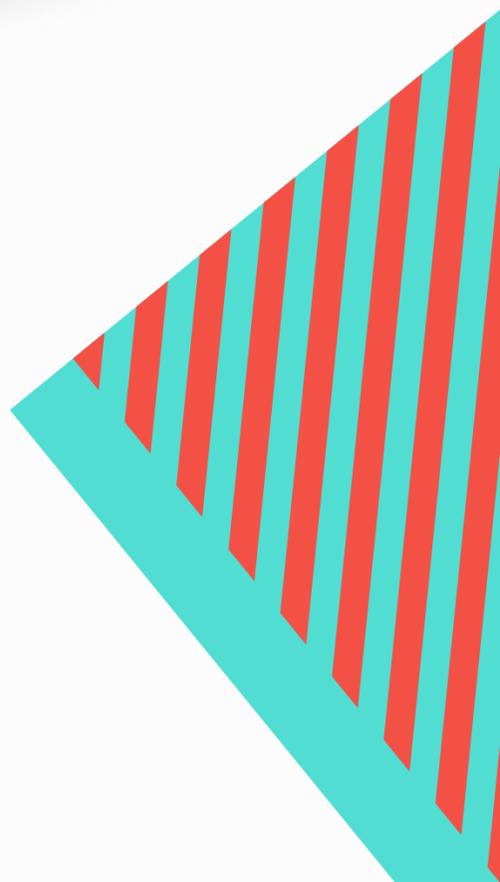
Declaration of Policy. - The State recognizes the vital role of real estate service practitioners in the social political, economic development and progress of the country by promoting the real estate market, stimulating economic activity and enhancing government income from real property-based transactions



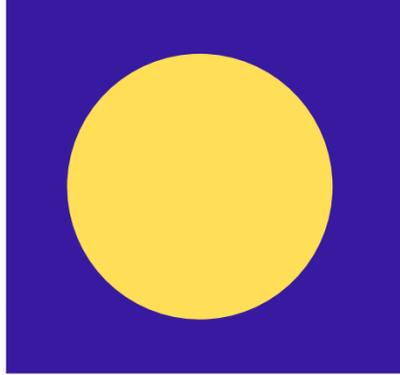


PRRESIDENNTIAL DECREEE 9577

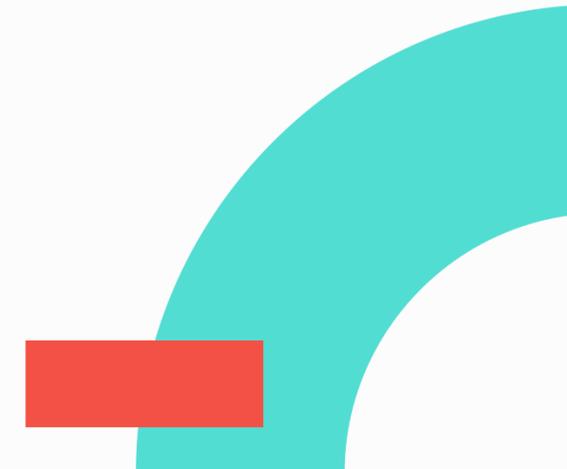
“Condominium and Subdivision
Protective Decree”



PRESIDENTIAL DECREE 957



- Regulates sale of subdivision lots and condominium units to buyers
- Defines duties and responsibilities of owners/developers
- Defines sale to be covered by registration
- Defines rights of buyers





REPUBLIC ACT NO. 6552

Realty Installment Buyer
Protection Act

"MACEDA LAW"

Under the Maceda Law, there are two qualification categories of buyers accorded protection. These buyers are:

Section
3

A buyer with at least 2 years of installments

Section
4

A buyer with less than 2 years of installments

Section 3

A buyer with at least 2 years of installments

To pay, without additional interest, the unpaid installment due within the total grace period earned by him, which is hereby fixed at the rate of one month grace period for every one year of installment payments made; provided that this right shall be exercised by the buyer only once in every five years of the life of the contract and its extensions, if any.

Section 3

A buyer with at least 2 years of installments

If the contract is cancelled, the seller shall refund to the buyer the cash surrender value of the payments on the property equivalent to fifty percent of the total payments made... Down payments, deposits or options on the contract shall be included in the computation of the total number of installment payments made

Section 4

The seller shall give the buyer a grace period of not less than sixty days from the date the installment became due.

If the buyer fails to pay the installments due at the expiration of the grace period, the seller may cancel the contract after 30 days from the receipt by the buyer of the notice of cancellation or the demand for rescission of the contract by a notarial act.



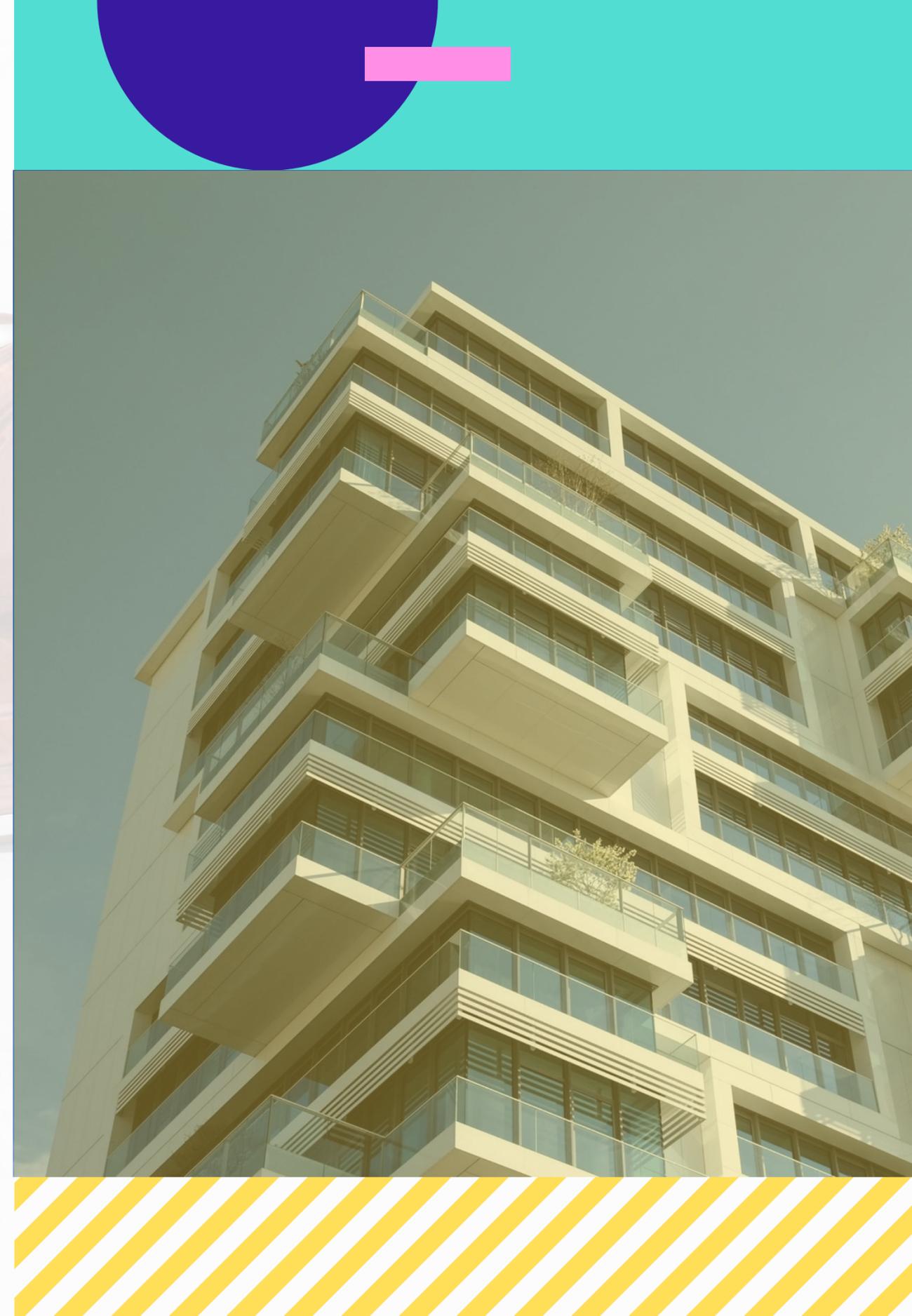
REPUBLIC ACT NO. 4726

“Condominium Act”

Condominium

Interest in real property consisting of separate interest in a unit in a residential, industrial or commercial building and an undivided interest in common, directly or indirectly, in the land on which it is located and in other common areas of the building.

May include a separate interest in other portions of such real property. Title to the common areas, including the land, or the appurtenant interests in such areas, may be held by a condominium corporation formed for the purpose in which the holders of separate interest shall automatically be members or shareholders, to the exclusion of others, in proportion to the appurtenant interest of their respective units in the common areas.



RIGHTS

1

ABSOLUTE
OWNERSHIP
OF UNIT

2

CO-OWNERSHIP
OF LAND AND
COMMON AREAS

3

EXCLUSIVE
EASEMENT OF
THE AIR
ENCOMPASSED
BY HIS UNIT

4

NON-
EXCLUSIVE
EASEMENT TO
COMMON
AREAS

5

REPAIR,
PAINT AND
REDECORATE
THE INTERIOR
SURFACES OF
HIS UNIT

6

SELL, LEASE
OR MORTGAGE
HIS UNIT

7

VOTE IN
MEETINGS OF
CONDOMINIUM
CORPORATION

OBLIGATIONS

1

PAY THE
REALTY TAX
ON HIS UNIT

2

SHARE THE
REALTY TAX ON
COMMON AREAS
AND THE LAND

3

PAY
INSURANCE
OF HIS UNIT

4

SHARE THE
INSURANCE
OF COMMON
AREAS

5

COMPLY
WITH USE OF
RESTRICTIONS

6

PAY
CONDOMINIUM
DUES/
ASSESSMENTS

7

GIVE
"RIGHT OF FIRST
REFUSAL" IF SO
REQUIRED BY
MASTER OF
DEED



2 TYPES OF CONDOMINIUM OWNERSHIP



Freehold Ownership

also called **perpetual ownership**. Buyer will have an individual Condominium Certificate of Title (CCT), just like having an OCT or TCT in a house and lot acquisition.



Leasehold Ownership

right to the unit is only for 25 to 50 years. Buyer do not really own the condo unit. They will be required to leave the unit or may opt to renew the lease contract so to extend your stay.



Condominium Corporation



Organization is optional if no unit will be sold to Foreigners.



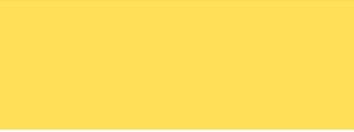
Mandatory if some units, no to exceed 40% will be sold to foreigners.



title to the land shall be transferred to the corporation to comply with the constitutional mandates that corporations may acquire real estate provided at least 60% of the capital or membership is Filipino.



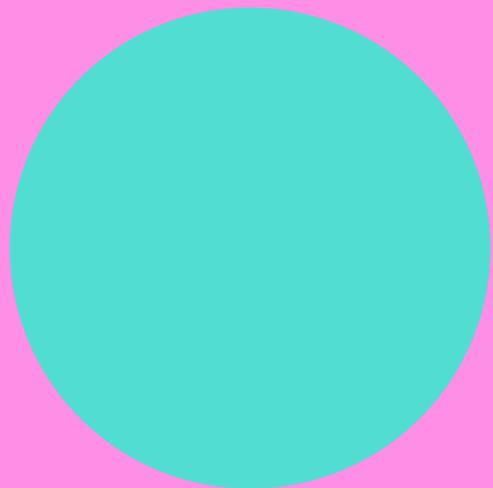
Purpose - To hold title to the land and act as the management body

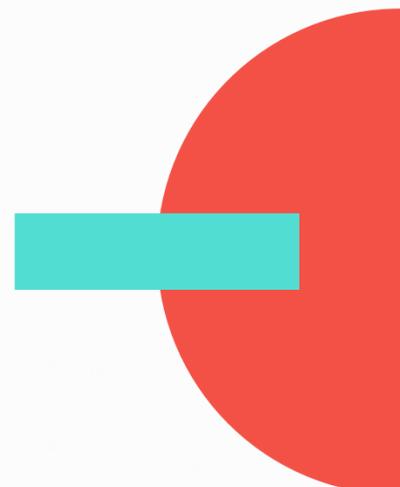


PHILIPPINES LAND OWNERSHIP AND ACQUISITION



“FAQ’s in Land Ownership by Foreigners”

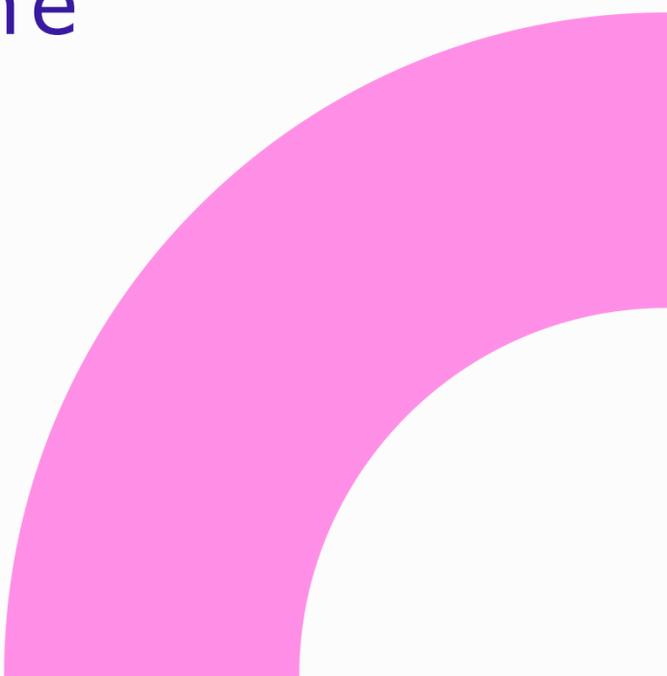




Who are those persons that can acquire real properties in the Philippines?



As a general rule, only Filipino citizens and corporation at least 60 % capital of which is owned by Filipinos are entitled to acquire own land in the Philippines



WHO ARE CALLED “FORMER NATURAL BORN FILIPINO CITIZENS”?

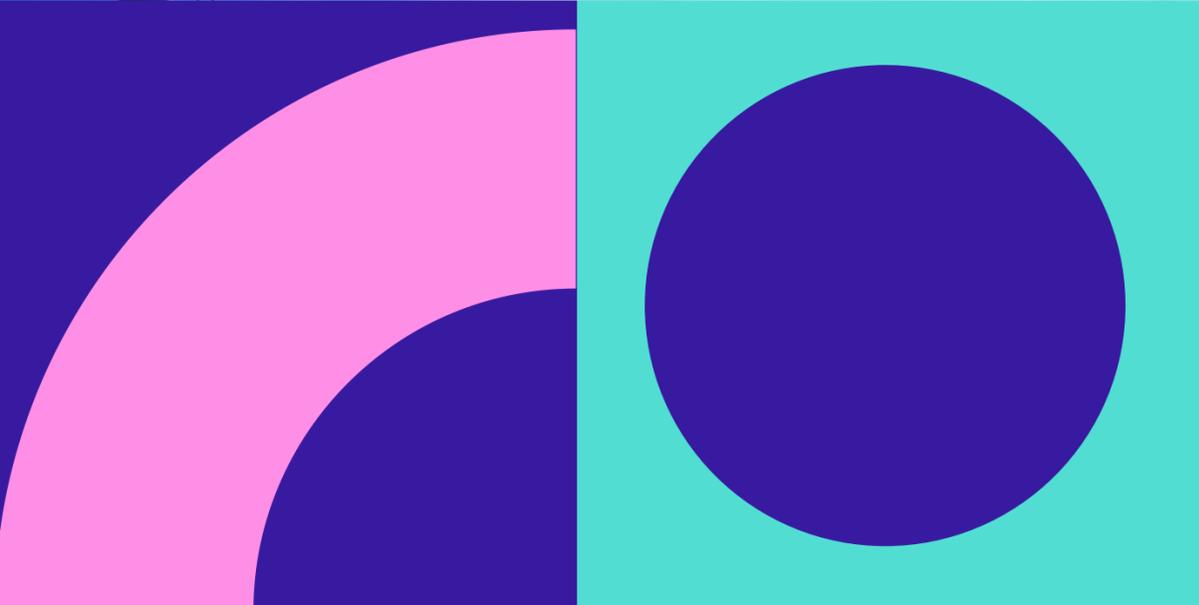
Person who is a citizen of the Philippines from birth without having to perform any act to acquire or perfect his/her Philippine citizenship. A person who was born before January 17, 1973 of a Filipino mother and who elected Philippine citizenship upon reaching the age of majority shall also be considered a natural born citizen (Section 2, Article IV, 1987 Constitution).



Who are called “Former Natural Born Filipino Citizens”?



Refers to Philippine citizen who acquire citizenship of another country by reason of naturalization in their latter country of by marriage to a foreigner whose laws allows her to assume the citizenship of her husband's country.



Can an alien be allowed to acquire real property in the Philippines?

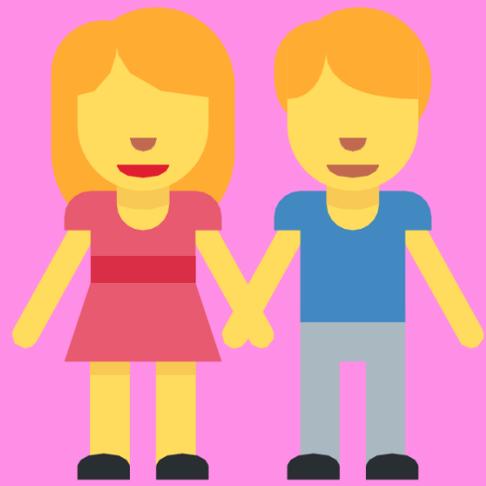
Yes, under the following cases:

property was **acquired** before the **1935 Constitution**

alien is a **legal heir** and acquisition is through **hereditary succession**

Purchase of not more than 40% interest in a condominium project

Purchase by former natural born Filipino citizens subject to limitations prescribed by BP 185 (residential lot) and RA185 (commercial lot)



Can a Filipina who marries an alien can still acquire real property in the Philippines?

yes

a Filipina who marries an alien retains her Philippine citizenship (unless the law of her husband's country makes her assume the citizenship of her husband because of such marriage) and can therefore acquire real estate in the Philippines.

What are the limitations of the law in the acquisition of real estate by former Natural Born Filipino Citizens?

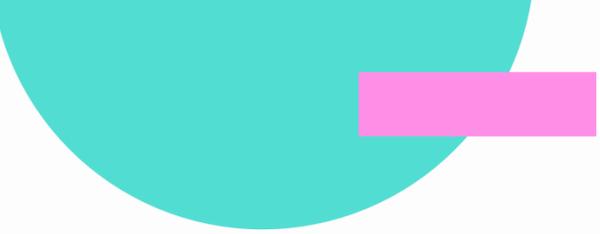
Under BP 185 for residential purpose:

Maximum area is not more than 1,000 sqm of urban land or one hectare of rural land

should reside in the Philippines permanently within 2 years from date of acquisition of property unless such failure was caused by force majeure

Not more than 2 lots which should be situated in different municipalities or cities anywhere in the Philippines

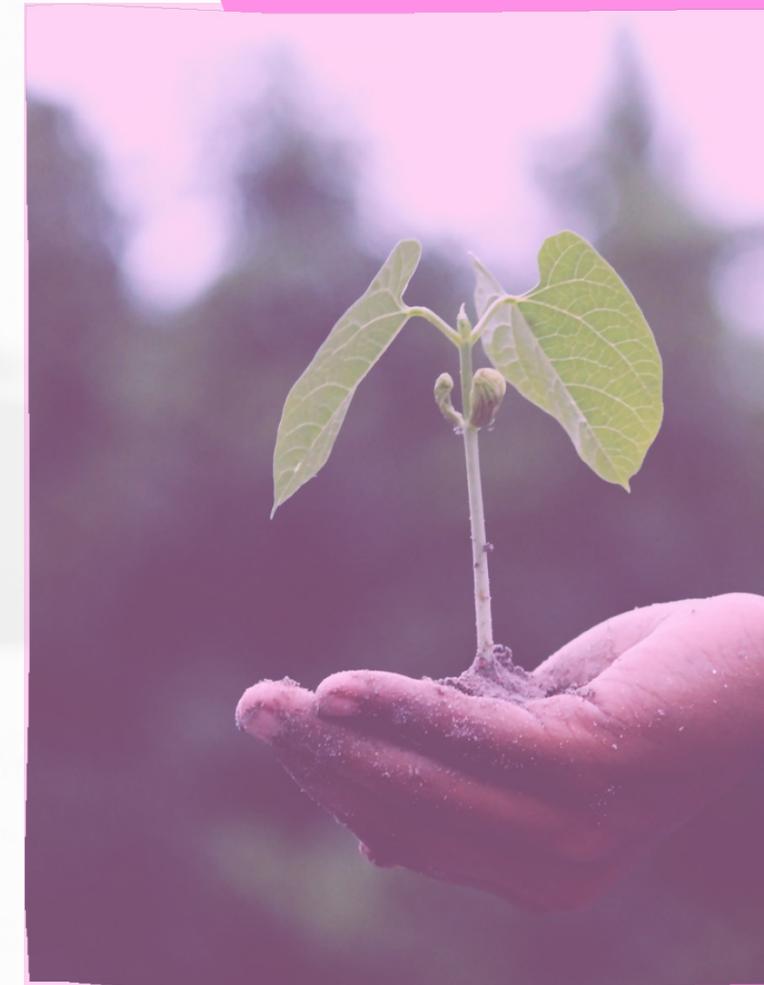


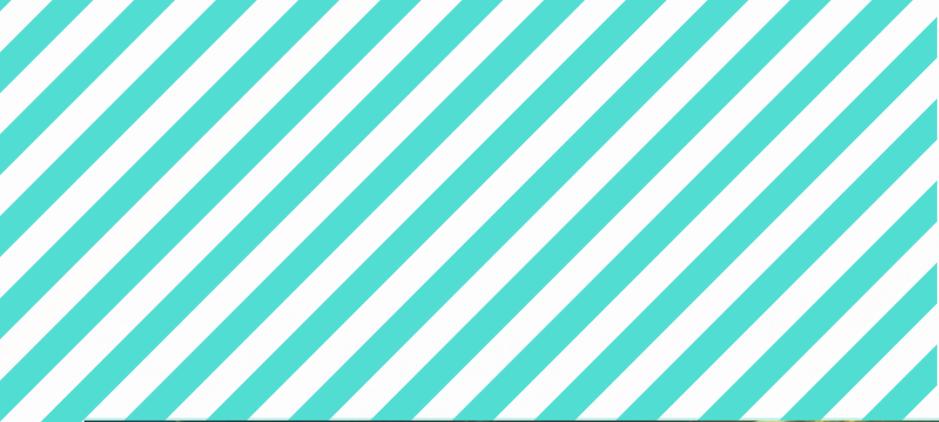


Under RA 8179 for business purpose

Maximum area is 5,000 sqm (urban land) or 3 hec
(rural land)

Not more than 2 lots which should be situated in
different municipalities or cities anywhere in the
Philippines





What do you mean by “For Business or Other Purpose” as stated in RA8179?



The land is primarily, directly and actually in the conduct of business or commercial activities in the broad areas of agriculture, industry and services, including the lease of land but excluding the buying and selling thereof.

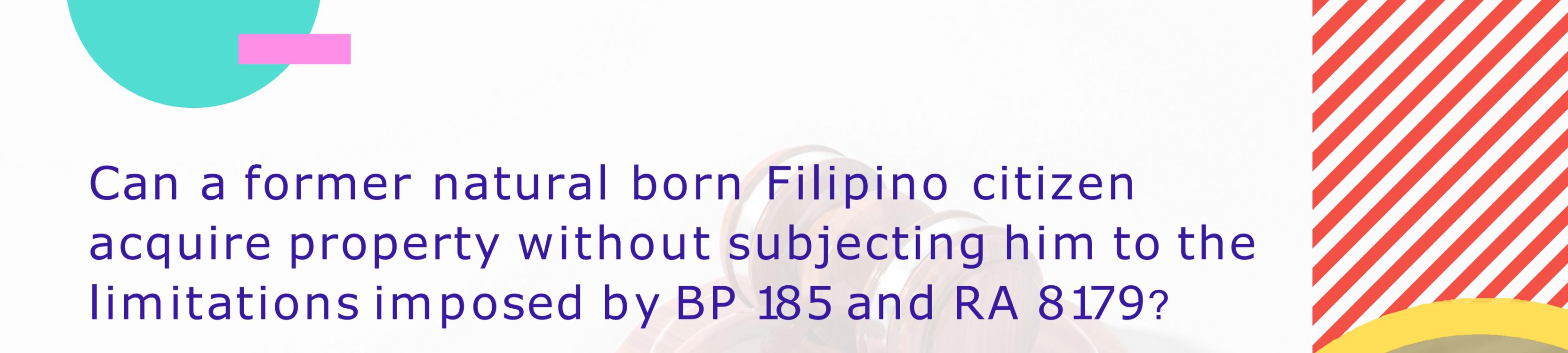




Can a married couple who are both former natural born Filipino citizens acquire real estate in the Philippines?

YES. However, in case both of them avail of the privilege granted under BP 185 and RA 8179, the total area of the property acquired shall not exceed limit fixed therein.





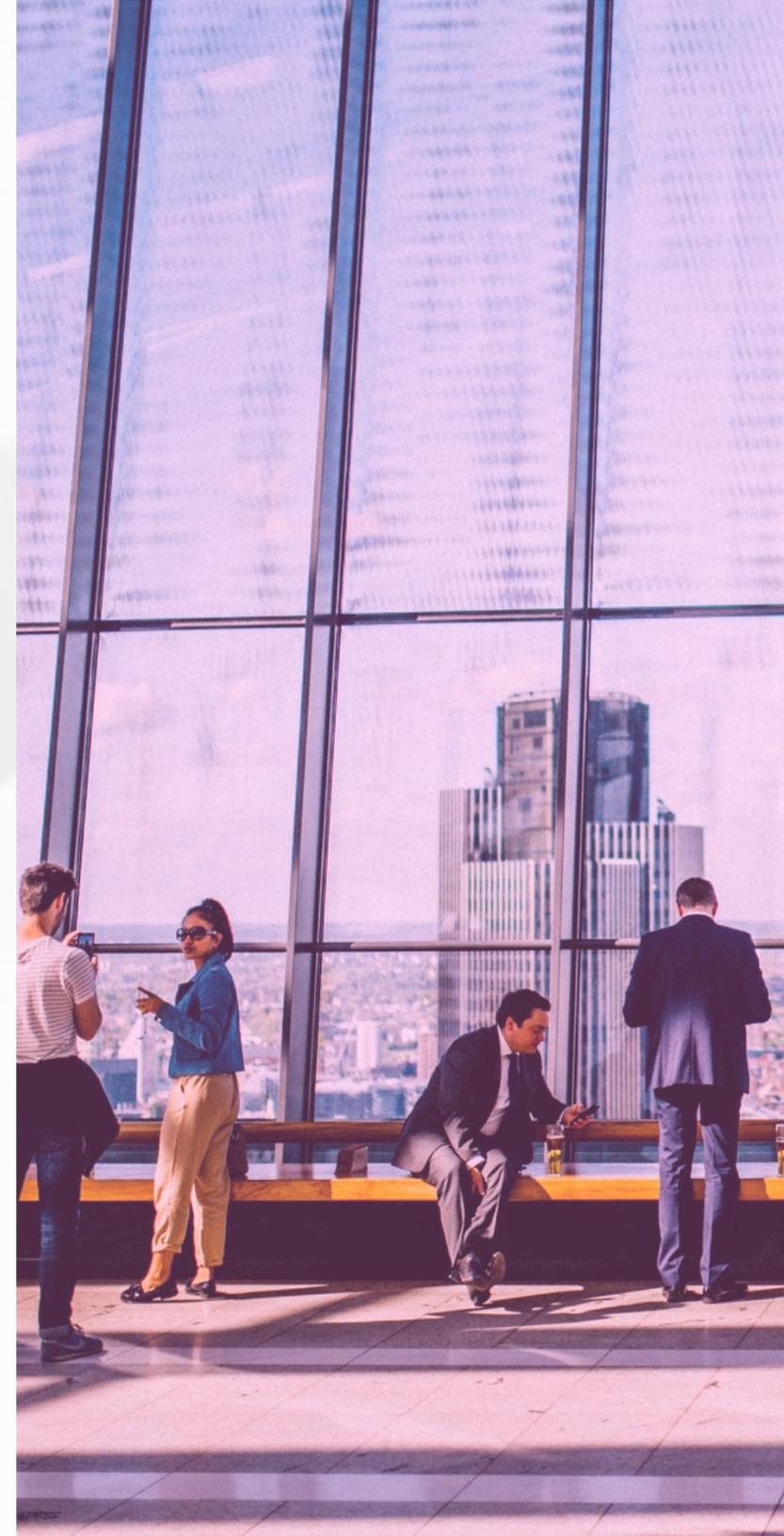
Can a former natural born Filipino citizen acquire property without subjecting him to the limitations imposed by BP 185 and RA 8179?

YES, provided that he went through the process of retaining or reacquiring his Filipino Citizenship pursuant to the provision of RA 9225 or the Citizen Retention and Re-Acquisition Act of 2003 which took effect on August 23, 2003.



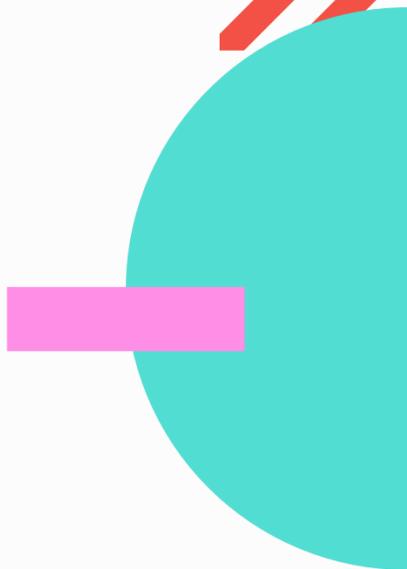
How could a foreign national own even up to 100% interest in the Philippine Real Estate Corporation?

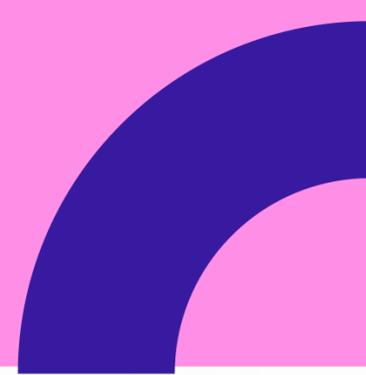
The foreign national may create Philippine Corporation which on paper under Philippine Law will be maximum of 40% is foreign owned, and minimum of 60% is Filipino owned with a minimum of 5 incorporators.



How could a foreign national own even up to 100% interest in the Philippine Real Estate Corporation?

The Philippine corporation by law shall have a main bank account tied to it before and upon incorporation and after the Philippine corporation has been created, power of attorney shall be given to foreign national thus allowing him to control over the funds derived and paid out from the Philippines corporation and from the income or sale of the asset or real estate property





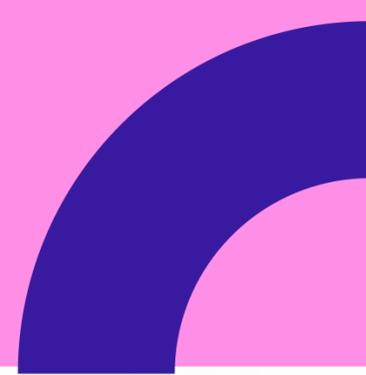
YES but under the following restrictions:

Foreigner can only institute juridical proceeding and not extrajudicial Foreclosure of the mortgage.

He cannot bid or take part in the sale of the real property.

He may not take possession of the property during the mortgage.

Can a foreigner be allowed to be a mortgagee or lender to a Filipino offering his real property as security or collateral for loan?



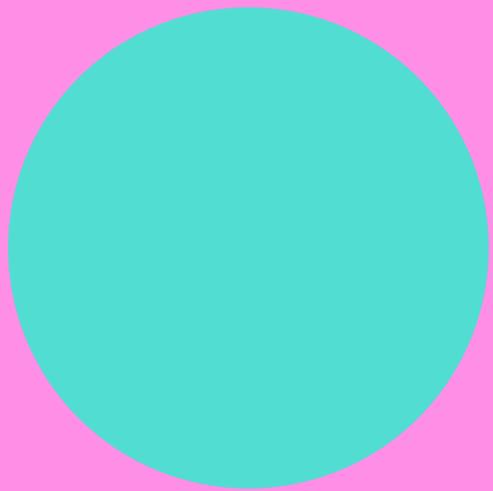
YES but under the following restrictions:

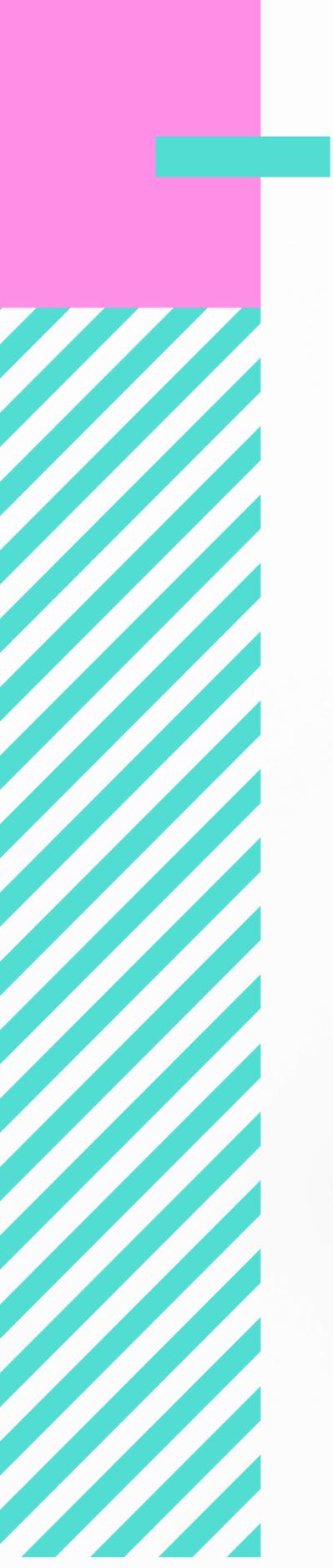
He could only possess the same as a [REDACTED] lessee

He may only take possession of the [REDACTED] mortgaged property after default, and for the sole purpose of foreclosure, enforcement or other proceedings. This should not exceed the period of 5 years from actual possession

Can a foreigner be allowed to be a mortgagee or lender to a Filipino offering his real property as security or collateral for loan?

REAL ESTATE TRANSACTION COSTS IN THE PHILIPPINES





LAWS GOVERNING REAL ESTATE PROPERTY TAXATION



Tax Code
of 1997

National Taxation

Local
Government
Code of 1991

Local Taxation

Price at which a willing seller is willing to sell and a buyer willing to buy, both being under no abnormal pressure to sell or buy. However, it is also based on the assessment of the municipal or city assessor as written in the Tax Declaration.

FAIR MARKET VALUE

Fair market value as determined by the BIR Commissioner in accordance with Section 6€ of the Tax Code

ZONAL VALUE

Fair market value as determined by the City/Provincial Assessor

ASSESSED VALUE

SELLER

CAPITAL GAINS



%

TAX RATE

6%



BASIS OF
EVALUATION

Gross selling
price or current
fair market
value,
whichever is
higher



WHERE TO PAY

BR RDO through
Authorized
agent bank
where the
property is
located



WHEN TO PAY

Within 30 days
from the
notarization of
the deed of sale

SELLER

BUSINESS TAX

Paid only if applicable; rate depends on local government unit where property is located

BUYER

DOCUMENTARY STAMPS TAX



%

TAX RATE

1.5%



BASIS OF
EVALUATION

Gross selling price
or current fair
market value,
whichever is
higher



WHERE TO PAY
BR RDO through
Authorized
agent bank
where the
property is
located



WHEN TO PAY

Within 5 days after
the close of the month
when the taxable
document was made,
accepted, or
transferred, and shall
be paid at the same
time the aforesaid
return is filed

BUYER

TRANSFER TAX



%

TAX RATE

0.5% -
0.75%



BASIS OF
EVALUATION

Zonal value or
selling price of the
property, whichever
is higher and
depending on the
municipality where
the property is
located



WHERE TO PAY

Treasurer's Office
of the city or
municipality
where the
property is
located.



WHEN TO PAY

Sixty (60)
days from the
date of the
execution of
the deed.

BUYER

REGISTRATION FEE



%

TAX RATE

0.5% -
0.75%



BASIS OF
EVALUATION

Selling price does not
exceed P1,700.00.00
(registration fee table)

In excess of P1,700,000.00,
in addition to the fee of
8,796.00, add P90 for every
P20,000.00 or fraction
thereof;



WHERE TO PAY

Registry of Deeds
or Land
Registration
Authority (LRA)
where the real
property is
located.



WHEN TO PAY

Paid after the taxes on
the sale of the property
have been paid and the
Certificate Authorizing
Registration (CAR) and
Tax Clearance (TCL) has
been secured from the
Bureau of Internal
Revenue.

REAL PROPERTY TAX



Tax on real property imposed by the Local Government Unit (LGU). The legal basis is Title II of the Local Government Code (LGC), Republic Act (R.A.) no. 7160. The implementing rules and regulations of R. A. 7160 can be found [here](#).

The RPT for any year shall accrue on the first day of January and from that date it shall constitute a lien on the property which shall be superior to any other lien, mortgage, or encumbrance of any kind whatever, and shall be extinguished only upon payment of the delinquent tax.

If you have prior years' delinquencies, interests, and penalties, your RPT payment shall first be applied to them. Once they are settled, your tax payment may be credited for the current period.



REAL PROPERTY TAX



WHO SHOULD PAY

The owner or administrator of the property



WHERE TO PAY

At the City or municipal treasurer's office

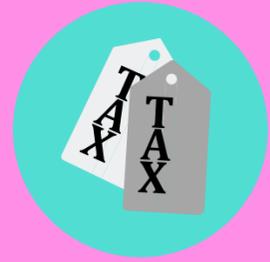


WHEN TO PAY

If you choose yearly payment, due is on or before January 31.

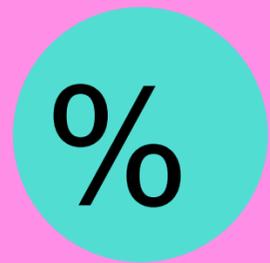
If the basic RPT and the additional tax accruing to the Special Education Fund (SEF) are paid in advance, the sanggunian concerned may grant a discount not exceeding twenty percent (20%) of the annual tax due.

Computation of Taxes



REAL PROPERTY TAX

$RPT = RPT \text{ Rate} \times \text{Assessed Value}$



MAXIMUM REAL PROPERTY TAX RATE

2%- Municipalities and Cities

1%- Provinces



REAL PROPERTY TAX

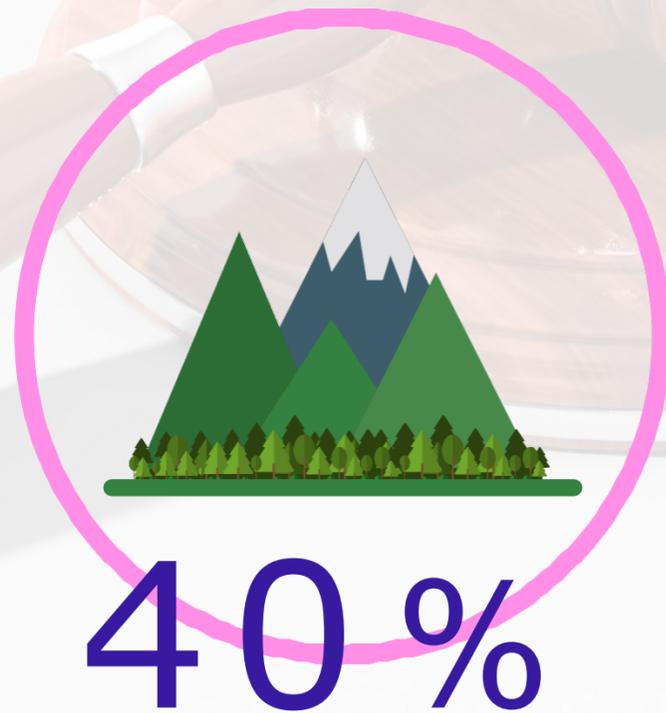
$\text{Assessed Value} = \text{Fair Market Value} \times \text{Assessment Level}$

MAXIMUM ASSESSMENT LEVEL

LAND



**Residential
Timberland**



Agricultural



**Commercial
Industrial
Mineral**

MAXIMUM ASSESSMENT LEVEL

Building and Other Structures



RESIDENTIAL

FMV Over	But Not Over	Assessment Level
0.00	175,000.00	0%
175,000.00	300,000.00	10%
300,000.00	500,000.00	20%
500,000.00	750,000.00	25%
750,000.00	1,000,000.00	30%
1,000,000.00	2,000,000.00	35%
2,000,000.00	5,000,000.00	40%
5,000,000.00	10,000,000.00	50%
10,000,000.00		60%

MAXIMUM ASSESSMENT LEVEL

Building and Other Structures

FMV Over	But Not Over	Assessment Level
	300,000.00	25%
300,000.00	500,000.00	30%
500,000.00	750,000.00	35%
750,000.00	1,000,000.00	40%
1,000,000.00	2,000,000.00	45%
2,000,000.00		50%



AGRICULTURAL

MAXIMUM ASSESSMENT LEVEL

Building and Other Structures

FMV Over	But Not Over	Assessment Level
	300,000.00	30%
300,000.00	500,000.00	35%
500,000.00	750,000.00	40%
750,000.00	1,000,000.00	50%
1,000,000.00	2,000,000.00	60%
2,000,000.00	5,000,000.00	70%
5,000,000.00	10,000,000.00	75%
10,000,000.00		80%



**COMMERCIAL
INDUSTRIAL**

VALUE-ADDED TAX (VAT)

There shall be imposed a 12 % value-added tax (VAT) on real estate sales of those who are engaged in the business of selling, developing, leasing or sub-leasing of real property and those licensed to engage in real estate brokerage business based on their commission.

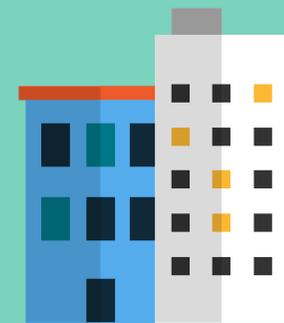
However, in pursuance to RR No. 4 - 07 , even if the real property is not primarily held for sale to customers or held for lease in the ordinary course of trade or business but the same is used in the trade or business of the seller, the sale thereof shall be subject to VAT being a transaction incidental to the taxpayer's main business.



Residential Vacant Lot
PHP 1,919,500 and below



Residential House & lot
PHP 3,199,200 and below



Residential Condominium unit
PHP 3,199,200 and below

VAT Exemption

Please note that real estate sales that are exempt from VAT based on the above threshold shall be subject to 3% percentage tax.



VAT Exemption

Lease of Residential Unit

PHP 12,800 and below per month /

PHP 1,919,500 and below per year

Further, a person should register as a VAT entity if his gross annual sales and/or receipts exceed PHP 1,919,500.00 in a year.

VALUE-ADDED TAX



%

TAX RATE

12%



WHERE TO PAY

BR RDO through
Authorized
agent bank
where the
property is
located



WHEN TO PAY

Monthly
Every 20th day of the
succeeding month.

Quarterly
Every 25th day of the
following month of the
ending quarter

WITHHOLDING TAX on Other Transactions

ON LEASE OF REAL

PROPERTY



%

TAX RATE

5%



WHERE TO PAY

BR RDO through
Authorized
agent bank
where the
property is
located



WHEN TO PAY

Within 10
days after
the end of
each month

WITHHOLDING TAX on Other Transactions

ON REAL ESTATE

PRRACTITIONERS



%

TAX RATE

10% - 15% when cumulative income for the year reaches PHP 720,000



WHERE TO PAY

BR RDO through Authorized agent bank where the property is located



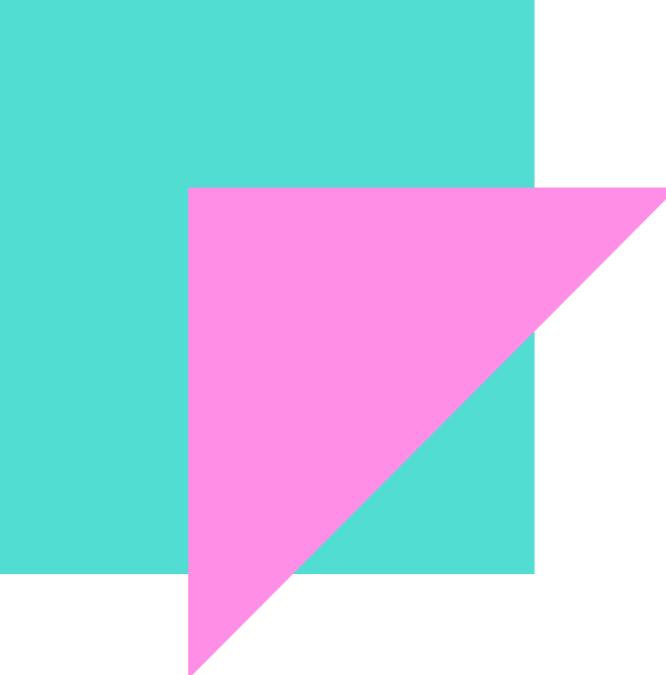
WHEN TO PAY

Within 10 days after the end of each month

TAXES & FEES (UPON TURNOVER)

This is to send you a list of **Taxes and Other Fees** that our clients need to settle, applicable to all developers.

Documentary Stamp Tax	
Paid to	Bureau of Internal Revenue (1.50% of the zonal value or total contract price which is ever higher)
For	Mandated by the law
Transfer Tax	
Paid to	City Treasurer of the Municipality (depends on the city/ area where project is located)
For	Mandated by the law
Registration Fee	
Paid to	Registry of Deeds of the Municipality
For	A tax imposed for the registration of the Deed of Sale, fees shall be based on the value of the consideration in accordance with a certain schedule. Additional I.T Fees also mandated by the law
Meralco Bill Deposit	
Paid to	Meralco
For	An amount required for the distribution of utilities as a guarantee payment of electric bill. It is equivalent to customer's estimated billing for one month.
Real Estate Tax	
Paid to	City Treasurer of the Municipality
	This levy is use for the purpose of Local Government's funding for public service and economic development. Amount will be estimated by the developer upon actual assessment of non-Tax Declaration Amount to be paid for RET is subject for assessment of the Municipal Assessment Office.
Miscellaneous Fees	
Paid to	Developer
For	Administrative cost (standard amount declared by the developer for processing of legal documents such as title) Covers the following: <ol style="list-style-type: none"> 1. Documentation and Notarial 2. Administrative and transportation 3. Verification of TIN of clients with BIR 4. Obtaining Real Estate Assessments and Tax Clearance 5. Remittance of payments of Creditable Withholding Tax and Documentary Stamp Tax to BIR 6. Registration of sake to Registry of Deeds 7. Transfer of Tax Declaration with City Assessor



THANK YOU!



www.megaworldinternational.com/



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