Real estate transactions in Ukraine
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GENERAL INFORMATION ABOUT REAL ESTATE TRANSFER PROCESS

According to the norms of the Civil Code, the grounds for the origin (acquisition) of property rights are legal rights, or legal relationships.

Ownership can be acquired in various ways, traditionally it divided into two groups: primary, those that do not depend on the rights of the previous owner on the property, and derivatives, under which ownership of the property passes to the owner from its predecessor in succession.

Ownership from one owner to another can proceed on the basis of:

▪ transactions
▪ in the order of inheritance after the death of a citizen (legal entities can inherit by will)
▪ in the order of succession in the reorganization of a legal entity
▪ in case of privatization of state property and property in communal.

Derivative methods of acquiring property rights are usually various contracts: purchase and sale, barter, gift, rent, rent with redemption, as well as inheritance of property or succession in respect of property of legal entities or public entities.

The common sign of the derivative method of acquiring the right of ownership is the succession - the transfer of ownership from one person to another. Thus, the basis for acquiring the right of ownership of some individuals is at the same time the basis for the termination of the ownership of others and vice versa. The important thing in such cases is the definition of the moment when the right of ownership passes to the acquirer of property. From this moment the burden of ownership also shifts and the risk of accidental destruction or damage to property.

The rights on real estate objects which must be registered by the state registration arise from the date of state registration, not at the time of the actual transfer of property or at any other time determined by agreement of the parties (for example, the transfer of keys from the house does not indicate the acquisition of ownership of the house in the absence of a contract and state registration).

To obtain the right of ownership of the property by the acquirer and, on the other hand, the termination of the ownership of this object in the property alienator, the conclusion of a contract (notarization and mandatory form) state registration is necessary.
The procedure for concluding a contract, if all documents are ready can be carried out for a period of one day.

In the event that the property is acquired by way of inheritance, the notary will issue documents confirming the ownership after six months.

According to the current legislation of Ukraine, the parties are free to determine the value of the contract. However, the current tax code of Ukraine indicates that the value of the contract of alienation of real estate can not be less than the estimated value of the object that is alienated.

**USUAL SCENARIO OF THE REAL ESTATE TRANSACTION AND FEES**

Any agreements on the transfer of real estate ownership are concluded exclusively in writing and are subject to notarization and registration.

According to the Civil Code of Ukraine, the rights to immovable property, which are subject to state registration, arise from the moment of such registration in accordance with the law.

Before entering into an agreement on the transfer of title to the property, you need to check the following:

- the number of registered persons on the living space
- the legality of previous transactions with the apartment
- seller's legal capacity
- the presence of redevelopment in the apartment
- indication in the contract of the real value of immovable property
- power of attorney, if any
- execution of the transaction only through the deposit, in order to avoid misunderstandings with the seller in the future
- verify the title documents for real estate prior to the day of the transaction (mandatory)
- the existence of encumbrances against immovable property.
To the person who acquired the right to own a house (except of a multi-apartment building), a building or a structure passes the ownership right to use to the land plot on which they are placed, without changing its intended purpose in the amount and under the conditions established for the previous landowner (Land user).

The size and cadastral number of a land plot, the right to which is transferred in connection with the transfer of ownership of a residential building (building or structure), are essential conditions of the contract, which provides for the acquisition of ownership of these objects (except for multi-apartment houses).

Documents confirming the right of ownership to the property of a person he alienates. Such documents can be:

- a notarized contract of sale, donations, life maintenance (maintenance), rent, donations, exchange
- the title to immovable property objects (certificate)
- certificate on the acquisition of the pledged property at the auction (in public bidding)
- certificate on the acquisition of arrested immovable property from public auction
- a contract of sale, registered on the stock exchange, if there is a mark on it about the registration of the corresponding rights
- a court decision
- other documents by case.

The contract of alienation of an object of the property must contain:

- the parties to the contract
- the subject of the contract
- the price of the contract
- rights and obligations
- procedure for conducting settlements
- the order of termination of the contract
- the responsibility of the parties
- the order of termination of the contract
- force majeure circumstances
- notarization certificate.
LIMITATIONS OVER THE ACQUISITION OF REAL ESTATE

The current Ukrainian legislation does not set limits on the number of real estate objects that can simultaneously be owned by one citizen or legal entity. The only exception is the obligation to pay taxes on real estate.

Individuals and legal entities can acquire any real estate objects for which there are no records of encumbrances in the Register of rights and encumbrances on immovable property.

In addition, individuals and legal entities foreigners cannot acquire land in ownership for agricultural needs.

In addition, Ukraine has a moratorium on the alienation of agricultural land.

REAL ESTATE TRANSFER TAXATION

According to the Ukrainian Tax Code, sale by citizens of the inherited (received as a gift) real estate object is subject to taxation.

If the taxpayer sells no more often than once during the reporting tax year an apartment house, apartment or part thereof, a room, a garden (cottage) house, and a land plot that does not exceed the free transfer rate specified in Art. 121 of the Land Code, , and if this property was owned by the taxpayer more than three years, the income received by the taxpayer is not taxed.

However, the condition where is defined that such property must be owned by the taxpayer more than three years does not apply to property received by such a citizen (the seller) is inherited.

If the payer realizes the sale of immovable property, which he received as a gift, and is in its possession for less than 3 years, he will need to pay tax on the income received from such sale on general grounds.

The income received by the payer of the tax on the sale of more than one of the real estate objects during the reporting tax year is subject to taxation at the rate of 5%. The same rate applies to income received from alienation of property that was in ownership less than three years, including the gifted real estate.
In the case when the income received by foreign citizens (non-residents) in the territory of Ukraine, the taxation is carried out in the manner established for the citizens of Ukraine, but the rate of income tax for individuals is set at 15%. You also need to pay a military tax of 1.5%.

Before the certification of the contract, the notary will check the payment of the tax to the state budget.

For certification by a notary of contracts of purchase and sale of real estate, it is necessary to pay 1% of the contract amount, but not less than 1 non-taxable minimum of incomes of citizens (Article 3 of the Decree of the Cabinet of Ministers “On State Duty”).

Also, you need to pay a fee for finding information by a notary in the state register 195 UAH. The fee for registering ownership in the public registry is 160 UAH. For issuing an extract from the state register of rights to real estate: 40 UAH.

The tax base for the object / residential real estate objects, including their shares held by a physical person - the taxpayer, is reduced:

- for apartments, regardless of their number - by 60 square meters
- for residential buildings / houses, regardless of their number - by 120 square meters
- for various types of residential real estate objects, including their shares (in case of simultaneous presence in the property of the taxpayer of apartments and houses, including their parts) - by 180 square meters.

Such reduction is provided once for each basic tax (reporting) period (year).

The tax rates for residential and / or non-residential real estate objects owned by individuals and legal entities are established by decision of the village, township, city council or council of joint territorial communities established in accordance with the law and the long-term plan for the formation of community territories depending on location Zoning) and types of such real estate objects in the amount not exceeding 1,5 % of the minimum wage amount established by law on January 1 of the reporting (tax) ode, for 1 square meter of second base.

At the request of the owners of non-seized property, such immovable property may be contributed as a share in the authorized capital of the company.

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