Property Tenure/Ownership

There are four types of landholdings in Nepal:

• Private ownership
  - Private ownership is also known as ‘raikar’ land, and is the principal form of landholding. It is similar to a freehold system. A land ownership certificate is issued to the individual or company who owns the land. All other previous forms of feudal and non-feudal landholdings (e.g., ‘jamindari’, ‘birta’ and ‘kipat’) have been converted into private ownership title.

• Trust land ownership
  - Trust land ownership, also known as ‘guthi’ land, is a land held under a trust that is endowed by any philanthropist through relinquishment of his or her title to immovable property fund to a trust for the operation of any social or religious cause. Depending on the type of trust (private, government and special), there may be restrictions on transfers and use.

• Tiller tenancy
  - Tiller tenancy land belongs to the private owner, but the tenant and his/her family acquire the right to cultivate and use the land (‘moiani hak’). The tiller tenant (‘moi’) must pay a fee to the owner of the property. This system is in the process of being abolished. New tiller tenancy titles cannot be obtained, and the existing tiller tenant may obtain ownership of half of the land from the owner.

• Government and public land
  - Government land includes roads, paths, railways and land with government houses, temples, monasteries, buildings or offices. Government land also includes forests, shrub lands, jungles, rivers, streams and marshlands not belonging to anyone, as well as lakes and ponds and their banks, canals and channels, waste and uncultivated lands, lands located on sharp hill sides and paths and sand vacated by river, which are owned by the Nepal government or declared as public lands, and published in the ‘Nepal Rajpatra’.

Major Property Legislation

• Country Code 1963
• Land Survey and Measurement Act 1963
• Act Concerning Land 1964
• Guthi Corporation Act 1976
• Land Acquisition Act 1977
• Land Revenue Act 1978

Restrictions On Ownership Of Land

Land Ceiling System
Any person or his/her family (spouse and children under 16 years) may not own more than the following areas of land:

- Terai region – 6.7 ha
- Kathmandu Valley – 1.21 ha
- All hilly areas, except Kathmandu Valley – 3.5 ha

The land ceiling system does not apply to companies and corporations.

Foreign Land Ownership Restrictions
Foreigners cannot own or acquire land in Nepal unless they are non-resident Nepalese holding an identification card.

Companies wholly or partly owned by foreign investors may only acquire land for their business purposes (e.g., to establish a factory or a hotel or to provide residence to their workers). No specific permission is needed from the government to do so, provided that purchasing land is listed in the project report submitted when obtaining the foreign investment approval.

Operational Requirements For Foreign Corporations

Foreign Company
Foreign companies can either establish a:

- branch or liaison office under the Companies Act 2006; or
- subsidiary under the Foreign Investment and Technology Transfer Act 1992.

Establishing a subsidiary is more common than registering a branch office.

Branch or Liaison Office
A foreign company may register a branch or liaison office in Nepal with the Office of the Companies Registrar under Section 154 of the Companies Act. Prior permission from an appropriate government authority or a contract signed with an authorized agency is required for the establishment of such offices.

Branch offices are not allowed to purchase real estate.

Company Incorporated in Nepal
Foreigners are allowed to establish either a private limited company or a public limited company after obtaining an approval from the Department of Industries under the Foreign Investment and Technology Transfer Act 1992. After obtaining the appropriate approvals, the investor must:

- incorporate the company at the Office of the Companies Registrar;
- apply for tax registration at the local tax office;
Cultivable Land Tax
There are four types of cultivable land in Nepal: ‘abball’, ‘doyam’, ‘sim’ and ‘chahar’. Depending upon the productivity of the land, land tax is levied at a range of NPR 1–65 (USD 0.01–0.65) per ‘ropani’ and NPR 1–65 (USD 0.01–0.65) per ‘kattha’.

Foreign Investment Regulation
The Foreign Investment and Technology Transfer Act 1992 allows share/equity investment for foreign investors in certain industries, as listed in the Industrial Enterprises Act 1992 and except for restricted businesses. Investors may invest in manufacturing, energy, agricultural, mining, tourism and construction industries. Investment in traditional small industries; weapon industries; and fish, chicken and bee farming is restricted. Investment in retail is only allowed for companies already operating in more than two countries.

Foreign investment in real estate is allowed for “construction and operation of commercial, office and housing complex” and “construction and sale of residential housing”, but is not allowed for projects that only buy, sell or rent land and houses without constructing them. Investors can also open an investment company that invests in other companies.

The current minimum investment ceiling per investor has been fixed at NPR 5,000,000 (approximately USD 60,000).

Investors are allowed to repatriate dividends, interest from loans, gains from sale of shares and any other gains from investment back to their home countries in convertible currency.

Foreign Exchange Controls
Foreign investors are allowed to invest either in:
• a convertible foreign currency using the banking system; or
• assets such as plant, machinery and equipment required for industry.

Foreign investors can repatriate profits or gains earned by their companies through dividends or interest earned from any loans in foreign currency back to their home countries. Foreign investors can also repatriate the amount of technological fees, management fees, trademark royalty and other fees. Repatriation of foreign currency requires permission from the Central Bank of Nepal. An entity that invests in Nepalese currency but does not earn foreign currency can receive or give payment in foreign currency.

Land Registration Tax
Land registration tax (similar to stamp duty) must be paid when selling/transferring land to a new owner.

<table>
<thead>
<tr>
<th>Property Type</th>
<th>Municipal Areas Fees</th>
<th>Non-municipal Area Fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land/house worth NPR 10,000 (USD 100) or less</td>
<td>NPR 400 (USD 4.00)</td>
<td>NPR 300 (USD 3.00)</td>
</tr>
<tr>
<td>Property worth NPR 10,001–25,000 (USD 100–250)</td>
<td>NPR 1,000 (USD 10.00)</td>
<td>NPR 500 (USD 5.00)</td>
</tr>
<tr>
<td>Property worth NPR 25,001 (USD 250) or more</td>
<td>4.5%</td>
<td>2%</td>
</tr>
<tr>
<td>Flat</td>
<td>1%</td>
<td></td>
</tr>
</tbody>
</table>

Note: Different rates apply to inherited property.

Taxes On Possession Of Real Estate
Municipal House Tax
An annual tax for the possession of houses in municipal areas must be paid to the municipal office at the following rates:

<table>
<thead>
<tr>
<th>Class</th>
<th>Type of House</th>
<th>Tax Rate (per sq ft)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Raw bricks with mud mortar or made of wood (timber)</td>
<td>NPR 450 (USD 4.50)</td>
</tr>
<tr>
<td>B</td>
<td>Klin bricks/stones with mud mortar</td>
<td>NPR 525 (USD 5.20)</td>
</tr>
<tr>
<td>C</td>
<td>Klin bricks/stones with cement mortar</td>
<td>NPR 575 (USD 5.75)</td>
</tr>
<tr>
<td>D</td>
<td>RCC frame structure</td>
<td>NPR 635 (USD 6.35)</td>
</tr>
</tbody>
</table>

Property Tax
Property tax is levied on the following rates in municipal areas:

<table>
<thead>
<tr>
<th>Property Valuation</th>
<th>Tax Rate (per sq ft)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to NPR 1 million (USD 10,000)</td>
<td>none</td>
</tr>
<tr>
<td>NPR 1–2 million (USD 10,000 – 20,000)</td>
<td>NPR 300 (USD 3.00)</td>
</tr>
<tr>
<td>NPR 2–3 million (USD 20,000 – 30,000)</td>
<td>0.05%</td>
</tr>
<tr>
<td>NPR 3–5 million (USD 30,000 – 50,000)</td>
<td>0.25%</td>
</tr>
<tr>
<td>NPR 5–10 million (USD 50,000 – 100,000)</td>
<td>0.50%</td>
</tr>
<tr>
<td>Over NPR 10 million (USD 100,000)</td>
<td>1.50%</td>
</tr>
</tbody>
</table>

Cultivable Land Tax
There are four types of cultivable land in Nepal: ‘abball’, ‘doyam’, ‘sim’ and ‘chahar’. Depending upon the productivity of the land, land tax is levied at a range of NPR 1–65 (USD 0.01–0.65) per ‘ropani’ and NPR 1–65 (USD 0.01–0.65) per ‘kattha’.

• apply for the appropriate industry registration at the Department of Industries; and
• obtain permission from the central bank of Nepal.

Foreign companies are allowed to own a 100% stake in most permitted business activities or industries.

A foreign company may also register as a joint venture with a foreign or Nepalese partner.

Foreign Investment Regulation
The Foreign Investment and Technology Transfer Act 1992 allows share/equity investment for foreign investors in certain industries, as listed in the Industrial Enterprises Act 1992 and except for restricted businesses. Investors may invest in manufacturing, energy, agricultural, mining, tourism and construction industries. Investment in traditional small industries; weapon industries; and fish, chicken and bee farming is restricted. Investment in retail is only allowed for companies already operating in more than two countries.

Foreign investment in real estate is allowed for “construction and operation of commercial, office and housing complex” and “construction and sale of residential housing”, but is not allowed for projects that only buy, sell or rent land and houses without constructing them. Investors can also open an investment company that invests in other companies.

The current minimum investment ceiling per investor has been fixed at NPR 5,000,000 (approximately USD 60,000).

Investors are allowed to repatriate dividends, interest from loans, gains from sale of shares and any other gains from investment back to their home countries in convertible currency.

Foreign Exchange Controls
Foreign investors are allowed to invest either in:
• a convertible foreign currency using the banking system; or
• assets such as plant, machinery and equipment required for industry.

Foreign investors can repatriate profits or gains earned by their companies through dividends or interest earned from any loans in foreign currency back to their home countries. Foreign investors can also repatriate the amount of technological fees, management fees, trademark royalty and other fees. Repatriation of foreign currency requires permission from the Central Bank of Nepal. An entity that invests in Nepalese currency but does not earn foreign currency can receive or give payment in foreign currency.
Corporate Taxation
There is a 25% tax imposed on the taxable income of any corporate institution for any income year. However, the tax rates may vary according to the business of the corporation. Special income tax rates apply as follows:

<table>
<thead>
<tr>
<th>Type of Business</th>
<th>Tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Banks, financial institutions, general insurance, petroleum, cigarette and beverage</td>
<td>30%</td>
</tr>
<tr>
<td>Entities engaged in manufacturing (except alcohol and tobacco industries)</td>
<td>20%</td>
</tr>
<tr>
<td>Entities constructing and operating roads, bridges, tunnels, ropeways, flying bridges, trolley buses and trams</td>
<td>20%</td>
</tr>
<tr>
<td>Entities engaged in building and operating public infrastructure to be transferred to the government</td>
<td>20%</td>
</tr>
<tr>
<td>Entities engaged in power generation, transmission or distribution</td>
<td>20%</td>
</tr>
<tr>
<td>All income earned from export of goods and services</td>
<td>20%</td>
</tr>
</tbody>
</table>

Capital Gains Tax
For corporate entities and businesses, capital gains are treated as income and taxed at the same rate as income.

For ‘natural’ persons, the tax rates are as follows:

- 2.5% if the ownership of disposed non-business taxable property (land and building) is held for more than five years;
- 5% if the ownership of disposed non-business taxable property (land and building) is held for less than five years; and
- 5% on all gains in the stock market securities transactions.

Value Added Tax (‘VAT’) VAT is levied at a single rate of 13%.

Leasing and buying/selling of real estate are VAT-exempt.

VAT is not levied on goods and services exported, which are zero rated. Goods such as basic agricultural products, medicine, education services, air transport, financial and insurance services are also exempt.

Tax Depreciation
Asset depreciation rates are as follows:

<table>
<thead>
<tr>
<th>Class</th>
<th>Assets</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Buildings, structures and similar works of a permanent nature</td>
<td>5%</td>
</tr>
<tr>
<td>B</td>
<td>Computers, data handling equipment, fixtures, office furniture and office equipment</td>
<td>25%</td>
</tr>
<tr>
<td>C</td>
<td>Automobiles, buses and minibuses</td>
<td>20%</td>
</tr>
<tr>
<td>D</td>
<td>Construction and earth-moving equipment as well as any depreciable asset not included in another class, such as pollution control, research and development, as well as natural research exploration equipment</td>
<td>15%</td>
</tr>
<tr>
<td>E</td>
<td>Intangible assets other than depreciable assets included in Class D</td>
<td>Average rate according to the useful life</td>
</tr>
</tbody>
</table>

Personal Taxation
A resident ‘natural’ person refers to a person who is present in Nepal for 183 days or more in 365 consecutive days. Tax is levied on the taxable income of any resident ‘natural’ person on the basis of the following rate:

<table>
<thead>
<tr>
<th>Income</th>
<th>Tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>NPR 200,000 (USD 2,000) or less</td>
<td>1%</td>
</tr>
<tr>
<td>More than NPR 200,000 (USD 2,000) and less than NPR 300,000 (USD 3,000)</td>
<td>15% of the taxable income of more than NPR 100,000 (USD 1,000)</td>
</tr>
<tr>
<td>More than NPR 300,000 (USD 3,000)</td>
<td>25% of the taxable income of more than NPR 300,000 (USD 3,000)</td>
</tr>
<tr>
<td>More than NPR 2,500,000 (USD 25,000)</td>
<td>Additional tax of 40% on the taxable amount calculated under the 25% rate on the taxable income of more than NPR 2,500,000 (USD 25,000)</td>
</tr>
</tbody>
</table>

Tax can be deducted in the amount of 6% on payments to the provident fund or an approved retirement fund. If a ‘natural’ person has a taxable income of NPR 2.5 million (USD 25,000) or above, an additional tax of 40% must to be paid for an income above NPR 2,500,000 (USD 25,000). Rates vary by a small degree for married couples.

Withholding Tax on Dividends
Resident entities must pay a 5% withholding tax on dividends. A withholding tax of 5% is also levied on profits repatriated by a permanent establishment to its parent company.

Tax Treaties: Avoidance of Double Taxation
Nepal has concluded Double Tax Avoidance Treaties with the following countries:

- India
- Mauritius
- Qatar
- Norway
- People’s Republic of China
- Pakistan
- Austria
- Sri Lanka
- South Korea
- Thailand
Resident tax payers can claim foreign tax credit for the payment of tax paid abroad with respect to their taxable income in Nepal.

Mutual Funds
In 2010, the Securities and Exchange Board of Nepal (‘SEBON’) approved regulations relating to mutual funds. According to the regulations, all schemes having an objective to invest directly or indirectly in permissible assets are governed by the provisions and guidelines under the SEBON Mutual Funds Regulations 2010. Foreigners are not allowed to invest in Nepalese mutual funds.