

## Land plots for business



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***Land is of great value for state and government and therefore has special legal regulation. For business community land is also essential, especially if it is used for placing of manufacture, construction of buildings and farming. This article is aimed at determination of opportunities to use land which are granted to legal entities, including foreign companies, in the Republic of Belarus.***

According to the Belarusian legislation legal entities may have land plots on the basis of the following rights:

- the right of private ownership
- the right of permanent use (without prescribed term)
- the right of temporary use (up to 10 years, 20 years)
- the right of lease (up to 99 years).

### **The right of private ownership**

First of all, it should be mentioned that the range of land, which can be privately owned is limited. Lands of the forest fund, lands of the water fund, lands under roads and other transport communications, radioactive areas and other lands cannot be transferred to private ownership. Land plots may be in the ownership of the citizens of the Republic of Belarus, non-state legal persons of the Republic of Belarus, in the ownership of foreign states, international organizations.

Legal entities may be owners of land plots under the following conditions:

- they must be registered in the Republic of Belarus
- they must be non-state legal entities, i.e. must not have the state share in their authorized capital.

Legal entities may receive land plots:

- for construction on the basis of the results of the auction
- without holding an auction for the maintenance of capital structures (buildings, facilities) which they have in their ownership located on the land plots to be acquired by them into the private property
- in the other cases determined by the Presi-

dent of the Republic of Belarus.

The **value** of state-owned land plots is determined according to their cadastral value. In case of land plots into the private ownership by the results of the auction, their value shall be determined by the results of the auction and may not be lower than the cadastral value. The value of the privately owned land plots while executing transaction of their alienation is established by the respective contracts and may not be lower than the cadastral value of those land plots at the moment of transactions conclusion.

**Foreign states** may acquire land plots into the ownership only for placing diplomatic representation or consular office of a foreign state in the Republic of Belarus. **International organizations** may acquire land plots for placing its representation.

As you can see, the opportunities of legal entities, especially foreign legal entities, to acquire land plots into private ownership are limited. For legal entities another procedure for the use of land is provided..

### **The right of permanent use**

Legal entities may obtain land plots for permanent use depending on their business form and objectives for the following purposes:

- non-state legal entities of the Republic of Belarus – for maintaining objects of immovable property which are owned by the state;
- agricultural organizations, including farmers, other organizations – for keeping agriculture;
- scientific organizations, institutions of education – for research or educational purposes in the sphere of agriculture or forest husbandry;
- state forestry institutions, organizations of local executive committees within competence of which keeping of forest-park husbandry falls – for keeping forest husbandry;
- religious organizations – for the construction of cult structures and burial places;

- garage (garage-construction) cooperatives and cooperatives operating parking stands – for construction and exploitation of garages, parking stands for storing means of transport of the citizens of the Republic of Belarus which are members of such cooperatives;
- organizations of citizens-builders – for construction of multiple dwelling houses (with the exception of dwelling houses of enhanced comfort according to criterions determined by the legislative acts), as well as maintenance of multiple dwelling houses;
- gardening partnerships and summer-cottage cooperatives – for keeping collective gardening and summer-cottage construction (land plots of gardening partnerships', summer-cottage cooperatives' common use).

### **The right of temporary use**

As a rule, the right of temporary use of land plot is allocated for legal entities for extraction of widespread minerals, usage of geothermal resources, etc.

National and foreign investors may obtain land plots on the right of temporary use on the basis of the concession contracts concluded with the government.

The right of temporary use has both advantages and disadvantages. On the one hand, it is possible to use the land that cannot be allocated into private ownership- forests, mineral resources, land of water fund, etc. On the other hand, legal entities shall use the land only for its intended purpose and may not reassign, mortgage this right, and grant the land on lease.

### **Lease of Land Plots**

Lease of land plots is the most widespread form of land use among the legal entities.. Land plots may be allocated into the lease to the citizens, individual entrepreneurs, legal entities of the Republic of Belarus, foreign legal entities and their representa-

tions, foreign states, diplomatic representations and consular offices of foreign states, international organizations and their representations.

Lessors of the land plots are usually state bodies, administrations of free economic zones or owners of land. An important condition for the lease of land is to preserve the purpose of the leased land. For example, if, land is granted to the lessee for agriculture, the lessee has no right to build a plant on the leased land.

The terms of lease of the land plots are varied. For example, if the land plot is allocated for construction and/or maintenance of capital structures (buildings, facilities), the term of lease shall be not less than the normative term for construction and/or exploitation of those capital structures (buildings, facilities). In any case, the term of lease should not exceed 99 years. The term of lease of the land plot for keeping agriculture shall not be less than ten years.

The right to lease a land plot is also obtained by the result of auction. Some categories of land are granted to lease without auction. For example, land plots for construction and maintenance of real estate intended for the production of goods, works and services in towns with a population less than 50 thousand people are granted to lease without auction. In addition, , there are certain benefits for investors. For example, lessors can provide installment of payment for the lease of land granted for the construction of real estate. Installment of payment is available for up to 5 years from the date of completion of construction.

***Thus, option of forms of the use of land plots shall be based on the goals pursued by legal entities or foreign investors. Lease of land means the risk of early termination of the lease but at the same time lease provides more opportunities for use of land because land plots are granted for lease for any purpose. Temporary use of land limits some rights but makes it possible to use the lands, which are in the exclusive property of the state.***