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SWISS PROPERTIES OWNED BY FOREIGNERS, NOT TAX RESIDENT IN SWITZERLAND: DIRECTIVE ON THE USE OF HOLIDAY PROPERTIES

In principle, foreigners who wish to acquire Swiss residential properties must obtain approval from the competent cantonal authority prior to their purchase, which will otherwise be invalid.

In fact, a foreigner may be authorised to purchase a holiday home in a place designated by the respective cantonal authorities as a holiday resort. Every authorisation must be deducted from the annual quota assigned to the cantons by the Federal government for holiday homes and hotel condominium units. The cantons and communities may apply their own restrictions, which may be even more stringent and include personal usage time and living space limits. Furthermore, foreigners may only purchase property under their own name, and under no circumstances by a company. These regulations are provided by the so-called “Lex Koller law”.

Clearly, foreigners are eligible to acquire Swiss residential properties for their personal use when they use the purchased property for holiday purposes having, however, a right to rent out the property for certain limited periods during the year. This principle is equally applicable to Canton Ticino. The Cantonal authority in charge to control and supervise the application of the Federal Law that regulates properties owned by foreigners has recently issued instructions on the use of holiday properties, which are summarized below:

- The foreign owner of a holiday property must personally provide for the furniture and shall use the property exclusively as a holiday home for at least 15 days during the holiday season, which in Canton Ticino starts in April and ends in October;
- In principle the owner has the right to rent out the property for short periods within the same year, however, always and exclusively as a holiday home;
- The renting out of the property to an individual who has obtained a residency permit to stay in Canton Ticino is forbidden;
- The renting out of the property for a limited duration of 2-3 months *una tantum*, is however admissible;
- The renting out of the property to students is also not compliant with the regulations and the here referred instructions;

- In case the tenant of a holiday property, owned by a foreigner, applies and obtains a residency permit, the tenant has to leave the property at the end of the tenancy agreement and has to notify his departure to the Ufficio Controllo Abitanti (authority in charge to control the habitants) as well as to the Police Office in charge of foreigners (provided such person has a residency permit B or C) with indication of his new address.
In other words, the tenant of a holiday property, having obtained a residency permit, has to provide evidence that he has left factually and legally the holiday property.
The same person (former tenant of the holiday property) can also not return, after a short while, as tenant to the same holiday property.

Please also consult our “Executive summary on acquisition of Swiss residential properties” available on our website.

For further information on the above, please do not hesitate to contact us

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