



Issue 36 : April 2018
New law to control residential lease contracts

Recently, the Committee on Contracts of the Consumer Protection Board has issued the Notification of the Committee on Contracts Re: Prescribing Residential Property Lease Business as Contract-Controlled Business (“**Notification**”). The Notification will become effective on **1 May 2018**.

Key principles under the Notification are as follows:

1) Affected business

This Notification applies to the business of leasing premises to **individual tenants (including sub-tenant) for residential purpose of at least five units or more**, regardless of whether or not such units are located within the same building.

Under the Notification, such leasing premises can include rooms, houses, condominium units, apartments or other kinds of residence, but exclude dormitories under the Dormitory Act and hotels under the Hotel Act.

2) Some key requirements

Issues	Key requirements
Invoice	<ul style="list-style-type: none"> An invoice must be sent to the tenant at least seven days before the due date of rental payment.
Service fees	<ul style="list-style-type: none"> In addition to the rental fee, any service fees charged by the lessor to the tenant must be reasonable and calculated based on actual costs paid for such services. In this regard, the lessor is required to specify the calculation method and the due payment of such services in the lease contract.
Inspection of leased premises	<ul style="list-style-type: none"> The lessor must prepare evidence regarding inspection of the leased premises, including other facilities (if any) to be attached to the lease contract.
Expiration and termination of lease	<ul style="list-style-type: none"> Upon expiry of the residential lease contract, the lessor must immediately return the deposit to the tenant, except for some conditions as specified under the Notification. The tenant is entitled to early terminate the lease contract by sending at least 30 days’ advance written notice to the lessor. Any provision which enables the lessor to terminate the lease contract based on the ground of material breach must be clearly specified in red, bold, or italic. In addition, to be entitled to terminate the lease contract, the lessor is required to send a written notice

Key contacts

Attaporn Pacharanan
 Partner,
 Tax and Legal
attaporn@kpmg.co.th

Kannika Boontaim
 Partner,
 Tax and Legal
kannikab@kpmg.co.th

Wirat Sirikajornkij
 Partner,
 Tax and Legal
wirat@kpmg.co.th

Varee Chayanuwat
 Director,
 Tax and Legal
varee@kpmg.co.th

Vipaphan Chatupromwong
 Director,
 Tax and Legal
vipaphan@kpmg.co.th

	requiring the tenant to rectify the breach within at least 30 days of receipt and the tenant fails to do so.
Contract	<ul style="list-style-type: none"> • A residential lease contract must be made in two identical copies and contain provisions in Thai language with font size and details as specified under the Notification, e.g. details of the lessor, tenant and leased premises, leased term, rental, deposit and other expenses.

3) Some key restrictions

Issues	Key restrictions
Prohibited provisions	<ul style="list-style-type: none"> • The lease contract must not contain some provisions as specified under the Notification, e.g. <ul style="list-style-type: none"> - To allow the lessor to charge advance rental and deposit equivalent to more than one month's rental fee; - To exclude or limit the lessor's liabilities arising out of breach of contract or any wrongful act; - To allow the lessor to change the rate of rental and other expenses before termination of the lease contract; - To allow the lessor to confiscate any deposit or advance payment of the tenant; - To allow the lessor to enter into the leased premise for inspection without delivering advanced notice to the tenant; - To allow the lessor to charge electricity and water expenses exceeding the rates specified by the relevant authorities; - To allow the lessor to block the lessee from using the leased premises, or to enter into the leased premises to confiscate or remove the property of the tenant, in the case where such tenant fails to pay the rental fees and other expenses in relation to the leased premises; - To allow the lessor to demand a renewal fee from the tenant; - To allow the lessor to terminate the lease contract without cause or without material breach of contract; - To impose liability on the tenant for any damage arising from general usage of the equipment and property of the leased premises; - To impose liability on the tenant for any damage to the leased premises, property and equipment without the tenant's fault or in case of force majeure; - To impose liability on the tenant for any defect of the leased premises, property and equipment due to general usage or normal wear and tear.

KPMG's Comments

The Notification specifies several requirements and restrictions on terms and conditions of the residential lease contracts. In addition, non-compliance of the Notification could result in the business operators being liable under the Consumer Protection Act which consists of criminal penalties.

Accordingly, the lease business operators should revisit the residential lease contracts with their individual tenants to ensure the compliance with the Notification.

We welcome any opportunity to discuss the relevance of this matter upon request.

KPMG in Thailand's Legal Services Team offers a wide range of practical legal solutions. For more information, please visit <https://home.kpmg.com/th/en/home/services/tax/legal-services.html>.

Privacy | Legal

You have received this message from KPMG Phoomchai Tax Ltd. If you wish to unsubscribe Tax News Flash, please click [unsubscribe](#).

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act upon such information without appropriate professional advice after a thorough examination of the particular situation.

© 2018 KPMG Phoomchai Tax Ltd. a Thai limited company and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.

The KPMG name and logo are registered trademarks or trademarks of KPMG International.

twitter.com/KPMG_TH
youtube.com/KPMGinThailand
facebook.com/KPMGinThailand



kpmg.com/app

