Lease contract registration

Description

Recently one of our clients complained to us that the real estate exchange center (an authority in charge of real estate registration, â€œExchange Centreâ€•) refused to accept their lender-approved lease contract designed for their service apartment project simply because their lease had not adopted the Shanghai model lease contract form. Without such registration, the client was not able to remit their operation income to their holding company offshore and to draw loans from its lenders.

Lease contract registration is not something provided by national law, and however, in Shanghai, it is required by this local regulation that lease contract for either residential or commercial property shall be registered with the Exchange Centre which in turn will issue a registration certificate to the applicant. The purpose is to afford the government a way to collect lease-related taxes and on the other hand to facilitate other administrative regulation such as foreign exchange control and Shanghai residence permit issuance.

The real situation is that seldom does a landlord will register its lease contract with the Exchange Centre to avoid being levied with tax. News rumored that not more than 5% of leases are registered.

HOWEVER, in the case of foreign investment, the best policy is always to comply with such regulation. The governmental may close an eye to domestic landlords but it wonâ€™t be that nice when it comes to a foreign investor. Since foreign exchange issue is involved, foreign investors who need to remit money offshore shall be careful of such registration in particular.

As shown in the first paragraph, you may need to structure your lease based on the Shanghai model lease contract (version 2006) which you can download from the Internet.

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