

*of land rents and water surface rents;*

*The Finance Ministry hereby guides the collection of land rents and water surface rents as follows:*

#### *Part A*

### GENERAL PROVISIONS

#### I. Scope of application

This Circular guides the collection of land rents, water surface rents, applicable to cases of land lease, water surface lease specified in Article 1 of the Government's Decree No. 142/2005/ND-CP of November 14, 2005, on collection of land rents, water surface rents (hereinafter referred to as Decree No. 142/2005/ND-CP), including:

1. The State leases land under the provisions of Article 35 of the Land Law, falling into land categories specified in Article 13 of the Land Law (Appendix No. 01).

2. The State permits the shift from land assignment to land lease in the following cases:

2.1. Shift from land assignment without the collection of land use levies to land lease.

2.2. Shift from land assignment with the collection of land use levies to land lease.

3. The State leases water surface, sea surface (referred to collectively as water surface lease) in the territorial waters and continental shelf of Vietnam, which do not fall into land categories specified in Article 13 of the Land Law.

#### II. Payers of land rents, water surface rents

Land rent, water surface rent payers defined in Article 2 of Decree No. 142/2005/ND-CP; Clause 1 and Clause 2 of this Article are guided as follows:

1. Clause 1 specifies cases where the State

### THE MINISTRY OF FINANCE

#### **CIRCULAR No. 120/2005/TT-BTC OF DECEMBER 30, 2005, GUIDING THE IMPLEMENTATION OF THE GOVERNMENT'S DECREE No. 142/2005/ND-CP OF NOVEMBER 14, 2005, ON COLLECTION OF LAND RENTS AND WATER SURFACE RENTS**

*Pursuant to the Land Law;*

*Pursuant to the Government Decree No. 77/2003/ND-CP of July 1, 2003, defining the functions, tasks, powers and organizational structure of the Finance Ministry;*

*Pursuant to the Government's Decree No. 142/2005/ND-CP of November 14, 2005, on collection*

leases land with the annual collection of land rent; some cases are guided in detail as follows:

1.1. Households and individuals that wish to continue using the agricultural land areas in excess of the norms assigned before January 1, 1999, while the land use duration has expired shall be entitled for the continued use thereof for a duration being equal to half (1/2) of the land assignment duration, and later have to shift to land lease according to the provisions of Clause 2, Article 67 of the Land Law.

1.2. Households and individuals that are not directly engaged in agricultural production, forestry, aquaculture or salt-making and are assigned land without the collection of land use levies for development of farm economy shall have to shift to land lease according to the provisions of Item b, Clause 4, Article 82 of the Land Law, as specified in Clause 1, Article 75 of the Government's Decree No. 181/2004/ND-CP of October 29, 2004, on implementation of the Land Law (hereinafter referred to as Decree No. 181/2004/ND-CP).

1.3. Economic organizations, households and individuals that lease land for use as ground for production and/or business, mineral activities, production of building materials, making of pottery articles as provided for in Clause 1 of Article 93, Clause 1 of Article 94, Clause 1 of Article 95 of the Land Law; lease land for execution of investment projects on agricultural production, forestry, aquaculture or salt making under the provisions of Article 74 thru Article 82 of the Land Law; lease land for construction of public works for business purposes under the provisions of Point b, Clause 5, Article 6 of Decree No. 181/2004/ND-CP.

1.4. Economic organizations that lease land for investment in the construction of infrastructure for sale or lease of land where infrastructure has already been constructed, including the

construction of infrastructure of industrial parks, hi-tech parks, economic zones, rural population quarters, urban population quarters and other cases of infrastructure construction.

1.5. Public non-business units that are leased land by the State for execution of investment projects approved by competent state bodies must pay land rents according to Decree No. 142/2005/ND-CP and the guidance in this Circular.

1.6. Organizations that are assigned land without the collection of land use levies, are lawfully transferred with the land use rights from other persons or are assigned land with the collection of land use levies, provided that the money has been paid for the land use right transfer or the land use levies paid to the State originate from the state budget, and are using land for production and/or business purposes, for construction of public works for business purposes, and now select the form of land lease shall have to pay land rents.

2. Clause 2 specifies cases where the state leases land or water surface with the annual collection of land rents or with the lump-sum collection of land rents for the whole land lease or water surface lease term; a number of cases are guided in detail as follows:

2.1. Point b specifies a number of foreign organizations with diplomatic function, non-governmental organizations, that lease land for construction of their working offices, include diplomatic missions, consulates, other foreign representative offices with diplomatic functions recognized by the Vietnamese Government; representative offices of organizations under the United Nations, inter-governmental agencies or organizations, representative offices of inter-governmental organizations, non-governmental agencies or organizations; representations of non-governmental organizations.

2.2. Point c which defines economic organizations, households, individuals, overseas Vietnamese, foreign organizations or individuals, that are permitted by the State to use water surface, sea surface falling outside the land categories specified in Article 13 of the Land Law for execution of investment projects, shall cover joint-venture enterprises with foreign investment capital, Vietnamese parties to business cooperation contracts, that are leased water surface, sea surface by the State for execution of investment projects.

2.3. Overseas Vietnamese, foreign organizations and individuals, that are leased urban land for execution of investment projects on construction of residential houses for sale or lease must:

a/ Pay land rents annually for projects on construction of residential houses for lease.

b/ Pay land rents in lump sum for the whole leasing term for projects on construction of residential houses for sale or lease; when selling residential houses, investors must pay to the State the differences between the land use levies and the paid land rents as follows:

- For villa houses, the land rents shall be paid within a month as from the date of signing house sale contracts.

- For condominium houses, the differences must be paid by the time of project completion at the latest.

The land use levies shall be calculated at the land prices set by provincial/municipal People's Committees (hereinafter called provincial-level People's Committees for short) at the time of paying the difference money.

3. Organizations which are assigned land by the State without the collection of land use levies, without the collection of land rents but use parts of

the land areas for production and/or business purposes or public works for business purposes without selecting the form of land use levy payment shall have to pay land rents.

### III. Subjects not liable to pay land rents

Subjects not liable to pay land rents defined in Article 3 of Decree No. 142/2005/ND-CP; Clauses 1 and 3 of this Article are guided as follows:

1. Clause 1 which defines the persons assigned land by the State without the collection of land use levies under the provisions of Article 33 of the Land Law, also cover the cases of land assignment without the collection of land use levies to organizations, individuals, overseas Vietnamese, that use land in hi-tech parks for construction of common technical infrastructures of hi-tech parks; for construction of training zones, hi-tech research and development and application; for construction of nurseries for hi-tech enterprises with a view to supporting activities of research and trial production, formation of enterprises manufacturing hi-tech products under the provisions of Point a, Clause 2, Article 85 of Decree No. 181/2004/ND-CP.

2. Clause 3 provides land areas for construction of general infrastructure in industrial parks, which are land areas for construction of general infrastructure in industrial parks under projects approved by competent authorities and are not directly used by industrial parks for production and/or business purposes, not re-assigned, subleased nor transferred to other persons for use as production and/or business grounds, for construction of public works for business purposes or for construction of residential houses under plannings approved by competent authorities; projects involving the land lease, which had been executed before the effective date of Decree No.

142/2005/ND-CP, shall not comply with the provisions of Clause 3, Article 3 of Decree No. 142/2005/ND-CP.

**Part B**

**SPECIFIC PROVISIONS**

**I. The land rent rates specified in Article 4 of Decree No.142/2005/ND-CP are guided as follows:**

1. Clause 1 provides the annual land rent rate being equal to 0.5% of the land price based on land use purposes, promulgated by provincial-level People's Committees under the Government's regulations; in cases where land is leased for construction of residential houses for sale or lease, the land price for determination of land rent rates shall be the residential land price.

2. Clause 2 defines land in urban centers, commercial and service centers, traffic hubs, concentrated population quarters, which can yield special profits, has advantage in the use of land as ground for production and/or business, trade, service activities; based on local realities, provincial-level People's Committees shall decide to promulgate land rent rates higher than 0.5% of the land price but not exceeding four times, that is the highest land rent rate is equal to 2% of the land prices promulgated by provincial-level People's Committees; following are some specific contents:

- Land being capable of yielding special profits and having advantage in its use as ground for production, business, trade and service activities is determined under the guidance at Item c, Point 2, Section II of the Finance Ministry's Circular No. 114/2004/TT-BTC of November 26, 2004, guiding the implementation of the Government Decree No. 188/2004/ND-CP of November 16, 2004, on methods of determining prices and price bracket

for land of assorted categories.

- Provincial-level People's Committees shall base on local realities to determine land in specific positions: Trade and service centers, traffic hubs, concentrated population areas.

3. Clause 3 defines land in deep-lying, remote, high-mountain, island regions, in areas hit by socio-economic difficulties or exceptional socio-economic difficulties; land used for purposes of agricultural production, forestry, aquaculture, salt making, land used as ground for production and/or business activities of projects in domains entitled to investment encouragement, domains entitled to special investment encouragement, based on conditions and investment encouragement requirements of their respective localities, provincial-level People's Committees shall decide to promulgate land rent rates lower than 0.5% of the land price, but the lowest land rent rate is equal to 0.25% of the land prices based on land use purposes, promulgated by provincial-level People's Committees under the Government's regulations; it is guided specifically as follows:

- Deep-lying, remote, high-mountain, island regions, areas hit by socio-economic difficulties or exceptional socio-economic difficulties; projects in domains entitled to investment encouragement or special investment encouragement under the regulations of the Government or the Prime Minister.

- Provincial-level People's Committees shall base on their respective local realities to set specific land rent rates for specific positions, specific investment domains; the lowest rate is equal to 0.25% of the land prices set by the provincial-level People's Committees.

4. Clause 4 defines land rent rates in case of land use right auction or bidding for projects using leased land, which shall be the bid-winning prices;

in this case, the land rent payers must not subtract expenses for land compensations, land supports from the payable land rents.

## II. Water surface rent bracket:

The water surface rent bracket provided for in Article 5 of Decree No. 142/2005/ND-CP is guided as follows:

1. Clause 1 on water surface rent bracket is guided specifically as follows:

a/ Fixed water surface used by projects provided at Point a is the water surface used for fixed operation of a project at a given location; the water surface is clearly determined with fixed location and coordinates throughout the course of project execution.

b/ Non-fixed water surface used by projects provided at Point b is the leased water surface with its location, boundaries not clearly defined within given coordinates for lease and projects do not operate at any fixed location on the water surface.

2. With regard to Clause 3 on sea surface rent rates for oil and gas exploitation projects in Vietnam's territorial waters and continental shelf, the maximum rent of the water surface rent bracket defined in Clauses 1 and 2 of Article 5 of Decree No. 142/2005/ND-CP shall apply.

**III. The determination of land rent rate for each specific project under the provisions of Article 6 of Decree No. 142/2005/ND-CP is guided as follows:**

1. Regarding Clause 1, based on the land prices promulgated by provincial-level People's Committees under the provisions of Government Decree No. 188/2004/ND-CP of November 16, 2004, on methods of determining prices, bracket of prices of land of assorted categories, provincial-level People's Committees shall promulgate

percentages for calculation of land rent rates as specified in Article 4 of Decree No. 142/2005/ND-CP for each category of land, each type of urban center, each type of commune, area, street, position, land grade.

2. Regarding Clause 2, based on the land prices promulgated by provincial-level People's Committees, the percentages for calculation of land rent rates set by provincial-level People's Committees under the guidance at Point 1 of this Section, on the practical use of land by each project, each case transferred by natural resource and environment offices:

- Directors of provincial/municipal Finance Services shall assume the prime responsibility for, and coordinate with the concerned branches in, determining the land rent rate for each specific project in cases where economic organizations, overseas Vietnamese, foreign organizations or individuals rent land, and on that basis issue decision on land rent rate for each project, each specific case and transfer to the natural resources and environment offices, tax offices of the same level.

- The Finance Sections shall assume the prime responsibility for, and coordinate with functional agencies of the district level in, deciding on land rent rate for each specific case applicable to land-renting households, individuals.

**IV. The determination of land rents, water surface rents under the provisions of Article 7 of Decree No. 142/2005/ND-CP is guided as follows:**

1. Clause 1 defines "The annually collected land rent, water surface rent is equal to the rented area multiplied by the land rent rate or water surface rent rate"; the rented area is determined under the leasing decision of competent state agency. Where the actually used area is different from the area

stated in the decision of the competent state agency, the rent shall be calculated according to the actually used area; in cases where the land assigned without the collection of land use levies is used for production, business or service purposes and the land rent must be paid, the area for calculation of land rent shall be the land area actually used for production, business or service activities.

For oil and gas exploitation projects in Vietnam's territorial waters and continental shelf, the sea surface for rent calculation shall be the area actually used by contractors.

The time for starting to calculate and collect land rents, water surface rents shall comply with the provisions of Clause 2, Article 7 of Decree No. 142/2005/ND-CP.

2. Clause 3: Persons who are leased land by the State and have advanced money for land compensations or supports shall be entitled to subtract such amounts from payable land rents; where the land lease term expires while the land compensation or support money has not yet been fully subtracted, further subtraction shall be made in the extended land lease duration.

Where the land lease term expires and the State recovers the land, the land compensation or support money amounts not yet fully subtracted from land rents shall be compensated under legal provisions on compensations or supports upon land recovery by the State; the land compensation, support money (hereinafter referred to collectively as land compensation money) subtracted from payable land rent shall be calculated only for the land areas subject to rent payment and is guided in detail as follows:

a/ Where land rent is collected in lump sum for the whole leasing term, the land compensation money shall be subtracted from the land rent of

the whole land lease term; if the land rent of the whole leasing term is bigger than the land compensation money, the difference shall be paid in lump sum into the state budget; if the land rent of the whole leasing term is smaller than the land compensation money, it shall be handled according to the provisions of Clause 3, Article 7 of Decree No. 142/2005/ND-CP and the guidance at Item b, Point 2 of this Section.

b/ Where land rent is collected annually, the time for land rent exemption (calculated in year, abbreviated to n) due to subtraction of land compensation money from payable land rent shall be determined as follows:

$$n = \frac{\text{Land compensation money subtracted from payable land rent}}{\text{The land rent paid for one year}}$$

- n is the number of years with land compensation money subtracted from payable land rent (not subject to land rent payment).

- The land compensation money subtracted from payable land rent is equal to (=) the land price of the compensation land category at the time of land compensation money subtraction from land rent multiplied by the land area entitled to compensation money subtraction (= the land area subject to land rent payment).

- The annual payable land rent = The land rent rate of the project X the land area subject to land rent payment.

b1. Where the land lease duration subject to land rent payment (abbreviated to N) is bigger than the number of years entitled to land compensation money subtraction ( $N > n$ ), this difference duration ( $N-n$ ) shall be subject to annual payment of land rent according to regulations.

b2. Where the land lease duration subject to land rent payment (N) is smaller than the number

of years entitled to land compensation money subtraction ( $N < n$  : not yet fully subtracted upon the expiry of the land lease term):

- If the land lease continues, the land rent shall not be paid for the remaining number of years ( $n-N$ ); after that duration (from year  $n+1$ ), the land rent must be paid according to regulations.

- If the land lease does not continue and the State shall recover the land, the compensation shall be made as follows:

The land compensation level upon land recovery by the State	=	The remaining number of years ( $n-N$ )	x	The land rent rate at the time of land recovery	x	The land area subject to rent payment for land recovered by the State
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The number of years entitled to land compensation money subtraction from payable land rents shall be determined at the time of subtracting the land compensation money from land rents and inscribed clearly in papers of the land lease dossiers.

c/ Cases of land lease without having to pay land rent: projects exempt from land rent, water surface rent specified in Clauses 1 and 2, Article 14 of Decree No. 142/2005/ND-CP, the persons leased land by the State shall pay land compensations to persons with land recovered under the provisions of law on compensation, support and resettlement; the subtraction thereof from land rent must not be allowed.

d/ For projects exempt from land rents, water surface rents defined in Clauses 3 and 4, Article 14 of Decree No. 142/2005/ND-CP, the land compensation money shall be subtracted from payable land rent immediately after the end of the duration entitled to land rent, water surface rent exemption.

**V. Application of land rent, water surface rent rates specified in Article 9 of Decree No. 142/2005/ND-CP; Clauses 2 and 4 are guided as follows:**

1. Clause 2 on projects with land, water surface being leased before January 1, 2006, which are subject to annual payment of land rents, water surface rents; now the rent rates must be redetermined under the provisions of Articles 4, 5 and 6 of Decree No. 142/2005/ND-CP and the guidance in Sections I, II and III, Part B of this Circular.

2. Clause 4 on cases of land lease, water surface lease before January 1, 2006, on which the competent state bodies have issued decisions (notices, consents); in cases where rents are paid in lump sum for the whole land lease or water surface lease terms, but the rents have not yet been paid or have been paid for a number of years, the duration for which rents have not yet been paid must be subject to the redetermination of rent rates according to the provisions of Decree No. 142/2005/ND-CP and the guidance in this Circular.

**VI. Shift from land assignment to land lease by households, individuals as defined in Article 10 of Decree No. 142/2005/ND-CP; Clause 1 is guided in detail as follows:**

1. For households and individuals that have been assigned agricultural land within the agricultural land-using norms and, when being permitted by competent state bodies to change the land use purposes to non-agricultural production and/or business purposes, opt for the form of land lease, the land rent rates shall be calculated according to prices of non-agricultural production and/or business land and the agricultural-land use right value shall be subtracted from payable land rents, but the subtraction level must not exceed

the payable land rent amounts.

The land use right value subtracted from payable land rents shall be calculated for the land areas subject to rent payment, at the agricultural land prices at the time of subtraction from land rents.

2. Households and individuals that have been assigned land with the collection of land use levies or have been transferred the land use rights of lawful land users and now shift to land lease shall be entitled to subtract the transferred land use right value from the payable land rents, but the subtraction levels must not exceed the payable land rent amounts.

The assigned-land or transferred-land use right value subtracted from payable land rents shall be calculated for land areas subject to rent payment, at the prices of the assigned-land or transferred-land categories at the time of subtraction from payable land rents.

**VII. Regarding the shift from land assignment to land lease provided in Article 11 of Decree No. 142/2005/ND-CP; several contents of Clauses 1 and 3 are guided as follows:**

1. For organizations which have been assigned land by the State with the collection of land use levies or have been lawfully transferred the land use rights while the paid land use levies and the money paid for being transferred the land use rights do not originate from the state budget, the assigned- or transferred-land use right value subtracted from payable land rents shall be calculated for land areas subject to rent payment, at the prices of assigned- or transferred-land categories, promulgated by provincial-level People's Committees at the time of land use right value subtraction from land rents, but the subtraction levels must not exceed the payable land

rent amounts (exclusive of land rent amounts exempted under the provisions of Clauses 3, 4 and 7, Article 14 of Decree No. 142/2005/ND-CP).

2. Where the payable land rents are larger than the land use right value subtracted from payable land rents, the difference shall be annually paid into the state budget during the land lease term. When land rents are paid for any year, the payment shall be made at the land rent rates of that year. Where organizations propose to pay such difference in lump sum into the state budget, they shall immediately pay the determined difference. The remaining number of years still subject to rent payment shall be determined as follows:

$$\begin{array}{l} \text{The remaining} \\ \text{number of} \\ \text{years still} \\ \text{subject} \\ \text{to rent} \\ \text{payment} \end{array} = \frac{\begin{array}{l} \text{The land rent amount} \\ \text{payable for the whole} \\ \text{land lease term} \end{array} - \begin{array}{l} \text{The land} \\ \text{use right} \\ \text{value} \end{array}}{\begin{array}{l} \text{The annual land rent at the time of} \\ \text{land use right value subtraction} \\ \text{from payable land rent} \end{array}}$$

### Part C

#### LAND RENT, WATER SURFACE RENT EXEMPTION, REDUCTION

**I. Principles for land rent, water surface rent exemption or reduction provided in Article 13 of Decree No. 142/2005/ND-CP; Clause 5 is guided in detail as follows:**

Operational projects entitled to preferences on land rent, water surface rent exemption or reduction but with the preference levels lower (lower exemption or reduction levels) than those specified in Articles 14 and 15 of Decree No. 142/2005/ND-CP shall enjoy the exemption or reduction levels specified in Articles 14 and 15 of Decree No. 142/2005/ND-CP for the remaining exemption and/or reduction duration. The remaining exemption and/

or reduction levels and duration shall be calculated according to the duration specified in Articles 14 and 15 of Decree No. 142/2005/ND-CP minus the duration enjoying exemption and/or reduction before Decree No. 142/2005/ND-CP took effect.

**II. Land rent, water surface rent exemption defined in Article 14 of Decree No. 142/2005/ND-CP; Clauses 1, 2 and 4 are guided in detail as follows:**

1. Clauses 1 and 4 are guided as follows: Projects in the domains entitled to investment encouragement or special investment encouragement, in geographical areas meeting with socio-economic difficulties or exceptional socio-economic difficulties as provided for by the Government shall include those of foreign organizations or individuals that use land in hi-tech parks for construction of common technical infrastructure of hi-tech parks; construction of training quarters, hi-tech research and development as well as application zones; for construction of hi-tech enterprise nurseries with a view to supporting research, trial production activities, formation of enterprises manufacturing hi-tech products defined at Point a, Clause 2, Article 85 of Decree No. 181/2004/ND-CP.

2. Clause 2 is guided as follows:

a/ For projects leasing land for construction of condominiums for industrial-park workers and enjoying land rent exemption, the house-selling prices or house-leasing prices do not include expenses for land rent payment and must be approved by provincial-level People's Committees.

b/ Projects leasing land for construction of public works for business purposes (socialization) in the fields of healthcare, education, culture, physical training and sports, science and technology,

including the use of land acquired through the shift from land assignment without the collection of land use levies for use for public purposes to land lease for construction of public works for business purposes in the above domains. Lists of projects in the fields of healthcare, education, culture, physical training and sports, science and technology entitled to land rent exemption guided at this Point shall be promulgated by specialized ministries, branches.

The land rent exemption provided in Clauses 1 and 2, Article 14 of Decree No. 142/2005/ND-CP and the guidance at Points 1 and 2 of this Section shall be effected for the whole land lease terms stated in the State's decisions on land lease.

3. Land rent exemption till the taxation year of 2010 for agricultural land areas within the norms prescribed by law for each region for peasant households, state-farm member households, agricultural cooperative members, that have received contractual land of enterprises, agricultural cooperatives and now shift to land lease under the provisions of the Land Law.

**III. Land rent, water surface rent reduction specified in Article 15 of Decree No. 142/2005/ND-CP; Clauses 1, 2, 4 and 5 are guided in detail as follows:**

1. Clause 1 provides the 50% reduction of payable land rents for the whole lease term for land used as ground for production, business and/or service activities of cooperatives. For agricultural cooperatives, the land areas entitled to 50% reduction of land rents specified in Clause 1, Article 15 of Decree No. 142/2005/ND-CP are other than the areas of land assigned without the collection of land use levies under the provisions of Clause 5, Article 33 of the Land Law.

2. Clause 2 provides the lease of land for use for purposes of agricultural production, forestry, aquaculture or salt making; when natural calamities or fires have caused damage:

- Land rent reduction in percentages corresponding to damage percentage shall be considered, if the damage extent represents less than 40% of the output.

- Land rent exemption for the damage year shall be considered, if the damage extent represents 40% or more of the output.

- The damage extent determined in percentage shall be calculated on value of the gathered products of the harvest under normal production conditions of the preceding harvest or the next harvest. The product value and output of harvests not struck by natural calamities or fires shall be determined according to figures of annual statistical reports. The damage extent-determining order and procedures shall comply with the regulations on determination of damage for exemption or reduction of agricultural land use tax.

3. Fifty percent (50%) reduction of annual land rent till the 2010 taxation year for agricultural production land areas of subjects not entitled to land rent exemption is guided at Point 3, Section II of this Part and the agricultural production land areas in excess of the norms prescribed by law for peasant households, state-farm member households and other agricultural production households.

4. Clause 4, where the leased land is under projects on construction of working offices of foreign diplomatic missions, consulates or representative offices of international organizations in Vietnam under treaties to which Vietnam is a contracting party or on principle of reciprocity, the reduction shall comply with the signed treaties or on the agreed principle of reciprocity.

## Part D

### LAND RENT, WATER SURFACE RENT COLLECTION AND PAYMENT

**I. Order of determining payable land rents, water surface rents is defined in Article 17 of Decree No. 142/2005/ND-CP; it is guided in detail as follows:**

1. Clause 1, for cases of new lease of land or water surface, provincial/municipal Finance Services, district-level People's Committees shall send decisions on land or water surface rent rates to natural resources and environment offices and tax offices of the same level. Within 5 working days after full receipt of cadastral dossiers, tax offices shall determine the land rent or water surface rent amounts and write them in notices to be sent to payers. A land rent, water surface rent payment notice shall be made in 2 copies; 1 copy shall be sent to land rent or water surface rent payers; and 1 shall be kept at tax offices.

2. Clause 2, for cases where land or water surface leased before the effective date of Decree No. 142/2005/ND-CP is being used, which is subject to redetermination of land rent or water surface rent rates, based on the rent rate redetermination results sent by the finance offices (People's Committees) of the same level, natural resources and environment offices shall readjust the rent rates and tax offices shall redetermine the payable land rent or water surface rent amounts at the new rates and send notices to payers under the guidance at Point 1, Section I of this Part.

3. For operational projects which still enjoy preferences on land rent and/or water surface rent exemption and/or reduction under the provisions of Clause 5, Article 13, Decree No. 142/2005/ND-CP, the persons leased land or water surface by

the State shall send their dossiers of declaration, applying for continued rent exemption or reduction to agencies directly managing tax collection.

4. For cases of land lease after the effective date of Decree No. 142/2005/ND-CP; the persons leased land or water surface by the State and entitled to rent exemption under the provisions of Article 14 (excluding Clause 6) of Decree No. 142/2005/ND-CP or entitled to rent reduction under the provisions of Clauses 1 and 4 of Article 15, Decree No. 142/2005/ND-CP shall have to make declarations, applying for rent exemption or reduction and send them together with land lease or water surface lease dossiers to land use right registration offices or natural resources and environment offices for transfer to tax offices.

5. Persons leased land or water surface by the State and entitled to rent exemption under the provisions of Clause 6, Article 14; entitled to rent reduction under the provisions of Clauses 2 and 3, Article 15 of Decree No. 142/2005/ND-CP shall have to make declarations applying for rent exemption or reduction and send them to agencies directly managing tax collection.

**II. Tax offices directly managing taxpayers shall determine the payable land rents, water surface rents under the provisions of Article 18 of Decree No. 142/2005/ND-CP.**

**III. The land rent, water surface rent collection and payment provided for in Article 19 of Decree No. 142/2005/ND-CP are guided as follows:**

1. Organizations, households and individuals shall base on land rent, water surface rent payment notices of tax offices to pay rents at the locations inscribed in such notices (made according to form No. 03-05/TTD enclosed with Joint Circular No. 30/TTLT/BTC-BTNMT of April 18, 2005 guiding the

transfer of dossiers of land users performing financial obligations). The maximum duration shall not exceed 30 working days after the receipt of the notices.

2. Tax offices or state treasuries, when collecting land rents, water surface rents, must use vouchers for collection of money into the state budget under the provisions of Circular No. 80/2003/TT-BTC of August 13, 2003, guiding the concentration and management of state budget revenues through state treasuries.

3. Tax offices shall coordinate with state treasuries of the same level in applying measures to organize the land rent, water surface rent collection in a way convenient for payers, ensuring safety for land rent, water surface rent amounts remitted into the state budget.

**IV. Handling of existing problems in land rent, water surface rent collection, defined in Article 20 of Decree No. 142/2005/ND-CP is guided as follows:**

1. Point a, Clause 1, Clause 2 are guided as follows: The exchange rates for conversion of foreign currencies into Vietnam dong (VND) shall comply with the average exchange rates on the inter-bank foreign currency market, announced by the State Bank at the time of rent payment.

2. Clause 2 provides the outstanding land rents, water surface rents: The outstanding land rents, water surface rents must be fully paid in 2006. If not, from January 1, 2007, each day of late payment shall be subject to a fine of 0.02% (two per ten thousand) calculated on the late-paid land rent or water surface rent amounts and tax offices shall report thereon to competent People's Committees for consideration of non-performance of obligations by land users, water surface users under the provisions of land law.

**V. Complaints and settlement of complaints, defined in Article 23 of Decree No. 142/2005/ND-CP, are guided in detail as follows:**

1. Land rent, water surface rent payers who complain about the wrong implementation of provisions on land rent, water surface rent collection under the provisions of Decree No. 142/2005/ND-CP shall send their written complaints to tax offices which have determined and notified the payable land rent or water surface rent amounts; pending the settlement, they must still fully pay the notified land rent, water surface rent amounts on time.

2. Agencies receiving written complaints which are, however, are improper or incomplete under regulations shall request the complainants to supplement or additionally explain and must notify such to the complaint senders within 10 working days after the receipt of written complaints.

3. Time, order, procedures for settlement of complaints shall comply with the provisions of law on complaints and denunciations.

4. If within 30 days after the expiry of the settlement time limits specified in Article 36 of the Law on Complaints and Denunciations, a complaint has not yet been settled or after the receipt of the first-time complaint settlement decision, a complainant disagrees therewith, he/she may further lodge his/her complaint to the immediate superior agency of the agency which has determined and notified the payable land rent or water surface rent amount, or bring the case to court. For deep-lying, remote or difficult-to-access regions, the above time limit can be longer but shall not exceed 45 days.

5. The Finance Minister's decisions on settlement of complaints about land rents, water surface rents, after obtaining opinions of provincial-level People's Committees, shall be final.

**VI. Organization of implementation**

1. Provincial-level People's Committees shall have to direct authorities at all levels and branches in their respective localities to coordinate with finance offices, tax offices, state treasuries in localities in the collection of land rents, water surface rents strictly according to the provisions of Decree No. 142/2005/ND-CP and the guidance in this Circular, inspect and handle cases of violation or complaint, denunciation about untruthful declaration, certification at the time of using land, causing damage to the state budget or land rent payers.

2. The General Department of Taxation shall have the responsibility:

- To direct the organization of land rent, water surface rent collection according to process of reforming the administrative procedures, the receipt of dossiers from natural resources and environment offices for determination of land compensation money, the land use right value to be subtracted from payable land rents, the remaining number of years subject to rent payment; the land rent, water surface rent amounts paid in lump sum, paid annually,... and the notification on payment of land rents, water surface rents, other collections (if any).

- To direct the consideration of and decision on land rent, water surface rent exemption, reduction; the handling of problems related to land rent, water surface rent collection.

- To set forms of declaration, vouchers, books for monitoring land rent, water surface rent collection and payment; set forms of declaration applying for land rent, water surface rent exemption, reduction under the provisions of Decree No. 142/2005/ND-CP and this Circular.

3. The Central State Treasury shall have to direct the organization of land rent, water surface rent collection strictly according to the state budget

collection procedures and reach agreement with tax offices on organization of land rent, water surface rent collection convenient for rent payment into the state budget by payers.

4. Responsibilities of land and water surface lessees shall comply with the provisions of Clause 4, Article 21 of Decree No. 142/2005/ND-CP.

5. This Circular takes effect 15 days after its publication in "CONG BAO."

This Circular shall replace the guidance on land lease and payment of land rents, water surface rents in Circular No. 35/2001/TT-BTC of May 25, 2001, of the Finance Ministry, guiding the land rent payment, contribution of joint-venture capital with the land use right value by domestic organizations, households, individuals; Point 1, Section II, Part B of Circular No. 20/2002/TT-BTC of February 28, 2002, of the Finance Ministry, guiding the implementation of the Government's Decree No. 71/2001/ND-CP of October 5, 2001, on preferences for investment in construction of residential houses for sale and lease; the guidance on land rent, water surface rent collection in Circular No. 98/2002/TT-BTC of October 24, 2002, of the Finance Ministry, guiding tax exemption and reduction for subjects entitled to investment preferences under the Government's Decree No. 51/1999/ND-CP of July 8, 1999, detailing the implementation of (amended) Law No. 03/1998/QH10 on Domestic Investment Promotion.

The previous regulations contrary to this Circular shall all be annulled.

If problems arise in the course of implementing this Circular, provincial/municipal People's Committees are requested to report them in time to the Finance Ministry for study and settlement.

**For the Minister of Finance**  
**Vice Minister**  
**HUYNH THI NHAN**

#### APPENDIX No. 01

*(To the Finance Ministry's Circular No. 120/2005/TT-BTC of December 30, 2005, guiding the implementation of the Government's Decree No. 142/2005/ND-CP of November 14, 2005, on land rent, water surface rent collection):*

Depending on use purposes, land is categorized as follows:

1. Agricultural land group comprising the following land categories:

a/ Land cultivated with annual crops, including rice cultivation land, pasture land for cattle raising, land cultivated with other annual crops;

b/ Land cultivated with perennial trees;

c/ Production forest land;

d/ Protection forest land;

e/ Special-use forest land;

f/ Aquaculture land;

g/ Salt-making land;

h/ Other agricultural land as provided for by the Government.

2. Non-agricultural land group comprising the following land categories:

a/ Residential land, including rural residential land, urban residential land;

b/ Land for construction of working offices, non-business facilities;

c/ Land used for defense, security purposes;

d/ Non-agricultural production, business land, including land for construction of industrial parks; land used as ground for construction of production, business establishments; land used for mineral

activities; land for production of building materials, pottery articles;

e/ Land used for public purposes, including traffic land, irrigation land; land for construction of cultural, health, education and training, physical training and sport establishments for public interests; land of historical or cultural relics, scenic places; land for construction of other public works as provided for by the Government;

f/ Land used by religious institutions;

g/ Land where exist communal houses, temples, shrines, small pagodas, ancestor-worshiping houses;

h/ Land for graveyards, cemeteries;

i/ River, ditch, canal, stream and special-use water surface land;

j/ Other non-agricultural land as provided for by the Government.

3. Unused land group comprising categories of land for which the use purposes have not yet been identified.-