

THE MINISTRY OF FINANCE

CIRCULAR No. 69/2006/TT-BTC OF AUGUST 2, 2006, AMENDING AND SUPPLEMENTING THE FINANCE MINISTRY'S CIRCULAR No. 116/2004/TT-BTC OF DECEMBER 7, 2004, WHICH GUIDES THE IMPLEMENTATION OF THE GOVERNMENT'S DECREE No. 197/2004/ND-CP OF DECEMBER 3, 2004, ON COMPENSATION, SUPPORT AND RESETTLEMENT UPON LAND RECOVERY BY THE STATE

Pursuant to the November 26, 2003 Land Law;

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

Pursuant to the Government's Decree No. 181/2004/ND-CP of October 29, 2004, on the implementation of the Land Law;

Pursuant to the Government's Decree No. 197/2004/ND-CP of December 3, 2004, on compensation, support and resettlement upon land recovery by the State;

Pursuant to the Government's Decree No. 17/2006/ND-CP of January 27, 2006, amending and supplementing a number of articles of the Decrees guiding the implementation of the Land Law and Decree No. 187/2004/ND-CP on transformation of state companies into joint-stock companies,

The Ministry of Finance hereby guides amendments and supplements to the Finance Ministry's Circular No. 116/2004/TT-BTC of December 7, 2004, guiding the implementation of the

Government's Decree No. 197/2004/ND-CP of December 3, 2004, on compensation, support and resettlement upon land recovery by the State (hereinafter collectively referred to as Circular No. 116/2004/TT-BTC) as follows:

1. To amend and supplement Point 3.2, Section 3 of Part I as follows:

"3.2. Organizations or individuals that are allotted or leased land by the State for use for the purposes specified in Clause 1, Article 1 of Decree No. 197/2004/ND-CP shall be obliged to pay expenses for compensation, support and resettlement. Foreign organizations and individuals and overseas Vietnamese that invest in Vietnam and are allotted land with collection of land use levies or leased land by the State shall not have to bear expenses for compensation, support and resettlement.

Organizations or individuals that are allotted land and pay land use levies or are leased land by the State and pay money for compensation, support or resettlement as well as foreign organizations and individuals and overseas Vietnamese that invest in Vietnam and advance money for compensation, support or resettlement according to the provisions of Decree No. 197/2004/ND-CP shall have the paid money amounts for land-related compensation or support subtracted from the land use levies or land rents payable to the State. The to be-subtracted amounts shall not exceed the payable land use levies and land rents according to regulations."

2. To amend and supplement Point 3.1, Section 3 of Part II as follows:

"3.1. Clause 1 provides that the land price for compensation calculation shall be the price of recovered land based on its recognized current use purpose as provided for by law at the time of issuance of land recovery decisions, which is publicized by

provincial/municipal People's Committees (hereinafter collectively referred to as provincial-level People's Committees) on January 1 every year under the Government's regulations. Compensations shall be paid neither according to the price of land to be used for another purpose after being recovered nor according to the price of land which has in fact been used for purposes not provided for by law.

Provincial/municipal Finance Services and local functional agencies shall apply land prices set by provincial-level People's Committees for compensation calculation at the time of issuance of land recovery decisions. Where land prices set by provincial-level People's Committees are not close to the actual market prices of land use right transfer under normal conditions, such shall be reported to provincial-level People's Committees, which shall decide on specific land prices for appropriate compensation calculation. Land prices shall be determined by the methods specified in the Government's Decree No. 188/2004/ND-CP of November 16, 2004, on methods of determining land prices and land price brackets, and the Finance Ministry's Circular No. 114/2004/TT-BTC of November 26, 2004, guiding the implementation of the Government's Decree No. 188/2004/ND-CP."

3. To amend and supplement Section 2 of Part IV as follows:

"2.1. When supports are provided to households for job change or creation in the form of allotment of land at locations which can be used as non-agricultural production or service provision grounds, if the allotted land is originally agricultural land, land prices used for calculation of payable land use levies shall be agricultural land prices corresponding to categories or grades of agricultural land of the allotted land plots (if the allotted land plot is composed of land areas of different agricultural land categories or grades, the weighted average price of such agricultural land

categories or grades shall apply) plus (+) the actual expense for investment in infrastructure per square meter of land on average (if any); where the allotted land is originally non-agricultural land, land prices used for calculation of payable land use levies shall be agricultural land prices corresponding to categories or grades of adjacent agricultural land areas plus (+) the actual expense for investment in infrastructure per square meter of land on average (if any). The maximum land price used for calculation of payable land use levies shall not exceed the non-agricultural production and business land price set and publicized by provincial-level People's Committees under the Government's regulations.

2.2. Where land is unavailable for projects to provide supports in the form of land allotment to households for job change or creation, the job change supports for working-age members of households having agricultural land recovered shall cover expenses for job training at local job-training establishments. The specific levels of job-training supports shall be decided by presidents of provincial-level People's Committees to suit the local practical situation.

Where job training cannot be organized yet in localities and project owners using recovered land cannot organize job training or job-training support beneficiaries wish to learn other jobs by themselves, pecuniary supports shall be provided; specific pecuniary support levels shall be decided by presidents of provincial-level People's Committees to suit the actual levels of local job-training expenses."

4. To amend and supplement Sections 3 and 4 of Part VII as follows:

"3. Based on the compensation, support and resettlement fund, which represents at most 2% of a project's total fund for compensation and support, and on local practical conditions, provincial-level People's

Committees shall decide on specific levels of compensation, support and resettlement fund to suit the scale, nature and characteristics of each kind of project for uniform application in their respective localities. Where councils for evaluation of compensation plans or provincial-level steering committees for ground clearance upon land recovery by the State are set up in localities, based on the tasks of such councils or committees, provincial-level People's Committees shall decide on appropriate specific apportionment of projects' compensation, support and resettlement funds to provincial compensation councils, evaluation councils or steering committees for ground clearance.

District-level land fund development organizations or compensation, support and resettlement councils, when undertaking compensation, support and resettlement for different projects in their respective localities, may regulate the projects' compensation, support and resettlement funds suitable to the actual work volumes to be performed for each project, ensuring that the total compensation, support and resettlement fund of projects assigned to them shall not exceed that which can be subtracted according to regulations.

4. Compensation, support and resettlement funds shall be used for organizing compensation, support and resettlement for projects according to the spending contents and levels guided at Points 1 and 2, Part VII of Circular No. 116/2004/TT-BTC. Undocumented advance payment or payment for same work items is strictly prohibited.

Organizations or councils assigned to undertake compensation, support and resettlement shall report on the finalization of compensation, support and resettlement funds to provincial/municipal Finance Services for approval according to current regulations. When approving the finalization of such funds, provincial/municipal Finance Services may transfer the unused fund amounts to subsequent projects; where

compensation organizations or councils are not assigned to undertake compensation, support and resettlement for subsequent projects, the unused fund amounts shall be remitted into the state budget.”

5. Implementation effect

This Circular shall take effect 15 days after its publication in “CONG BAO.” The provisions of Circular No. 116/2004/TT-BTC which are neither amended nor supplemented in this Circular remain effective.

In the course of implementation of the Circular, provincial/municipal People's Committees should promptly report arising problems to the Ministry of Finance for study and settlement.

For the Minister of Finance
Vice Minister
DO HOANG ANH TUAN