

**THE MINISTRY OF
PLANNING AND INVESTMENT**

No. 05/2014/TT-BKHDT

**THE SOCIALIST REPUBLIC OF VIETNAM
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Hanoi, September 30, 2014

CIRCULAR

Guiding the implementation of the Government's Decree No. 210/2013/ND-CP of December 19, 2013, on incentive policies for enterprises investing in agriculture and rural areas^(*)

Pursuant to the Government's Decree No. 116/2008/ND-CP of November 14, 2008, defining the functions, tasks, powers and organizational structure of the Ministry of Planning and Investment;

Pursuant to the Government's Decree No. 210/2013/ND-CP of December 19, 2013, on incentive policies for enterprises investing in agriculture and rural areas;

At the proposal of the Director of the Agricultural Economics Department,

The Minister of Planning and Investment promulgates the Circular guiding the implementation of the Government's Decree No. 210/2013/ND-CP of December 19, 2013, on incentive policies for enterprises investing in agriculture and rural areas.

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation and subjects of application

1. Scope of regulation: This Circular guides the conditions, order and procedures for implementation of investment incentives and supports under the Government's Decree No. 210/2013/ND-CP of December 19, 2013, on incentive policies for enterprises investing in agriculture and rural areas (below referred to as Decree No. 210/2013/ND-CP).

2. Subjects of application:

a/ Enterprises established and registered for operation under the Enterprise Law, which are entitled to investment incentives and supports under Decree No. 210/2013/ND-CP;

b/ Agencies, organizations and individuals involved in the implementation of incentive policies for enterprises investing in agriculture and rural areas.

Article 2. Interpretation of terms

1. List of geographical areas with difficult or extremely difficult socio-economic conditions is the list provided in Appendix II to Decree No. 108/2006/ND-CP of September 22, 2006, detailing and guiding a number of articles of the Investment Law.

2. Local workers are workers who register permanent residence in provinces or centrally run cities where projects are implemented.

^(*) *Công Báo Nos 941-942 (17/10/2014)*

3. Developed countries prescribed at Point c, Clause 1, Article 11, and Point c, Clause 2, Article 15 of Decree No. 210/2013/ND-CP are countries having an average annual per-capita income of over USD 10,000 according to latest figures released by the General Statistics Office of Vietnam. Other countries are regarded as developing countries.

4. Original dossier means a dossier comprising originals or notarized or certified copies as prescribed by law.

Article 3. General guidelines

1. The order and procedures for exemption from or reduction of land use levy; and exemption from or reduction of land and water surface rental payable to the State must comply with the land law.

2. The date of capital construction completion of a project specified in Clause 1, Article 7 of Decree No. 210/2013/ND-CP is the date of actual completion of this project as certified by a competent agency defined in Clause 13, Article 3 of this Circular.

3. The date of completion and commissioning of a project specified in Clauses 2, 3 and 4, Article 6 of Decree No. 210/2013/ND-CP is as follows:

a/ The date of actual construction completion, regardless of whether this date is before or after the approval date of the project;

b/ In case the project consists of many work items or is divided into independent construction phases, the date of construction completion shall be determined based on each independent work item or construction phase. If it is impossible to determine the date of construction completion of each independent work item or construction phase, the date of construction completion of the project shall be determined based on the work item with the largest capital proportion and products tested for acceptance.

4. Forest plantation and protection projects of agricultural or forestry enterprises formed from state-owned agricultural or forestry farms are entitled to land use levy exemption or reduction under Decree No. 210/2013/ND-CP.

5. The area under macadamia or medicinal plants of a project is the land area allocated or leased by the State to the enterprise, contributed by organizations, households and individuals that affiliate with the enterprise or rented or borrowed by the enterprise from organizations, households and individuals.

Macadamia may be planted scatteredly or concentratedly. If being scatteredly planted, every 500 macadamia trees may be converted into 1 hectare. Establishments producing macadamia seedlings may build seedling and breeding nurseries in different locations.

6. Large-sized and labor-intensive agricultural, forest or aquatic product processing mills, which have great socio-economic impacts on localities specified at Point b, Clause 1, Article 16 of Decree No. 210/2013/ND-CP are those having an annual turnover of over VND 100 billion or employing at least 200 workers under social insurance-covered long-term contracts.

7. Actual capacity of an agricultural, forest or aquatic product processing mill or actual facility capacity of an agricultural, forest or aquatic product processing mill/establishment or a cattle or poultry slaughterhouse is the actual quantity of products turned out by such mill/establishment in a certain period of time (at least 4 working hours) and accepted after being tested, multiplied by the working time of such mill/establishment in the production year. The maximum working time of a mill/establishment used for support calculation is 300 days/year.

In case materials are available on a seasonal basis, the working time of a mill/establishment shall be calculated based on harvest and preservation duration of such materials and specific operation period of the mill/establishment in a year. When issuing an investment support decision, the provincial-level People's Committee shall also decide on the period of operation (days) of the mill/establishment in a year.

In case a project turns out more than one product, each product shall undergo an independent acceptance test.

8. The units of calculation of some products shall be converted for calculation of supports as follows: 1 m³ of medium density fiberboard (MDF), particle board, plywood, woodblock or wood plank is equivalent to 750 kg; 1 m³ of pressed bamboo is equivalent to 1,000 kg.

9. Locally available agricultural, forest and aquatic materials include materials being products of husbandry or farming, natural materials permitted to be exploited and used in accordance with law, and materials obtained from change of use purposes of forests in provincial-level geographical areas.

When issuing investment support decisions under Article 5 of this Circular, provincial-level People's Committees shall, based on the quantity of locally available materials, decide on the capacity of agricultural, forest and aquatic product processing and preservation mills/establishments entitled to supports.

10. The proportion of material rice, maize, potato, cassava, aquatic by-products or coffee prescribed at Point d, Clause 2, Article 14 and the proportion of agricultural, forest and aquatic products of establishments entitled to investment supports prescribed at Point e, Clause 2, Article 16 of Decree No. 210/2013/ND-CP are specified as follows:

a/ The volume of material rice, maize, potato, cassava, aquatic by-products or coffee proposed for support by an establishment must not exceed the annual rice, maize, potato, cassava, aquatic by-product or coffee output of the material zone planned for such establishment;

b/ The volume of agricultural, forest or aquatic materials proposed for support by an establishment must not exceed its planned annual agricultural, forest or aquatic product output;

c/ The rice, maize, potato, cassava, aquatic by-product or coffee output is the average output of the latest 3 years, based on figures released annually by provincial-level Statistics Offices or calculations publicized by agriculture and rural development agencies.

11. The list of original high-yield livestock breeds prescribed at Point c, Clause 1, Article 11 of Decree No. 210/2013/ND-CP, list of agricultural, forest and aquatic products, list of auxiliary products and list of mechanical products entitled to supports prescribed in Article 16 of Decree No. 210/2013/ND-CP must comply with the Ministry of Agriculture and Rural Development's regulations.

12. Agricultural projects eligible for special investment incentives for which support funds will be allocated from the central budget as prescribed at Point dd, Clause 1, Article 17 of Decree No. 210/2013/ND-CP are specified as follows:

a/ Projects implemented in border areas are those implemented in district-level geographical areas with administrative boundaries partially overlapping national land borders;

b/ Projects implemented on islands are those implemented on islands or archipelagoes of Vietnam;

c/ Hi-tech projects are those on application of high technologies in agriculture, forestry or aquaculture which have been verified and certified by the Ministry of Agriculture and Rural Development in association with other related agencies.

d/ The levels of central budget supports for hi-tech projects are specified in Appendix I to this Circular.

13. Agencies in charge of acceptance testing: Provincial-level Agriculture and Rural Development Departments shall certify completed volumes of work items and bidding packages and carry out acceptance testing upon completion of projects entitled to supports under Decree No. 210/2013/ND-CP, except scientific and technological schemes, items and projects prescribed at Point c, Clause 1, Article 9 of Decree No. 210/2013/ND-CP for which provincial-level Science and Technology Departments shall take charge of certification and acceptance testing upon completion.

14. Enterprises' research schemes to create new technologies or new products: Enterprises shall cooperate with scientists from public universities or research institutes in conducting researches.

15. The supports for product transportation specified at Point b, Clause 1, Article 15 and Point c, Clause 1, Article 16 of Decree No. 210/2013/ND-CP shall be included in, and paid to enterprises together with, the items prescribed in Appendix I to this Circular.

16. Selection of forms of support

Enterprises may select either of the following forms of support:

a/ Compliance with the current capital construction investment process: To be applied on the condition that provincial-level People's Committees (or agencies authorized by provincial-level People's Committees) approve designs and cost estimates of items or works under projects entitled to support or approve designs and total cost estimates of the whole projects before such items, works or projects are implemented.

b/ Self-implementation: Enterprises shall approve designs and cost estimates under general regulations, divide their projects into different investment items or bidding packages at their own will; and organize the implementation of items or works entitled to supports (they may decide to hire or not to hire contractors). In this case, enterprises shall receive supports at the levels prescribed in Appendix I to this Circular.

17. The support levels calculated in a percentage specified in Articles 11, 12 and 16 of Decree No. 210/2013/ND-CP may be converted into specific amounts as prescribed in Appendix I to this Circular.

18. The local budget proportion specified in Clause 1, Article 17 of Decree No. 210/2013/ND-CP is the proportion to the total annual expenditures of provincial-level budgets, exclusive of central budget supports.

19. Procedures for enjoying investment incentives: Enterprises may base themselves on the investment incentives and conditions for enjoying incentives prescribed in Decree No. 210/2013/ND-CP to determine the incentives they are entitled to and carry out procedures for enjoying these incentives at competent state agencies defined in Article 38 of the Investment Law.

Chapter II

DOSSIERS, ORDER AND PROCEDURES FOR IMPLEMENTATION OF INVESTMENT SUPPORTS

Article 4. Dossiers of request for investment supports

1. To receive investment supports, an enterprise shall submit a dossier comprising:

a/ The enterprise registration certificate;

b/ The investment certificate, if any, enclosed with a summary report on progress and implementation results of its project from the time of operation commencement to the time of request for investment supports (in case the enterprise has started implementing its investment project);

In case the project has not yet obtained an investment certificate, the enterprise shall submit a techno-economic report clearly stating the project's investment objectives, size and location and explaining about items proposed for investment supports.

c/ A written request for supports for investment in agriculture and rural areas under Decree No. 210/2013/ND-CP, clearly explaining reasons and method of calculating items proposed for supports. Such request shall be made according to the form provided in Appendix II to this Circular;

2. An enterprise having an investment project eligible for investment supports under Decree No. 210/2013/ND-CP shall send by post or submit directly to the provincial-level Investment and Planning Department of the locality where its project is implemented 8 dossier sets (of which one is the original while the remaining sets shall be affixed with the enterprise's seal for certification).

3. Enterprises shall take responsibility before law for the accuracy of information stated in dossiers of request for investment supports (for enterprises investing in agriculture and rural areas under Decree No. 210/2013/ND-CP).

Article 5. Order and procedures for issuance of investment support decisions

1. Within 3 working day after an enterprise submits a complete dossier as prescribed in Clause 1, Article 4 of this Circular, the provincial-level Planning and Investment Department shall send the dossier, enclosed with a consultation document, to the provincial-level Finance Department and Agriculture and Rural Development Department, the district-level People's Committee of the locality where the project is implemented and related professional agencies or the industrial park, export-processing zone, hi-tech park or economic zone management board (if the project is located in an industrial park, export-processing zone, hi-tech park or economic zone).

2. Within 5 working days after receiving the consultation document, the agencies stated in Clause 1 of this Article shall, within the ambit of their functions and tasks, send their written appraisal opinions to the provincial-level Planning and Investment Department and take responsibility for issues falling under their management.

3. To-be-verified contents of an investment support request:

a/ Whether the investment project is eligible for investment supports under Decree No. 210/2013/ND-CP;

b/ Whether the investment project meets the conditions for investment supports prescribed in Decree No. 210/2013/ND-CP;

c/ Whether the investment supports requested by the enterprise are specified in Decree No. 210/2013/ND-CP.

4. Within 5 working days after the deadline for receiving opinions of consulted agencies, the provincial-level Planning and Investment Department shall summarize such opinions and, based on the budget balancing capacity, make and submit a verification report to the provincial-level People's Committee for issuance of an investment support decision for the project.

a/ In case opinions remain divergent on some issues, the provincial-level Planning and Investment Department shall hold a meeting to verify such issues before submission to the provincial-level People's Committee;

b/ In case the project has been implemented since before the effective date of Decree No. 210/2013/ND-CP, the provincial-level Planning and Investment Department shall carry out physical inspection of items proposed for investment supports by the enterprise and make and submit an inspection minutes to the provincial-level People's Committee as prescribed in Article 14 of this Circular;

c/ In case the project is entitled to central budget supports under Article 17 of Decree No. 210/2013/ND-CP, the provincial-level People's Committee shall send the provincial-level Planning and Investment Department's verification report to the Ministry of Planning and Investment and request in writing the latter to verify funding sources.

5. Within 5 working days after receiving the dossier of request for verification of investment supports from the locality, the Ministry of Planning and Investment shall consult the Ministry of Finance and related agencies (when necessary). Within 7 working days after receiving the consultation document, the Ministry of Finance and related agencies shall send their written opinions to the Ministry of Planning and Investment for the latter to inform the locality of the funding sources and capacity of allocating central budget supports for the project.

6. Within 5 working days after receiving the provincial-level Planning and Investment Department's verification report, for projects entitled to local budget supports, or the Ministry of Planning and Investment's funding source verification document, for projects entitled to central budget supports, the provincial-level People's Committee shall issue an investment support decision for the project. In case of rejecting part or whole of the enterprise's investment support request, the provincial-level Planning and Investment Department shall issue a written reply clearly stating the reason.

Investment support decisions shall be made according to the form provided in Appendix III to this Circular.

Article 6. Acceptance testing upon completion of investment items or bidding packages of projects

1. Enterprises and contractors (if any) shall themselves conduct acceptance testing and take responsibility for the accuracy of testing contents.

2. After the acceptance testing is completed, if enterprises need to disburse the support funds prescribed at Point b, Clause 2, Article 17 of Decree No. 210/2013/ND-CP, they shall request in writing the agencies in charge of acceptance testing specified in Clause 13, Article 3 of this Circular to certify completed work volumes or bidding packages.

Within 5 days after receiving a written request from an enterprise, an agency in charge of acceptance testing shall inspect, and make a minutes certifying, the project's completed work volume or bidding package. Each person participating in the certification shall keep 1 copy of the minutes, while the enterprise shall keep 2 copies for use as a legal ground for carrying out procedures for disbursement of the support funds with the State Treasury.

For technically complicated work items or bidding packages, agencies in charge of acceptance testing shall invite specialized agencies to participate in the certification of completed volume.

Article 7. Acceptance testing of projects upon completion

1. An acceptance testing dossier comprises:

- a/ A written request of the enterprise (the original);
- b/ The investment support decision of the provincial-level People's Committee;
- c/ The decision approving designs or cost estimates of a competent authority as prescribed in Clause 15, Article 3 of this Circular;
- d/ The sale and purchase contract (in case of goods sale and purchase);
- dd/ The certificate of goods origin and certificate of goods quality (for imported goods);
- e/ The report on research results of the scheme/trial production project (for scientific and technological products).

2. The enterprise shall send by post or submit directly to the agency in charge of acceptance testing 3 sets of the dossier prescribed in Clause 2 of this Article (including 1 original).

3. Within 5 working days, the agency in charge of acceptance testing shall invite representatives of the provincial-level Planning and Investment Department, Finance Department, related specialized agencies, the district-level People's Committee of the locality where the project is implemented and the enterprise to conduct acceptance testing of the project.

4. Contents of acceptance testing: Examination of the acceptance testing dossier; certification of completed volume; and inspection of project implementation according to Decree No. 210/2013/ND-CP and this Circular.

5. The agency in charge of acceptance testing shall make a minutes of acceptance testing of the project upon completion, which must be signed by persons participating in the acceptance testing. Each person participating in the acceptance testing shall keep 1 copy of the minutes, while the enterprise shall keep 2 copies for use as a legal ground for carrying out procedures for disbursement of the support funds with the State Treasury.

Article 8. Payment, settlement and management of investment support funds

The payment, settlement and management of support funds for enterprises comply with the guidance of the Ministry of Finance.

Chapter III

FORMULATION OF PLANS ON PROVISION OF INVESTMENT SUPPORTS, INVESTMENT SUPERVISION AND REPORTING REGIME

Article 9. Formulation of programs on promotion of investment by enterprises in agriculture and rural areas

1. Based on investment demands, provincial-level Planning and Investment Departments shall make lists of local agricultural and rural projects calling for investment and submit such lists to provincial-level People's Committees for approval, and organize conferences on promotion of investment in agriculture and rural areas or include such contents in local investment promotion conferences (such conferences shall be organized at least once every 3 years).

2. Provincial-level People's Committees shall approve lists of projects to be entitled to annual and medium-term investment supports from the State on the basis of summarizing investment demands proposed by enterprises. Before approving such lists, provincial-level People's Committees shall report them to the Ministry of Planning and Investment for comment.

Lists of agricultural and rural investment projects entitled to annual and medium-term supports shall be made according to the form provided in Appendix IV to this Circular.

3. Order of priority in making lists of agricultural and rural investment projects entitled to annual and medium-term supports:

a/ Projects in association with agricultural restructuring under the Prime Minister's Decision No. 899/QD-TTg of June 10, 2013, approving the Scheme on agricultural restructuring toward higher added value and sustainable development;

b/ Projects involving the development of material zones and affiliation with farmers in material production under the Prime Minister's Decision No. 62/2013/QD-TTg of October 25, 2013, on policies to encourage cooperation and affiliation in farm produce production and sale and development of large fields;

c/ Labor-intensive projects having great socio-economic impacts on localities.

Article 10. Formulation of plans on investment supports for enterprises

1. Grounds for formulation of plans:

a/ Guidance of superior agencies on formulation of annual and medium-term socio-economic development plans;

b/ Projects which have obtained investment support decisions;

c/ Possibility of project completion under approved schedules.

2. Order of plan assignment:

a/ Based on regulations on use of local budgets prescribed in Clause 1, Article 17 of Decree No. 210/2013/ND-CP, a provincial-level Planning and Investment Department shall work with related agencies in estimating the levels of local budget funds used every year and in a medium term and report such to the provincial-level People's Committee for submission to the provincial-level People's Council for decision on the locality's total funding levels for implementation of Decree No. 210/2013/ND-CP every year and in a medium term;

b/ After the total funding levels are decided, the provincial-level Planning and Investment Department shall, based on the project implementation possibility, make a list of projects and estimate support funds to be allocated to each project for reporting to the provincial-level People's Committee for submission to competent authorities for decision;

c/ For projects for which support funds are allocated from the central budget as approved, the provincial-level Planning and Investment Department shall make a list of these projects for reporting to the provincial-level People's Committee for submission to the Ministry of Planning and Investment and the Ministry of Finance for summarization;

d/ The Ministry of Planning and Investment shall work with related agencies in balancing funding sources from the central budget so as to allocate support funds for localities to implement Decree No. 210/2013/ND-CP and report such to competent authorities for consideration and decision;

dd/ After the Prime Minister issues a decision on the total support level for ministries, sectors and localities, the Ministry of Planning and Investment shall assign detailed plan on each project and its specific funding level calculated based on annual and medium-term plans to ministries, sectors and localities;

e/ Provincial-level People's Committees shall notify enterprises of lists of projects and their support levels. Enterprises shall themselves decide on the funding level for each work item or bidding package of their projects and notify such to related competent agencies for use as a basis for certification and acceptance testing in the course of project implementation;

g/ Time for making and assignment of plans: Funding plans of projects shall be made and assigned together with budget plans in accordance with the Law on Public Investment. Projects may be implemented after they obtain support decisions issued by competent agencies and before being assigned funding plans.

Article 11. Integration of funding sources for implementation of Decree No. 210/2013/ND-CP

1. Projects implemented under Decree No. 210/2013/ND-CP may use different funding sources, including funds from national target programs and programs on provision of targeted central budget supports, local budgets and other lawful sources.

2. Annually, when provincial-level People's Committees are informed of the levels of central budget supports for national target programs and targeted support programs, provincial-level Planning and Investment Departments shall work with related departments and sectors in integrating above-said funding sources and estimating funds to be allocated to projects implemented under Decree No. 210/2013/ND-CP, and reporting such to provincial-level People's Committees for submission to the Ministry of Planning and Investment for consideration and summarization.

Priority shall be given to the integration of funds of programs and projects having the same objectives such as human resource training and science and technology.

3. Integration of central budget support funds for projects on the list of projects for which plans have been assigned by the Ministry of Planning and Investment: At least 6 months after projects' funding plans are assigned by the State, provincial-level People's Committees may transfer funds of projects which cannot be implemented or are ineffectively implemented to projects eligible for supports under Decree No. 210/2013/ND-CP after reaching agreement with the Ministry of Planning and Investment.

4. Integration of local budget funds: Provincial-level People's Committees shall decide to integrate local budget funds when formulating annual and medium-term plans for implementation of Decree No. 210/2013/ND-CP.

5. In case their projects are allocated with integrated funds, enterprises may apply provisions on project implementation organization and disbursement prescribed in Decree No. 210/2013/ND-CP and guiding documents.

Article 12. Investment supervision and reporting regime

1. Provincial-level People's Committees shall direct provincial-level Planning and Investment Departments and professional agencies in supervising the implementation of Decree No. 210/2013/ND-CP and this Circular, and inspect the management and use of support funds in accordance with law.

2. In case enterprises fail to properly implement investment support decisions, provincial-level Planning and Investment Departments shall report such to provincial-level People's Committees for the latter to consider and decide to stop provision of incentives and supports for improperly implemented items and refund such amounts to the state budget or, after consulting

the Ministry of Planning and Investment, transfer them to other projects which have obtained incentive and support provision decisions, for central budget supports.

3. When their projects are completed, enterprises shall make reports on supervision and evaluation of project implementation under the Government's Decree No. 113/2009/ND-CP of December 15, 2009, on investment supervision and evaluation, and send these reports to provincial-level Planning and Investment Departments for summarization.

4. Provincial-level People's Committees shall evaluate the implementation of Decree No. 210/2013/ND-CP in their localities and report it to the Ministry of Planning and Investment, the Ministry of Finance and the Ministry of Agriculture and Rural Development in September every year.

A report must state support amounts already disbursed, operation of supported enterprises, problems and difficulties arising in the course of implementation of Decree No. 210/2013/ND-CP, and make recommendations to central agencies.

Chapter IV

IMPLEMENTATION PROVISIONS

Article 13. Implementation responsibility

Ministers, heads of ministerial-level agencies, heads of government-attached agencies, chairpersons of provincial-level People's Committees, and heads of related units shall implement this Circular.

Article 14. Transitional provisions

Projects implemented before February 10, 2014, the effective date of Decree No. 210/2013/ND-CP, and meeting the conditions for incentives and supports may receive incentives and supports as follows:

1. To enjoy incentives and supports for their remaining duration, counted from February 10, 2014.
2. Supports will be provided only to investment items and bidding packages implemented after February 10, 2014.
3. Investment items and bidding packages implemented before February 10, 2014, will not be retroactively provided with supports.

Article 15. Effect

1. This Circular takes effect 45 days from the date of its signing and replaces Circular No. 06/2011/TT-BKHDT of April 6, 2011, guiding dossiers, order and procedures for grant of certificates of supplementary investment supports for enterprises investing in agriculture and rural areas under the Government's Decree No. 61/2010/ND-CP of April 6, 2010.

2. Any difficulties and problems in the course of implementation of this Circular should be promptly reported to the Ministry of Planning and Investment and related ministries and sectors for study, modification and supplementation as appropriate.-

Minister of Planning and Investment
BUI QUANG VINH

** All appendices to this Circular are not translated.*