

THE GOVERNMENT

No. 45/2014/ND-CP

THE SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

Hanoi, May 15, 2014

DECREE

PROVIDING THE COLLECTION OF LAND USE LEVY (*)

Pursuant to the December 25, 2001 Law on Organization of the Government;

Pursuant to the November 29, 2013 Land Law;

Pursuant to the December 16, 2002 Law on the State Budget;

Pursuant to the November 29, 2005 Investment Law;

Pursuant to the November 29, 2006 Law on Tax Administration and the November 20, 2012 Law Amending and Supplementing a Number of Articles of the Law on Tax Administration;

Pursuant to the June 20, 2012 Law on Price;

Pursuant to the June 3, 2008 Law on Promulgation of Legal Documents;

At the proposal of the Minister of Finance,

The Government promulgates the Decree providing the collection of land use levy.

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Decree provides the collection of land use levy in the following cases:

1. The State allocates land with land use levy.
2. The State permits the change from agricultural land or non-residential non-agricultural land to residential land or commercial land for cemeteries or graveyards which is subject to land use levy.
3. The State recognizes land use rights for current land users that are obliged to pay land use levy.

Article 2. Land use levy payers

1. Entities allocated land by the State for use in the following cases:

a/ Households and individuals that are allocated residential land;

b/ Economic organizations that are allocated land for implementing investment projects on construction of houses for sale or for combined sale and lease;

c/ Overseas Vietnamese and foreign-invested enterprises that are allocated land for implementing investment projects on construction of houses for sale or for combined sale and lease;

d/ Economic organizations that are allocated land for implementing investment projects on infrastructure of cemeteries or graveyards for transfer of the rights to use land with infrastructure (below referred to as land for cemeteries or graveyards);

dd/ Economic organizations that are allocated land for construction of multi-story buildings for multiple purposes, including the area of houses for sale or for combined sale and lease.

2. Current users of land permitted by the State for change of use purpose to residential land or land for cemeteries or graveyards in the following cases:

a/ Agricultural land or non-agricultural land is allocated without land use levy and now permitted by a competent state agency for change to residential land or land for cemeteries or graveyards;

b/ Agricultural land is allocated by the State with land use levy and changed to residential land or land for cemeteries or graveyards with land use levy;

c/ Non-agricultural land (that is not residential land) is allocated by the State with land use levy and changed to residential land with land use levy;

d/ Agricultural land or (non-residential) non-agricultural land is leased by the State and now changed to residential land or land for cemeteries or graveyards concurrently with the shift from land lease to land allocation with land use levy.

3. Households and individuals that are currently using residential land or non-agricultural land and have such land recognized by the State as land used for a long term before July 1, 2014, shall, upon grant of certificates of land use rights and ownership of houses and other land-attached assets (below referred to as certificates), fulfill financial obligations under Articles 6, 7, 8 and 9 of this Decree.

Article 3. Bases for land use levy calculation

Land users that are allocated land, have land use purpose changed or have land use rights recognized by the State shall pay land use levy in accordance with the Land Law based on the following grounds:

1. Area of land which is allocated or of which the use purpose is changed or use rights are recognized.

2. Land use purpose.

3. Land price used for land use levy calculation:

a/ The land price on the Land Price Table prescribed by the People's Committee of the province or centrally run city (below referred to as the provincial-level People's Committee) is applicable in case households or individuals have land use rights recognized or have land use purpose changed for within-quota areas of residential land.

The determination of within-quota areas of land under this Point must adhere to the principle that for every household (even households separated under law) or individual, the area of land within the allocation quota or recognition quota for residential land shall be determined only once and within the same province or centrally run city.

For a household or an individual that has more than one land parcel within the same province or centrally run city, the areas of its/his/her land parcels shall be aggregated for determining the area of land within the allocation quota or recognition quota for residential land, provided that the total of the selected land areas must not exceed the allocation quota or recognition quota of residential land in the locality where the land areas are selected.

Households and individuals shall take responsibility before law for the truthfulness and accuracy of the declaration of the area of land parcels within the allocation quota or recognition quota for residential land subject to land use levy; if they are detected to make, untruthful declaration, households and individuals shall have land use levy retrospectively collected in accordance with the land law and shall be sanctioned in accordance with the tax law.

b/ The specific land price determined by the method of direct comparison, deduction, income or surplus prescribed in the Government's Decree on land prices shall be applied in the following cases:

- Determining land use levy in case the land use levy-liable area of the land parcel or land lot is valued (calculated at the land price in the Land Price Table) at VND 30 billion or more, for centrally run cities; VND 10 billion or more, for mountainous and highland provinces; or VND 20 billion or more, for other provinces, in the following cases: Organizations are allocated land not through auction of land use rights or have land use purpose changed or land use rights recognized; households and individuals are allocated land not through auction of land use rights, have land use rights recognized or have land use purpose changed for the over-quota area of residential land.

- Determining the reserve price for auction of land use rights when the State allocates land with land use levy through auction of land use rights.

c/ The specific land price determined by the method of land price adjustment coefficient shall be applied in case the land use levy-liable area of the land parcel or land lot is valued (calculated at the land price in the Land Price Table) at under VND 30 billion, for centrally run cities; under VND 10 billion, for mountainous and highland provinces; or under VND 20 billion, for other provinces, for determining land use levy in the following cases:

- Organizations are allocated land by the State with land use levy not through auction of land use rights or have land use rights recognized or land use purpose changed;
- Households and individuals are allocated land by the State not through auction of land use rights;
- Households and individuals have land use rights recognized or land use purpose changed by the State for the over-quota area of residential land.

Annually, provincial-level People’s Committees shall provide the land price adjustment coefficient for application in the cases specified at this Point.

Chapter II

SPECIFIC PROVISIONS

Section 1. COLLECTION OF LAND USE LEVY IN SPECIFIC CASES

Article 4. Collection of land use levy upon land allocation by the State

1. For economic organizations, households or individuals that are allocated land by the State with land use levy through auction of land use rights, land use levy shall be calculated by multiplying the land use levy-liable land area by (x) the auction-winning price applicable to the use purpose of the auctioned land.

$$\text{Payable land use levy} = \text{Land price used for land use levy calculation based on land use purpose} \times \text{Land use levy-liable land area} - \text{Land use levy amount reduced under Article 12 of this Decree (if any)} - \text{Compensation and ground clearance money deducted from land use levy (if any)}$$

2. For economic organizations, households or individuals that are allocated land by the State with land use levy not through auction of land use rights, payable land use levy shall be determined according to the following formula:

Of which:

a/ The land use levy-liable land area is the land area for which land use levy is collected as indicated in the land allocation decision of a competent state agency;

b/ The land price used for land use levy calculation shall be determined under Points b and c, Clause 3, Article 3 of this Decree;

c/ The compensation and ground clearance money to be deducted from land use levy includes the compensation, support and resettlement money and the fund for organizing compensation and ground clearance under a plan approved by a competent state agency, which has been voluntarily advanced by the investor for the State.

3. For residential buildings or multi-story buildings for multiple purposes associated with land which has been allocated by the State to different users, land use levy shall be distributed by stories and among users.

4. The Ministry of Finance shall detail this Article.

Article 5. Collection of land use levy upon change of land use purpose

1. For economic organizations:

a /In case of change from agricultural land or non-agricultural land allocated without land use levy to residential land; or change from agricultural land or non-agricultural land allocated without land use levy to land for cemeteries or graveyards, 100% of land use levy shall be collected at the price of the land of the type after the change of use purpose;

b/ In case of change from agricultural land or non-residential non-agricultural land allocated with land use levy or leased by the State to residential land, land use levy shall be collected as follows:

- Economic organizations that are allocated agricultural land or non-residential non- agricultural land with land use levy by the State before July 1, 2014, shall, upon change from such land to residential land, pay land use levy being the difference between land use levy calculated based on the residential land price and land use levy calculated based on the price of the land of the type before change for the remaining land use term at the time such change is permitted by a competent state agency.

- Economic organizations that are leased agricultural land or non-residential non- agricultural land with annual rental payment by the State shall, upon change from such land to residential land concurrently with the shift from land lease to land allocation, pay 100% of land use levy calculated based on the residential land price at the time such change is permitted by a competent state agency.

- Economic organizations that are leased agricultural land or non-residential non- agricultural land with full one-off rental payment shall, upon change from such land to residential land concurrently with the shift from land lease to land allocation, pay land use levy being the difference between land use levy calculated based on the residential land price minus (-) land rental subject to full one-off payment of the land of the type before such change for the remaining land use term at the time such change is permitted by a competent state agency.

For land of self-financed public non-business units or centrally managed enterprises with state capital, provincial-level People's Committees shall decide on the change of land use purpose concurrently with the shift of the utilities of public assets under regulations after obtaining written agreement from the Ministry of Finance.

c/ In case of change from agricultural land allocated with land use levy or leased by the State to land for cemeteries or graveyards, land use levy shall be collected on the principles specified at Point b of this Clause;

d/ In case of change of land use purpose as a result of economic organizations' lawful acquisition of land use rights under the land law for implementation of investment projects, land use levy shall be collected as follows:

- Economic organizations that lawfully acquire land use rights for implementing investment projects, resulting in the change from such land to residential land or land for cemeteries or graveyards, shall pay land use levy calculated based on the land price specified at Point b or c, Clause 3, Article 3 of this Decree, of the land of the type after change of land use purpose.

- The amount already paid by economic organizations for acquisition of land use rights shall be included in the payable land use levy upon change of land use purpose. This amount shall be determined based on the price of land for the use purpose of acquired land at the time such change is permitted by a competent state agency but must not exceed the compensation and support amount in case of land recovery by the State in accordance with law.

- The above amount already paid by economic organizations for acquisition of land use rights shall be determined as follows:

+ In case the land price used for calculation of use levy of land of the type after change of use purpose is determined by the method of land use adjustment coefficient, the price of acquired land shall also be determined by this method.

+ In case the land price used for calculation of use levy of land of the type after change of use purpose is determined by the method of direct comparison, deduction, income or surplus, the price of acquired land shall also be re-determined by this method.

2. For households and individuals:

a/ In case of change from garden or pond land within the same land parcels with houses in residential areas, which is not recognized as residential land under Clause 6, Article 103 of the Land Law, to residential land; or change from land originating from garden or pond land associated with houses which had been separated by land users for ownership transfer or separated into different parcels by survey units upon survey and drawing of cadastral maps, to residential land since before July 1, 2004, land use levy shall be collected at a level equal to 50% of the difference between land use levy calculated based on the residential land price and land use levy calculated based on the agricultural land price at the time of issuance of decision on change of land use purpose by a competent state agency;

b/ In case of change from agricultural land allocated by the State without land use levy to residential land, land use levy shall be collected at a level equal to the difference between land use levy calculated based on the residential land price and land use levy calculated based on the agricultural land price at the time of issuance of a decision on change of land use purpose by a competent state agency;

c/ In case of change from non-residential non-agricultural land to residential land, land use levy shall be collected as follows:

- Current users of non-agricultural land recognized as land used for a long and stable term by the State before July 1, 2004, but not allocated or leased by the State, need not pay land use levy upon change from such land to residential land.

- Current users of non-agricultural land allocated with land use levy before July 1, 2014, shall, upon change from such land to residential land, shall pay land use levy at a level equal to the difference between land use levy calculated based on the residential land price and land use levy calculated based on the non-agricultural land price for the remaining land use term at the time of issuance of a decision on change of land use purpose by a competent state agency;

- Upon change from non-residential non-agricultural land leased by the State with full one-off rental payment for the entire lease period to residential land concurrently with the shift from land lease to land allocation, land users shall pay land use levy at a level equal the difference between land use levy calculated based on the residential land price and land rental subject to full one-off payment calculated based on the non-agricultural land price for the remaining land use term at the time of issuance of a decision on change of land use purpose by a competent state agency.

- Current users of non-residential non-agricultural land leased by the State with annual rental payment shall pay 100% of land use levy calculated based on the land price at the time of issuance of a decision on change of land use purpose by a competent state agency.

d/ In case of change from land originating from land users' lawful acquisition of land use rights under the land law to residential land, land use levy shall be collected at the level specified at Point a, b or c of this Clause, based on the origin of acquired land.

3. The Ministry of Finance shall detail this Article.

Article 6. Collection of land use levy upon recognition of land use rights (grant of certificates) for households and individuals for land used in a stable manner since before October 15, 1993, without any of the documents specified in Clause 1, Article 100 of the Land Law

1. Households and individuals that have used land with houses and other construction facilities since before October 15, 1993, and, at the time of starting the use of land, did not commit any of the violations specified in Article 22 of the Government's Decree detailing a number of articles of the Land Law, shall, upon grant of certificates, pay land use levy as follows:

a/ For land with houses, land users need not pay land use levy for the currently used residential land area within the recognition quota for residential land for each household or individual; for the residential land area exceeding the recognition quota for residential land (if any), land users shall pay 50% of land use levy calculated based on the land price specified at Point b or c, Clause 3, Article 3 of this Decree at the time of issuance of a decision on recognition of land use rights by a competent state agency;

b/ For land with non-residential construction facilities, land users need not pay land use levy upon grant of certificates of the rights to use non-agricultural production and business land as land allocated by the State with land use levy for a long term.

2. Residential land-using households and individuals that, at the time of starting the use of land, committed one of the violations specified in Article 22 of the Government's Decree detailing a number of articles of the Land Law, shall, upon grant of certificates of residential land use rights, pay 50% of land use levy for the land area within the recognition quota for residential land calculated based on the land price specified in the Land Price Table; or pay 100% of land use levy calculated based on the land price specified at Point b or c, Clause 3, Article 3 of this Decree for the land area exceeding the recognition quota for residential land at the time of issuance of a decision on recognition of land use rights by a competent state agency.

Users of land with non-residential construction facilities shall, upon grant of certificates of the rights to use non-agricultural production and business land as land allocated by the State with land use levy for a long term, pay 50% of land use levy calculated based on the land price specified at Point b or c, Clause 3, Article 3 of this Decree, for the non-agricultural production and business land with the longest use term as prescribed in Clause 3, Article 126 of the Land Law at the time of issuance of a decision on recognition of land use rights by a competent state agency.

Article 7. Collection of land use levy upon recognition of land use rights (grant of certificates) for households and individuals for land used between October 15, 1993, and before July 1, 2004, without the documents specified in Clause 1, Article 100 of the Land Law

1. Households and individuals that are currently using land and, at the time of starting the use of land, did not commit any of the violations specified in Article 22 of the Government's Decree detailing a number of articles of the Land Law, shall, upon grant of certificates, shall pay land use levy as follows:

a/ Households and individuals that are currently using land with houses shall pay 50% of land use levy for the land area within the allocation quota for residential land calculated based on the land price specified in the Land Price Table; or 100% of land use levy calculated based on the land price specified at Point b or c, Clause 3, Article 3 of this Decree for the over-quota land area (if any) at the time of issuance of a decision on recognition of land use rights by a competent state agency.

b/ Households and individuals that are using land with non-residential construction facilities shall, upon grant of certificates of the rights to use non-agricultural production and business land

as land allocated by the State with land use levy for a long term, pay 50% of land use levy calculated based on the land price specified at Point b or c, Clause 3, Article 3 of this Decree, for the non-agricultural production and business land with the longest use term as prescribed in Clause 3, Article 126 of the Land Law at the time of issuance of a decision on recognition of land use rights by a competent state agency.

2. Residential land-using households and individuals that, at the time of starting the use of land, committed one of the violations specified in Article 22 of the Government's Decree detailing a number of articles of the Land Law, shall, upon grant of certificates of residential land use rights, pay 100% of land use levy calculated based on the land price specified in the Land Price Table, for the land area within the allocation quota for residential land; or pay 100% of land use levy calculated based on the land price specified at Point b or c, Clause 3, Article 3 of this Decree, for the land area exceeding the allocation quota for residential land (if any), at the time of issuance of a decision on recognition of land use rights by a competent state agency.

Users of land with non-residential construction facilities shall, upon grant of certificates of the rights to use non-agricultural production and business land as land allocated with land use levy for a long term, pay 100% of land use levy calculated based on the land price specified at Point b or c, Clause 3, Article 3 of this Decree, for the non-agricultural production and business land with the longest use term as prescribed in Clause 3, Article 126 of the Land Law, at the time of issuance of a decision on recognition of land use rights by a competent state agency.

Article 8. Collection of land use levy upon recognition of land use rights (grant of certificates) for households and individuals for land allocated *ultra vires* before July 1, 2004

1. Persons stably using land with houses shall, upon grant of certificates by a competent state agency, pay land use levy as follows:

a/ Users of land with houses since before October 15, 1993, that have documents proving their payment of money to related agencies or organizations for the use of land, need not pay land use levy upon grant of certificates;

b/ For persons stably using land with houses between October 15, 1993, and before July 1, 2004, that have documents proving their payment of money for the use of land, land use levy shall be collected as follows:

- If these documents prove land users' payment of money exactly at the rate prescribed in the 1993 Land Law, land use levy shall not be collected;

- If these documents show that the paid amount is lower than the rate prescribed in the 1993 Land Law, such amount shall be converted by using the percentage of the land area for which land use levy has been paid under the land policy and the land price at the time of payment; land use levy shall be collected for the remaining land area under the land policy and at the land price at the time of issuance of a decision on recognition of land use rights by a competent state agency.

c/ Persons stably using land with houses before July 1, 2004, that have no documents proving their payment of money for use of land, shall, upon grant of certificates, pay land use levy as follows:

- For land used in a stable manner since before October 15, 1993, 40% of land use levy calculated based on the residential land price for the land area within the allocation quota for residential land in the locality specified in the Land Price Table at the time of issuance of a decision on recognition of land use rights by a competent state agency, shall be collected; or 100% of land use levy calculated based on the residential land price, for the land area exceeding the allocation quota for residential land (if any) specified at Point b or c, Clause 3, Article 3 of this Decree, at the time of issuance of a decision on recognition of land use rights by a competent state agency, shall be collected.

- For land used in a stable manner between October 15, 1993, and before July 1, 2004, 50% of land use levy shall be collected for the land area within the allocation quota for residential land calculated based on the land price specified in the Land Price Table; or 100% of land use levy calculated based on the land price specified at Point b or c, Clause 3, Article 3 of this Decree, for the land area exceeding the allocation quota for residential land (if any), at the time of issuance of a decision on recognition of land use rights by a competent state agency, shall be collected.

2. The remaining non-residential land area (if any) shall be determined as agricultural land based on its use status upon grant of certificates. Land users that request change to residential land and are granted by a competent state agency certificates of residential land use rights shall pay land use levy equal to the difference between land use levy calculated based on the residential land price and land use levy calculated based on the agricultural land price at the time of issuance of a decision on change of land use purpose by a competent state agency.

3. The Ministry of Finance shall detail this Article.

Article 9. Collection of land use levy upon recognition of land use rights (grant of certificates) for households and individuals for land allocated *ultra vires* or encroached or occupied between July 1, 2004, and before July 1, 2014, that are now considered by the State for grant of certificates

1. Households and individuals using land encroached or occupied or allocated or leased *ultra vires* between July 1, 2004, and before July 1, 2014, which now complies with the land use master plan, shall, upon grant of certificates by a competent state agency under Clause 9, Article 210 of the Land Law, pay 100% of land use levy calculated based on the land price specified at Point b or c, Clause 3, Article 3 of this Decree at the time of issuance of a decision on recognition of land use rights by a competent state agency.

2. Users of land with non-residential construction facilities shall, upon grant of certificates of the rights to use non-agricultural production and business land as land allocated with land use levy for a long term, pay 100% of land use levy calculated based on the land price specified at Point b or c, Clause 3, Article 3 of this Decree, for the non-agricultural production and business land

with the longest use term as prescribed in Clause 3, Article 126 of the Land Law, at the time of issuance of a decision on recognition of land use rights by a competent state agency.

Section 2. LAND USE LEVY EXEMPTION OR REDUCTION

Article 10. Principles of land use levy exemption or reduction

1. Households and individuals that are eligible for land use levy exemption or reduction may enjoy the exemption or reduction only once in the following cases: They are allocated land by the State for use as residential land or permitted for change from other land to residential land or granted residential land use right certificates.
2. In case many members of a household are eligible for land use levy reduction, the reduction level of each member shall be added up into the aggregated reduction level of the entire household, but the maximum reduction level must not exceed the payable land use levy within the allocation quota for residential land.
3. A person who is eligible for both exemption from and reduction of land use levy under this Decree or other relevant legal documents may enjoy the land use levy exemption; a person who is eligible for land use levy reduction at different levels under this Decree and other relevant legal documents may enjoy the highest reduction level.
4. The land use levy exemption or reduction upon land allocation or permission for change of land use purpose by the State under Articles 11 and 12 of this Decree only apply directly to eligible entities and shall be calculated based on payable land use levy as prescribed in Articles 4 thru 9 of this Decree.
5. Land use levy exemption or reduction under regulations on investment incentives is not applicable to investment projects on construction of commercial houses.
6. Land users may enjoy land use levy exemption or reduction only after they have completed procedures for such exemption or reduction under regulations.
7. Economic organizations that are allocated land by the State with land use levy and are eligible for land use levy reduction have the rights and obligations within the value of the rights to use land for which they have paid land use levy under the land law.
8. Land users that are eligible for land use levy exemption or reduction but wish to pay land use levy (without incentives) shall fulfill land-related financial obligations like those ineligible for land use levy exemption or reduction and have the rights and obligations prescribed in the land law like those allocated land by the State with land use levy for the type of land with similar use purpose.

Article 11. Land use levy exemption

Land use levy shall be exempted in the following cases:

1. Land use levy shall be exempted for the land area within the allocation quota for residential land which is used for implementation of housing policies, residential land for people with meritorious services to the revolution who are eligible for land use levy exemption under regulations on people with meritorious services; poor households and ethnic minority households in areas with extremely difficult socio-economic conditions or in border areas or on islands; or land used for construction of social houses under the housing law; or houses for people who have to relocate due to natural disasters.

Poor households shall be identified under the Prime Minister's decision while ethnic minority households or individuals shall be identified under the Government's regulations.

2. Land use levy shall be exempted for the land area within the allocation quota for residential land upon first-time grant of certificates for land changed from non-residential land to residential land as a result of separation of households for ethnic minority households or poor households in communes with extremely difficult socio-economic conditions in ethnic minority and mountainous areas on the Prime Minister-prescribed list of communes with extremely difficult socio-economic conditions.

3. Land use levy shall be exempted for the land area allocated within the allocation quota for residential land for fishing households or people living in river or lagoon areas that move to resettlement areas under approved master plans, plans or projects.

4. Land use levy shall be exempted for the land area allocated within the allocation quota for residential land for resettlement or allocated to households and individuals in flooded residential clusters and lines under approved projects.

5. The Prime Minister shall decide on land use levy exemption in other cases submitted by the Minister of Finance at the proposal of ministers, heads of ministerial-level agencies or government-attached agencies or chairpersons of provincial-level People's Committees.

6. The Ministry of Finance shall detail this Article.

Article 12. Land use levy reduction

1. A 50% reduction of land use levy for the land area within the allocation quota for residential land is applicable to ethnic minority households and poor households in localities not prescribed in Clause 2, Article 11 of this Decree upon issuance of a decision by a competent state agency on land allocation; first-time recognition (grant of certificates) of land use rights for currently used land or upon permission for change from non-residential land to residential land.

Poor households shall be identified under the Prime Minister's decision while ethnic minority households or individuals shall be identified under the Government's regulations.

2. Land use levy reduction for residential land within the allocation quota for residential land (including land allocation, change of land use purpose and grant of certificates for current land

users) is applicable to people with meritorious service to revolution who are eligible for land use levy reduction under regulations on people with meritorious service.

3. The Prime Minister shall decide on land use levy reduction in other cases submitted by the Minister of Finance at the proposal of ministers, heads of ministerial-level agencies or government-attached agencies or chairpersons of provincial-level People's Committees.

4. The Ministry of Finance shall detail this Article.

Article 13. Competence to determine and decide on land use levy to be exempted or reduced

1. Based on dossiers and documents proving entities' eligibility for land use levy exemption or reduction under Articles 11 and 12 of this Decree, tax agencies shall determine payable land use levy and land use levy to be exempted or reduced, specifically as follows:

a/ Directors of provincial-level Tax Departments shall promulgate decisions on land use levy to be exempted or reduced for economic organizations, foreign organizations and individuals and overseas Vietnamese;

b/ Heads of district-level Tax Branches shall promulgate decisions on land use levy to be exempted or reduced for households and individuals.

2. The Ministry of Finance shall guide the order and procedures for land use levy exemption or reduction prescribed in this Article.

Section 3. LAND USE LEVY COLLECTION AND PAYMENT

Article 14. Order of determination, and collection and payment of land use levy

1. For economic organizations:

Based on cadastral records (information on land users, land area, land location and land use purpose) submitted by land use rights registration offices or natural resources and environment agencies; and decisions of provincial-level People's Committees approving specific land prices used for land use levy calculation for projects or the Land Price Table and land price adjustment coefficient, provincial-level Tax Departments (or agencies authorized or decentralized under the law on tax administration) shall, within 5 working days after receiving provincial-level People's Committees' decisions approving land prices or after receiving cadastral records from natural resources and environment agencies (or declaration dossiers from economic organizations), determine land use levy and issue notices of land use levy payment and send them to land-using organizations.

2. For households and individuals:

Based on cadastral records (information on land users, land area, land location and land use purpose) submitted by land use rights registration offices or natural resources and environment

agencies; and decisions of provincial-level People's Committees approving specific land prices used for land use levy calculation or the Land Price Table, land price adjustment coefficient and households' and individuals' dossiers for grant of certificates or change of land use purpose, tax agencies shall, within 5 working days, determine land use levy and issue notices of land use levy payment and send them to households and individuals.

3. If having insufficient grounds for determination of payable land use levy, within 5 working days after receiving a dossier, tax agencies shall notify such in writing related agencies, organizations and individuals to supplement the dossiers; within 5 working days after receiving a complete and valid dossier, tax agencies shall issue notices of land use levy payment, and concurrently make a dossier for monitoring land use levy collection and payment according to a form provided by the Ministry of Finance.

4. Time limits for land use levy payment:

a/ Within 30 days after a tax agency signs the notice, land users shall pay 50% of the notified land use levy;

b/ Within the subsequent 60 days, land users shall pay the remaining 50% of notified land use levy;

c/ Past the time limits specified at Points a and b of this Clause, land users that fail to fully pay the notified land use levy shall pay a late payment interest for the unpaid amount at a rate prescribed in the law on tax administration, unless they file applications for owing land use levy if they are eligible to owe.

5. If there is a change in the land use levy calculation bases, tax agencies shall re-determine payable land use levy and notify it to the persons concerned.

Land users that have fulfilled financial obligations related to land use levy and request modification of detailed construction master plans for which they have new land-related financial obligations (if any), shall additionally pay land use levy into the state budget.

6. The Ministry of Finance shall assume the prime responsibility for, and coordinate with the Ministry of Natural Resources and Environment in, guiding the transfer of dossiers and coordination among tax agencies, natural resources and environment agencies, finance agencies and State Treasuries in the determination, calculation, collection and payment of land use levy under this Article.

Article 15. Handling of compensation and ground clearance amounts

1. In case land development funds advance money for compensation and ground clearance organizations to create clean land areas for land allocation, persons allocated land by the State with land use levy through or not through auction shall pay land use levy and the compensation and ground clearance amount shall be handled as follows:

a/ Persons that are allocated land by the State who are not eligible for land use levy exemption or reduction shall pay land use levy into the state budget under law. The compensation and ground clearance amount shall be refunded from the state budget to land development funds in accordance with the law on the state budget;

b/ Persons that are allocated land by the State who are eligible for land use levy exemption or allocated land without land use levy shall pay the whole compensation and ground clearance amount under a plan approved by a competent state agency into the state budget and this amount shall be included in projects' investment capital; for invested infrastructure facilities and other construction facilities of the State, the compensation and ground clearance amount shall be handled under a competent authority's decision;

c/ Persons that are allocated land by the State who are eligible for land use levy reduction shall refund the compensation and ground clearance amount under a plan approved by a competent state agency into the state budget and may deduct this amount from payable land use levy. The remaining amount not yet fully deducted (if any) shall be included in projects' investment capital.

2. Persons who are allocated land by the State not through auction and voluntarily advance money for compensation and ground clearance work under a plan approved by a competent state agency may deduct the advanced amount from payable land use levy under the approved plan, provided that the deducted amount must not exceed payable land use levy. The remaining compensation and ground clearance amount not fully yet deducted from payable land use levy (if any) shall be included in projects' investment capital.

3. The compensation and ground clearance amount specified in Clauses 1 and 2 of this Article includes the compensation, support and resettlement amount and the fund for organizing compensation and ground clearance.

4. The Ministry of Finance shall detail this Article.

Article 16. Owing of land use levy

1. Households and individuals that are permitted for change of land use purpose or granted certificates shall pay land use levy under Articles 5 thru 9 of this Decree; those that are allocated resettlement land by the State and meet financial difficulties and wish to owe land use levy may have the owing of land use levy written in certificates after filing written requests enclosed with dossiers for grant of certificates or dossiers for change of land use purpose or dossiers for resettlement land allocation or after filing applications for owing of land use levy upon receipt of notices of land use levy payment. Land users may pay owed land use levy in installments within 5 years at most; after this 5-year limit, if failing to fully pay land use levy, land users shall pay the remaining land use levy calculated based on the land price applicable at the time of payment. Households or individuals that pay owed land use levy ahead of schedule are entitled to support in the form of deduction equal to 2% of the land use levy amount paid ahead of schedule for each year of ahead-of-schedule payment.

2. Land users that are allowed to owe land use levy since before the effective date of this Decree and still owe land use levy within the permitted owing period may enjoy the support for ahead-of-schedule payment prescribed in Clause 1 of this Article.

3. The Ministry of Finance shall guide the order and procedures for owing and payment of land use levy prescribed in Clause 1 of this Article.

Article 17. Responsibilities of agencies and land users in land use levy determination and collection

1. Finance agencies shall:

a/ Formulate and submit to provincial-level People's Committees for promulgation the land price adjustment coefficient under Point c, Clause 3, Article 3 of this Decree;

b/ Determine amounts to be deducted from payable land use levy;

c/ Act as the standing bodies of local councils for land price appraisal, which shall organize the appraisal of specific land prices used for land use levy calculation at the proposal of natural resources and environment agencies in the case specified at Point b, Clause 3, Article 3 of this Decree for reporting to local councils for land price appraisal for consideration before submission to provincial-level People's Committees for decision.

2. Natural resources and environment agencies and land registration offices shall determine the place, location, area and type of land, land use purpose and actual time for land handover (for cases of land allocation before the effective date of the 2013 Land Law) as a basis for tax agencies to determine payable land use levy.

3. Tax agencies shall:

a/ Determine payable land use levy and land use levy amounts to be exempted or reduced under this Decree and notify them to land users within the prescribed time limit;

b/ Organize, guide and examine, answer questions and settle complaints about land use levy collection and payment in accordance with the law on tax administration.

4. State Treasuries shall:

a/ Fully collect land use levy under notices of land use levy payment and refrain from refusing collection for any reason;

b/ Refrain from postponing the collection of land use levy to the subsequent day when receiving complete payment procedures from persons with financial obligations.

5. Land users shall:

- a/ Declare land use levy under the Law on Tax Administration and guiding documents;
- b/ Pay land use levy within the time limit written in notices of tax agencies;
- c/ Pay late payment interests under Article 18 of this Decree if, past the land use levy payment deadlines notified by tax agencies, they still fail to pay or fully pay land-use levy.

Article 18. Handling of late payment

Land users shall pay late payment interests for late payment of land use levy into the state budget. The levels of late land use levy payment interests shall be determined in accordance with the Law on Tax Administration and guiding documents.

Article 19. Complaints and settlement of complaints

The lodging and settlement of complaints about land use levy must comply with the Law on Complaints and guiding documents. Pending settlement, complainants shall timely and fully pay the land use levy as notified.

Article 20. Transitional provisions

1. In case economic organizations are allocated land by the State under the 2013 Land Law but have not fulfilled financial obligations related to land use levy by the effective date of this Decree, land use levy shall be handled as follows:

a/ In case payable land use levy determined and notified by a competent state agency strictly complies with law, economic organizations shall continue to pay land use levy into the state budget at the notified level and pay late payment interests (if any) under law applicable in each period;

b/ In case payable land use levy determined and notified by a competent state agency fails to comply with law at the time of determination and notification, provincial-level People's Committees shall, based on local practical conditions, direct the re-determination of land use levy to ensure compliance with law. Additional payable amounts (if any) shall be notified to economic organizations for payment to the state budget and they need not pay late payment interests for such additional amounts for the period before the re-determination. Economic organizations may continue to pay the land use levy amount already determined and notified by a competent state agency before the re-determination; and shall pay the deficit (if any) and late payment interests as in the case specified at Point a of this Clause;

c/ In case economic organizations have not yet been notified by a competent state agency of land use levy payment and have not paid land use levy or have temporarily paid part of land use levy into the state budget, land use levy shall be handled as follows:

Temporarily paid land use levy (if any) shall be converted into land use levy paid (financial obligations fulfilled) for the land area at the time of actual handover. For the remaining land area,

land use levy shall be paid under the land policy and at the land price at the time of actual handover of land, and in this case, late payment of land use levy shall be handled as follows:

- In case the late payment of land use levy is due to a subjective cause on their part, economic organizations shall pay an amount equivalent to the late land use levy payment interest prescribed by the law on tax administration applicable in each period.

- In case the late payment of land use levy is not due to a subjective cause on their part, economic organizations need not pay an amount equivalent to the late land use levy payment interest.

The late land use levy payment interest shall be calculated from the time of actual handover of land to the time of official notification of payment of land use levy into the state budget at a rate of interest for late fulfillment of financial obligations prescribed by law in each period.

d/ In case land has not been actually handed over in the field but a competent state agency still notifies payable land use levy and economic organizations have paid land use levy into the state budget, the paid amount shall be regarded as temporarily paid amount and handled as in the case specified at Point b of this Clause.

dd/ The time of actual handover of land shall be determined as follows:

- In case of handover of cleared land, the time of actual handover of land is the time of issuance of a decision on land handover by a competent state agency.

- In case of handover of land not yet cleared, the time of actual handover of land is the time of handover of cleared land according to the land handover schedule written in the approved investment project; if the time of completion of ground clearance does not stick to the land handover schedule written in the approved investment project, the time of actual handover of land is the time of handover of cleared land in the field.

For projects with a ground clearance duration of two or more years which do not indicate a land handover schedule, the actual handover of land shall be made every year based on the actual completion of ground clearance in the field.

2. Determination of land use levy for households and individuals that are allocated residential land before the effective date of this Decree:

a/ Households and individuals that were allocated residential land by a competent state agency between October 15, 1993, and July 1, 2004, and have not paid land use levy shall, upon grant of certificates by a competent state agency, pay land use levy as follows:

- They shall pay 50% of land use levy calculated based on the residential land price specified in the Land Price Table at the time of submission of a valid dossier for grant of a certificate or at the time of declaration for land use levy payment, for the land area within the allocation quota for residential land in localities.

- They shall pay 100% of land use levy calculated based on the residential land price, which is specified at Point b or c, Clause 3, Article 3 of this Decree, at the time of submission of a valid dossier for grant of a certificate or at the time of declaration for land use levy payment, for the land area exceeding the allocation quota for residential land in localities (if any).

b/ Households and individuals that are allocated residential land by a competent state agency between after July 1, 2004, and before the effective date of this Decree, and have not paid land use levy shall, upon grant of certificates by a competent state agency, pay land use levy as follows:

- In case the payable land use levy determined and notified by a competent state agency strictly complies with the law at the time of determination and notification, households and individuals may continue to pay land use levy into the state budget at the notified level and shall pay late payment interests (if any) as prescribed by law applicable in each period.

- In case the payable land use levy determined and notified by a competent state agency fails to comply with the law at the time of determination and notification, tax agencies shall re-determine land use levy to ensure compliance with law. Households and individuals shall pay additional payable land use levy amounts (if any) into the state budget and need not pay late payment interests for such additional amounts for the period before the re-determination. They may continue to pay the land use levy amounts already determined and notified by a competent state agency before the re-determination; and shall pay the deficit (if any) and late payment interests.

- In case households and individuals have not yet been notified by a competent state agency of land use levy payment and have not paid land use levy or have temporarily paid part of land use levy into the state budget, temporarily paid land use levy (if any) shall be calculated as land use levy paid (financial obligations fulfilled) for the land area at the time of issuance of a land handover decision. Land use levy shall be paid for the remaining land area under the land policy and at the land price at the time of issuance of a land handover decision, and in this case, late land use levy payment interests shall be handled as follows:

In case late land use levy payment is due to a subjective cause on their part, households or individuals using land shall pay an amount equivalent to the late land use levy payment interest prescribed by the law on tax administration applicable in each period.

In case the late land use levy payment is not due to a subjective cause on their part, households or individuals need not pay an amount equivalent to the late land use levy payment interest.

The late land use levy payment interest shall be calculated from the time of issuance of a land handover decision to the time of official notification of payment of land use levy into the state budget at a rate prescribed for late fulfillment of financial obligations by the law applicable in each period.

c/ Land prices used for land use levy calculation in the cases specified at Points a and b of this Clause are land prices based on the allocated land use purposes as prescribed at Points b and c, Clause 3, Article 3 of this Decree at the time of issuance of a land handover decision.

This provision does not retrospectively apply to cases in which land use levy has been paid into the state budget.

3. Land prices used for land use levy calculation for households and individuals that have submitted a complete and valid dossier for grant of a certificate or change of land use purpose before the effective date of this Decree and now land use levy is determined:

a/ For the land area within the allocation quota for residential land in localities, the land price used for land use levy calculation is the land price specified in the Land Price Table;

b/ For the land area exceeding the allocation quota for residential land in localities: In case of submission of a valid dossier before March 1, 2011, the land price used for land use levy calculation is the land price prescribed in the Land Price Table by provincial-level People's Committees. In case of submission of a valid dossier between March 1, 2011, and before the effective date of this Decree, the land price used for land use levy calculation is the land price prescribed in the Land Price Table multiplied by (x) the land price adjustment coefficient.

4. Economic organizations that have advanced money for compensation and ground clearance under a plan approved by a competent state agency under the policy on compensation, support and resettlement upon land recovery by the State before the effective date of the 2013 Land Law, may continue to deduct the advanced amount from payable land use levy under regulations on collection of land use levy applicable in each period before the effective date of this Decree.

5. Overseas Vietnamese and foreign organizations and individuals that are leased land by the State with full one-off rental payment or participate in auctions organized by the State for land of projects on construction of houses for sale or for combined sale and lease, have made full one-off payment of land rental equal to payable land use levy as in the case of land allocation with land use levy, for residential land, or based on the auction-winning land price as prescribed in the 2003 Land Law, and wish to shift to land allocation with land use levy under the 2013 Land Law, need not pay land use levy.

6. Collection of land use levy upon grant of certificates to households and individuals that are currently using residential land lent by economic organizations that were allocated land by the State without land use levy to their employees before July 1, 2004:

a/ In case of stably using land with houses since before October 15, 1993, 40% of land use levy calculated based on the residential land price specified in the Land Price Table, for the land area within the allocation quota for residential land, shall be collected; or 100% of land use levy calculated based on the residential land price specified at Point b or c, Clause 3, Article 3 of this Decree, for the land area exceeding the allocation quota for residential land (if any), at the time of issuance of a decision on recognition of land use rights by a competent state agency, shall be collected;

b/ In case of stably using land with houses between October 15, 1993, and before July 1, 2004, 50% of land use levy calculated based on the residential land price specified in the Land Price Table, for the land area within the allocation quota for residential land, shall be collected; or 100% of land use levy calculated based on the residential land price specified at Point b or c, Clause 3, Article 3 of this Decree, for the land area exceeding the allocation quota for residential land (if any), at the time of issuance of a decision on recognition of land use rights by a competent state agency, shall be collected.

7. Collection of land use levy upon grant of certificates to households and individuals currently using land with (non-residential) construction facilities liquidated or sold by economic organizations that were allocated land by the State without land use levy before July 1, 2004

a/ In case the liquidation or sale amount is inclusive of the value of land use rights, land use levy shall not be collected upon grant of certificates;

b / In case the liquidation or sale amount is exclusive of the value of land use rights, upon grant of certificates, land use levy shall be collected as follows:

- In case of using stably land with houses since before October 15, 1993, land use levy shall not be collected for the land area within the allocation quota for residential land; for the land area exceeding the allocation quota for residential land (if any), 50% of land use levy calculated based on the residential land price specified at Point b or c, Clause 3, Article 3 of this Decree at the time of issuance of a decision on recognition of land use rights by a competent state agency, shall be collected;

- In case of using stably land with houses between October 15, 1993, and before July 1, 2004, 50% of land use levy calculated based on the residential land price specified in the Land Price Table, for the land area within the allocation quota for residential land; for the land area exceeding the allocation quota for residential land (if any), shall be collected; 100% of land use levy calculated based on the residential land price specified at Point b or c, Clause 3, Article 3 of this Decree at the time of issuance of a decision on recognition of land use rights by a competent state agency, shall be collected.

8. Households and individuals using land in a stable manner before October 15, 1993, without the documents specified in Clause 1, Article 50 of the 2003 Land Law, possessing certificates but still owing land use levy, that submit a valid dossier of request for payment of owed land use levy from the effective date of the Government's Decree No. 84/2007/ND-CP of May 25, 2007, shall, upon payment of such land use levy, pay land use levy under Clause 1, Article 6 of this Decree.

Article 21. Organization of implementation

1. The Ministry of Finance shall:

a/ Guide the determination and payment of land use levy; procedures and dossiers for land use levy exemption or reduction; and procedures and dossiers related to the deduction of the compensation and ground clearance amount under regulations;

b/ Prescribe the dossiers, declaration forms, documents and forms of books for management of land use levy collection and payment and decentralize the management of land use levy collection and payment according to the state budget management decentralization and the land law;

c/ Examine and guide the appraisal of land prices for land use levy calculation in accordance with the law on price;

d/ Inspect and examine the land use levy collection;

dd/ Coordinate with related ministries and sectors in reviewing regulations on land use levy exemption or reduction for entities not defined in Articles 11 and 12 of this Decree and report such to the Government or the Prime Minister for consideration and handling in accordance with the Land Law;

e/ Assume the prime responsibility for, and coordinate with the Ministry of Natural Resources and Environment in, prescribing the dossiers, order and procedures for receipt and transfer of dossiers among finance agencies, tax agencies, natural resources and environment agencies and State Treasuries for land use levy determination and collection.

2. The Ministry of Natural Resources and Environment shall coordinate with the Ministry of Finance in guiding the dossiers, order and procedures for receipt and transfer of dossiers among finance agencies, natural resources and environment agencies, tax agencies and State Treasuries at all levels for land use levy determination and collection.

3. Provincial-level People's Committees shall:

a/ Promulgate Land Price Tables and land price adjustment coefficients and decide on specific land prices as a basis for the determination of payable land use levy;

b/ Direct People's Committees at lower levels in taking measures to examine and supervise land use by entities that are allocated land by the State and the collection and payment of land use levy under this Decree;

c/ Direct their specialized agencies in coordinating with tax agencies in managing entities allocated land by the State under this Decree;

d/ Conduct examination, and handle violations of untruthful declaration or improper exemption from or reduction of land use levy, causing damage to the State as well as land use levy payers;

dd/ Settle complaints and denunciations about land use levy collection in accordance with the laws on complaints and denunciations.

Chapter III

IMPLEMENTATION PROVISIONS

Article 22. Effect

1. This Decree takes effect on July 1, 2014.
2. This Decree replaces the Government's Decree No. 198/2004/ND-CP of December 3, 2004, on the collection of land use levy; the Government's Decree No. 44/2008/ND-CP of April 9, 2008, amending and supplementing a number of articles of the Government's Decree No. 198/2004/ND-CP of December 3, 2004, on the collection of land use levy; and the Government's Decree No. 120/2010/ND-CP of December 30, 2010, amending and supplementing a number of articles of the Government's Decree No. 198/2004/ND-CP of December 3, 2004, on the collection of land use levy.

Article 23. Implementation responsibility

Ministers, heads of ministerial-level agencies, heads of government-attached agencies, chairpersons of provincial-level People's Committees, and organizations, households and individuals using land shall implement this Decree.-

**ON BEHALF OF THE GOVERNMENT
PRIME MINISTER**

Nguyen Tan Dung

[\(*\)](#) *Công Báo Nos 611-612 (23/6/2014)*