

THE GOVERNMENT

No. 123/2017/ND-CP

SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

Hanoi, November 14, 2017

DECREE

**AMENDMENTS TO CERTAIN ARTICLES OF DECREES ON COLLECTION OF LAND
LEVY, LAND RENT AND WATER SURFACE RENT**

Pursuant to the Law on Government Organization dated June 19, 2015;

Pursuant to the Land Law dated November 29, 2013;

Pursuant to the Law on Housing dated November 25, 2014;

Pursuant to the Law on Investment dated November 26, 2014;

At the request of the Minister of Finance;

The Government promulgates a Decree on amendments to certain articles of Decrees on collection of land levy, land rent and water surface rent.

Article 1. Scope

This Decree amends certain articles of the Decree No. 45/2014/ND-CP dated May 15, 2014 on collection of land levy and Decree No. 46/2014/ND-CP dated May 15, 2014 on collection of land rent and water surface rent.

Article 2. Amendments to certain articles of the Decree No. 45/2014/ND-CP dated May 15, 2014 on collection of land levy

1. Point d below is added to Clause 3 Article 3:

"d. Land price adjustment coefficients (coefficient k) issued by People's Committees of provinces/central-affiliated cities (hereinafter referred to as "People's Committees of provinces") shall apply from January 01 every year. The time for conducting surveys to develop coefficients k shall be from October 01 every year. Costs related to coefficient k development (including costs of hiring consulting service providers if necessary) shall be funded by state budget under regulations of law on state budget. Selection of consulting service providers responsible for conducting surveys and developing coefficients k shall comply with regulations of law on bidding.

In the cases where the People's Committee of province has not issued coefficient k from the date of determining land levy, coefficient k issued in the previous year shall be applied and such People's Committee may take responsibility for loss of budget due to failure to issue coefficient k on schedule (if any)."

2. Point c Clause 4 is amended and Clause 5 is added to Article 4 as follows:

"c) The land rent/m² to determine payable land rent mentioned in Point a and Point b this Clause shall be determined according to land price on the land price list for the purposes of land use of the project, coefficient k and rate (%) for calculation of land rent/m² for the purposes of commercial or service land use issued by the People's Committee of province.

5. Procedures for determination of the starting price of a land use right auction (hereinafter referred to as "auction") to allocate levied land

a) Procedures for determination of the starting price to hold the auction for the cases where area of levied piece of land or land area is assessed at (calculated according to land prices on the land price list) VND 30 billion or over for central-affiliated cities; VND 10 billion or over for mountainous provinces; VND 20 billion or over for other provinces shall be carried out under the Government's regulations on land prices and amended documents (if any); in which specific land prices shall be determined by the Department of Natural Resources and Environment of province and transferred to the inspection council with the inspection conducted by the Department of Finance thereof and then submitted to the People's Committee thereof for approval.

b) Procedures for determination of the starting price to hold the auction for the cases where area of levied piece of land or land area is assessed at (calculated according to land prices on the land price list) under VND 30 billion for central-affiliated cities; under VND 10 billion for mountainous provinces; under VND 20 billion for other provinces shall be carried out as follows:

- Within 10 days from the day on which the competent state authority gives a decision on auction in accordance with regulations of law on land, the natural resource and environmental authority (applicant) shall transfer an application for determination of the starting price to a corresponding finance authority. The application for determination of the starting price includes:

+ A written request for determination of the starting price made by the applicant;

+ A copy of the decision on auction approved by a competent state authority;

+ A copy of the cadastral document (information about area, location, purposes of land use, form of land lease, land use term, etc.).

- Within 10 days from the date of receiving the application for determination of the starting price for the auction from the applicant, the finance authority shall determine the starting price in accordance with regulations of law on collection of land levy and request a competent state authority (the People's Committee of the province or an authorized state authority) for approval.

If the application is invalid, the finance authority shall inform the applicant in writing of additional documents within 5 working days from the day on which the application is received. Within 10 days from the day on which the valid application is received, the finance authority shall provide the applicant with the starting price.

- An organization responsible for holding the auction shall conduct the auction according to the decision on approval for the starting price from the competent state authority.

Procedures for re-determination of the starting price shall be carried out equivalent to those for the first time.

c) Procedures for determination of the starting price for the auction with property under state ownership shall comply with regulations of law on management and use of public property."

3. Clause 3 is amended and Clause 4 is added to Article 5 as follows:

"3. If non-agricultural production/business land (non-residential land) originally receiving transfer of residential land from a household or an individual is repurposed as residential land to execute an investment project from July 01, 2014 onwards, the land levy shall be paid equivalent to the land levy calculated according to detailed construction planning of the project approved by the competent state authority minus (-) the land levy calculated according to detailed construction planning of housing of the household/individual when the competent state authority allows land repurposing.

The household/individual repurposing non-agricultural production/business land (non-residential land) originally from residential land as residential land of the household/individual shall not pay for land levy.

4. If non-agricultural production/business land (non-residential land) having long-term duration of use allocated by the State with collection of land levy before July 01, 2004 is repurposed as residential land to execute an investment project from July 01, 2014 onwards, the land levy shall be paid equivalent to the land levy calculated according to residential land price minus (-) the land levy calculated according to land price with lump-sum payment for the whole land lease term for non-agricultural production/business land (commercial, services) within 70 years when the competent state authority allows land repurposing.

4. Clause 9 is amended as follows:

"Article 9. Collection of land levy upon recognition of land use rights (grant of certificates) for households and individuals for land allocated ultra vires or violating regulations of law from July 01, 2004 to before July 01, 2014 that are now considered by the State for grant of certificates

1. The household or individual using land (land user) violating regulations of law on land stated in Article 22 of the Government's Decree No. 43/2014/ND-CP dated May 15, 2014 specifying certain articles of the Land Law (hereinafter referred to as "Decree No. 43/2014/ND-CP") or land allocated or leased ultra vires from July 01, 2004 to before July 01, 2014 which now

complies with land-use planning shall, upon grant of a certificate by a competent state authority in accordance with the provision of Clause 9 Article 210 of the Land Law, pay 100% of land levy based on the land price specified in Point b or c Clause 3 Article 3 herein when a decision on recognition of land use rights made by the competent state authority is given. If documents proving the payment for land use are available, the amount of money paid by the land user shall be deducted from the payable land levy provided that the deduction does not exceed the payable land levy.

2. The user of land with non-residential construction work shall, upon grant of the certificate of the rights to use non-agricultural production/business land as land allocated with land levy collected for a long term, pay 100% of land levy calculated based on the land price specified in Point b or c Clause 3 Article 3 herein for the non-agricultural production/business land with the longest use term as prescribed in Clause 3 Article 126 of the Land Law when the decision on recognition of land use rights made by the competent state authority is given.”

5. Clause 10 below is added to Article 10:

“10. The business entity having non-agricultural production/business land levied and allocated by the State and making payment for land levy and having land levy remitted by the competent state authority in accordance with regulations of law on land before July 01, 2014 when transferring the project or land use rights from July 01, 2014 onwards:

a) Transfer of the investment project together with transfer of land use rights:

- In the cases where the remitted land levy is not included in the transfer price and the transferee continues to execute the project, the transferee shall be entitled to receive remission of land levy in compliance with regulations of law on investment for the remaining period of the project.

- The transferee failing to continue executing the project shall pay land levy for the project after the transfer. If the transferor has made part of payment for land, the transferee shall inherit such payment.

b) In case of land use right transfer, the transferor shall pay the entire the remitted amount to state budget in line with the land price at the time when the land use right transfer is made.”

6. Article 13a below is added after Article 13:

“Article 13a. Procedures for remission of land levy for social housing projects and graveyard infrastructure projects

1. Within 20 days from the day on which the competent state authority gives a decision on land allocation in accordance with regulations of law on land, the land user shall submit an application for remission of land levy to the tax collector in person or application-receiving authority mentioned in the Decree No. 43/2014/ND-CP. In case of submitting the application for remission of land levy to the application-receiving authority, the application transferred to the tax

authority shall be carried out according to regulations of law on procedures for reception and transfer of documents on determination of financial obligations of the land user.

2. Within 20 days from the day on which the valid application stated in Clause 3 this Article is received, the tax authority shall determine and make a decision on remission of land levy or notify the applicant of failure to receive remission thereof if the application is rejected.

3. Applications for remission of land levy for social housing projects and graveyard infrastructure projects

a) Application for exemption from land levy for the social housing project mentioned in Clause 1 Article 53 of the 2014 Law on Housing:

- A written request specifying allocated area of land and reasons for exemption;
- A copy of the decision on or approval for investment in the social housing project from a competent state authority;
- A copy of the decision on land allocation made by a competent state authority.

b) Application for exemption from land levy for the social housing project mentioned in Clause 2 Article 53 of the 2014 Law on Housing:

- A written request specifying allocated area of land and reasons for exemption;
- A copy of the decision on or approval for investment in the social housing project from a competent state authority;
- A copy of the decision on land allocation made by a competent state authority;
- A copy of the list of employees of the enterprise/cooperative having housing allocated with confirmation of the competent state authority under regulations of law on housing;
- A written commitment made by the enterprise/cooperative on the house rent which does not exceed that issued by the People's Committee of province according to regulations of law on housing with confirmation of the competent state authority.

c) Application for exemption from land levy for the social housing project mentioned in Clause 3 Article 53 of the 2014 Law on Housing:

- A written request specifying allocated area of land and reasons for exemption;
- A copy of the decision on or approval for investment in the social housing project from a competent state authority;

- A copy of each of documents proving that the household/individual's residential land is eligible for investment in social housing.

d) Application for remission of land levy for graveyard infrastructure projects

- A written request for remission of land levy specifying allocated area of land and reasons for remission;

A copy of either of the investment certificate, investment license, investment registration certificate or decision on investment (except for the cases where issuance of such documents is not required according to regulations of law on investment).

- A copy of the project approved according to regulations of law on investment (except for the cases where issuance of the investment certificate, investment license, investment registration certificate or decision on investment is required);

- A copy of the decision on approval for the project;

- A copy of the decision on land allocation made by a competent state authority."

7. Clause 5 Article 14 is amended as follows:

"5. If there is any change in the land levy calculation bases, the tax authority shall re-determine payable land levy and notify it to the tax payer.

The land user that has made payment related to land levy and requests modification of detailed construction planning for which new land-related payment arises (if any) shall pay additional land levy to the state budget.

The land user that has not made payment related to land levy and requests modification of detailed construction planning for which new land-related payment arises (if any) shall:

- pay in full the land levy determined according to the detailed construction planning before it is modified and the corresponding amount of late payment;

- pay additional land levy which is equal to the difference between the payable land levy based on the planning before and after it is modified and determined at the same time when the competent state authority allows modification of planning (if any)."

8. Article 14a and Article 14b below are added after Article 14:

"Article 14a. Procedures for repayment or deduction of paid land levy or amount received from land use right transfer paid by investors of social housing projects

1. The investor of the social housing project shall submit an application for repayment or deduction of paid land levy or amount received from land use right transfer paid at the Department of Finance of the province where the project is executed.

2. Applications for repayment or deduction of paid land levy or amount received from land use right transfer in the execution of the social housing project:

a) In case of the social housing project mentioned in Clause 1 Article 53 of the 2014 Law on Housing:

- A written request for repayment or deduction;
- A copy of the decision on or approval for investment in the social housing project from a competent state authority.
- A copy of the agreement or document proving reception of land use right transfer;
- A copy of each of the document/invoice proving the amount paid to the state budget when the State allocates or leases out land or document/invoice proving reception of land use right transfer from another organization/household/individual that area of land is used for social housing construction.

b) In case of the social housing project mentioned in Clause 2 Article 53 of the 2014 Law on Housing:

- A written request for repayment or deduction;
- A copy of the decision on or approval for investment in the social housing project from a competent state authority;
- A copy of the list of employees of the enterprise or cooperative having housing allocated with confirmation of the competent state authority under regulations of law on housing;
- A copy of the agreement or document proving reception of land use right transfer;
- A copy of each of the document/invoice proving the amount paid to the state budget when the State allocates or leases out land or document/invoice proving reception of land use right transfer from another organization/household/individual that area of land is used for social housing construction.

3. Time limit for repayment or deduction of paid land levy or amount received from land use right transfer shall be:

a) 20 days from the date receiving the application mentioned in Clause 2 this Article from the investor, the Department of Finance of province shall determine and request the People's

Committee thereof to consider repaying or deducting from paid land levy or amount received from land use right transfer paid to financial obligations of the investor;

a) 10 days from the day on which the People's Committee of province grants the approval for repayment or deduction of paid land levy or amount received from land use right transfer paid to financial obligations of the investor to execute the social housing project, the Department of Finance of province shall request the Department of Taxation or state treasury thereof for implementation.

Article 14b. Procedures for determination of payable land levy when eligible purchasers or lease purchasers sell or transfer social housing

1. A purchaser/lease purchaser of the social house (applicant) wishing to resell it shall submit the application stated in Clause 2 this Article to the land registry.

2. The application for determination of payable land levy when the social house is sold includes:

a) A written request made by the applicant;

b) A copy of the social house sale agreement;

c) A copy of either of the certificate of land use rights, house ownership and other property on land (if any) prescribed in regulations of law on land or documents related to purchase of the house stipulated in regulations of law on social housing.

3. The land registry shall make a notice of payment related to land and send it to the tax collector in person enclosed with the application submitted by the applicant mentioned in Clause 2 this Article in order to determine the payable land levy when selling or transferring the social house.

The notice of payment related to land made by the applicant shall be issued in accordance with regulations of law on applications and procedures for reception and transfer of applications for determination of payment related to land of land users.

4. Within 20 days from the day on which the application is received, the tax authority shall provide the applicant with the payable land levy according to regulations of law on the sale of social housing. Issuance of the notice of payment for land levy and collection of land levy shall be carried out in accordance with regulations of law.”

9. Clause 2 and Clause 3 Article 15 are amended as follows:

“2. The user whose land is allocated by the State not in the form of auction and voluntarily advancing the compensation for ground clearance (hereinafter referred to as “compensation”) in conformity with the plan approved by a competent state authority shall have such advance deducted from the payable land levy provided that the deduction shall not exceed the payable land levy. The remaining compensation that has not been deducted from the payable land levy (if any) shall be added to the investment of the project.

An application for deduction from the compensation consists of:

- A copy of the plan for compensation approved by the competent state authority;
- The documentation and declaration of payment for compensation.

3. In case of the project that the State allocates land in the form of auction with multi-purpose land use: Allocation of levied land or allocation of levy-free or rent-free land and the investor voluntarily advances the compensation under the plan approved by the competent state authority, the deduction of compensation shall be calculated according to each type of area and allocated equally for land area used for public purposes to corresponding land area."

10. The Minister of Finance shall provide detailed guidance on this Article.

Article 3. Amendments to certain articles of the Decree No. 46/2014/ND-CP dated May 15, 2014 on collection of land rent and water surface rent

1. Point a Clause 4, Clause 5 and Clause 6 Article 4 are amended as follows:

“4. Methods of direct comparison, deduction, income or surplus prescribed in the Government’s Decree on land prices shall be applied when:

a) Determining the annual land rent/m² for the first period over which the land rent/m² is stable in the cases where rented land is used for business, commercial, service, real estate or mineral extraction purposes; determining the lump-sum land rent/m² for the whole land lease term not in the form of auction; determining the land rent/m² when repurposing annual payment as lump-sum payment in accordance with the provision of Clause 2 Article 172 of the Land Law; determining the land rent/m² when receiving transfer of property on rented land in accordance with the provision of Clause 3 Article 189 of the Land Law; determining annual land rent/m² and lump-sum land rent/m² when a state-owned enterprise is equitized provided that the rented land is assessed (calculated according to land prices on the land price list) at VND 30 billion or over for central-affiliated cities; VND 10 billion or over for mountainous provinces; VND 20 billion or over for other provinces.

5. Method of coefficient k prescribed in the Government’s Decree on land prices shall be applied when:

a) Determining the annual land rent/m² in the cases where rented land is used for business, commercial, service, real estate or mineral extraction purposes; determining the lump-sum land rent/m² for the whole land lease term not in the form of auction; determining the land rent/m² when repurposing annual payment as lump-sum payment in accordance with the provision of Clause 2 Article 172 of the Land Law; determining the land rent/m² when receiving transfer of property on rented land in accordance with the provision of Clause 3 Article 189 of the Land Law; determining annual land rent/m² and lump-sum land rent/m² when a state-owned enterprise is equitized provided that the rented land is assessed (calculated according to land prices on the

land price list) at under VND 30 billion for central-affiliated cities; under VND 10 billion for mountainous provinces; under VND 20 billion for other provinces.

b) Determining the annual land rent/m² for the following period over which the land rent is stable in the cases where the piece of land or land area leased out by the State is used for business, commercial, service, real estate or mineral extraction purposes is assessed (calculated according to land prices on the land price list) at VND 30 billion or over for central-affiliated cities; VND 10 billion or over for mountainous provinces; VND 20 billion or over for other provinces.

c) Determining the annual land rent/m² (excluding the cases where rented land is used for business, commercial, service, real estate or mineral extraction purposes).

d) Determining the starting price for the auction to lease out land in the form of paying annual land rent.

The annual coefficients k shall be provided by People's Committees of provinces and applied to the cases stated in this Clause.

The annual coefficients k provided by People's Committees of provinces shall come into force from January 01 every year. The time for conducting surveys to develop coefficients k shall start from October 01 every year. Costs related to development of coefficients k to calculate land rent (including costs of hiring consulting service providers if necessary) funded by budget under regulations of law on state budget. Selection of consulting service providers responsible for conducting surveys and developing coefficients k shall comply with regulations of law on bidding.

In the cases where the People's Committee of province has not issued coefficient k when the land rent/m² is determined or adjusted, coefficient k issued in the previous year shall be applied and such People's Committee may take responsibility for loss of budget due to failure to issue coefficient k on schedule (if any).”

6. Procedures for determination of the starting price for the auction to lease out land or water surface

a) Procedures for determination of the starting price to hold the auction for the cases where area having land rent or water surface rent collected of piece of land or land area is assessed (calculated according to land prices on the land price list) at VND 30 billion or over for central-affiliated cities; VND 10 billion or over for mountainous provinces; VND 20 billion or over for other provinces shall be carried out under the Government's regulations on land prices and amended documents (if any); in which specific land prices shall be determined by the Department of Natural Resources and Environment of province and transferred to the inspection council with the inspection conducted by the Department of Finance thereof and then submitted to the People's Committee thereof for approval.

b) Procedures for determination of the starting price to hold the auction for the cases where area of rented land/water surface of the piece of land or land area is assessed at (calculated according

to land prices on the land price list) under VND 30 billion for central-affiliated cities; under VND 10 billion for mountainous provinces; under VND 20 billion for other provinces:

- Within 10 days from the day on which the competent state authority gives a decision on auction in accordance with regulations of law on land, the natural resource and environmental authority (applicant) shall transfer an application on determination of the starting price to a corresponding finance authority. The application for determination of the starting price includes:

+ A written request made by the applicant;

+ A copy of the decision on the auction approved by the competent state authority;

+ A copy of the cadastral document (information about area, location, purposes of land use, form of land lease, land/water surface lease term, etc.).

- Within 10 days from the date of receiving the application for determination of the starting price for the auction from the applicant, the finance authority shall determine the starting price in accordance with regulations of law on collection of land rent or water surface rent and request a competent state authority (the People's Committee of province or an authorized state authority) for approval.

If the application is invalid, the finance authority shall inform the applicant in writing of additional documents within 5 working days from the day on which the application is received. Within 10 days from the day on which the valid application is received, the finance authority shall provide the applicant with the starting price.

- An organization responsible for holding the auction shall conduct the auction according to the decision on approval for the starting price from the competent state authority.

Procedures for re-determination of the starting price shall be carried out equivalent to those for the first time.

c) Procedures for determination of the starting price for the auction with property under state ownership shall comply with regulations of law on management and use of public property."

2. Clause 3 Article 7 is amended as follows:

"3. The State shall lease out the water surface (sea surface) for exploration or extraction of oil/gas. Contractors shall pay for water/sea surface rent unless otherwise stated in a commitment made by and between the Vietnam Government and a foreign government or organization in accordance with concluded agreements. Sea surface rent shall be calculated as follows:

a) Sea surface rent/m² for extraction of oil/gas shall be applied at the maximum level of the water surface rent bracket specified in Clause 1 this Article and shall remain for 5 years according to Clause 2 Article 14 herein or the commitment made by and between the Vietnam Government

and a foreign government or organization in accordance with concluded agreements. Rented sea surface area shall be the area that is allocated for extraction of oil/gas.

b) The sea surface rent/m² for exploration of oil/gas shall be 50% of that for extraction thereof. The sea surface rent for exploration shall be collected during the exploration and corresponding to each reservoir of each time for exploration.

c) The water surface (sea surface) rent shall be collected from the day on which the water surface is allocated for exploration or extraction of oil/gas.”

3. Clause 5 and Clause 6 are amended and Clauses 6a, 7a and 8a are added to Article 12 as follows:

“5. Whether the land used for purposes liable to the land rent or not, the payable land rent shall be determined according to each purpose of land use.

Where land lessees lease land from the State in accordance with regulations of law on land are using houses or land at multi-purpose construction works under state ownership or have pieces of land under state management that fail to separate for each land user, they shall pay the land rent equal to distribution coefficients of used floor area.

6. The investor leases land from the State with lump-sum payment for land rent has paid land rent or received land use right transfer legally and then repurposing as land lease if the investor request adjustment of detailed construction that causes payment (if any), the investor shall pay land rent to state budget.

The land user that has not made payment related to land rent and requests modification of detailed construction planning for which new land-related payment arises (if any) shall:

- pay in full the land rent determined according to the detailed construction planning before it is modified and the corresponding amount of late payment;

- pay additional land rent which is equal to the difference between the payable land rent based on the planning before and after it is modified and determined at the same time when the competent state authority allows modification of planning (if any).

6a. The People’s Committee of province shall raise coefficient k in the cases where the land user leases annually rented land from the State that the rented piece of land or land area is assessed (calculated according to land prices on the land price list) at VND 30 billion or over for central-affiliated cities; VND 10 billion or over for mountainous provinces; VND 20 billion or over for other provinces when executing the project in accordance with the detailed construction planning approved by the competent state authority for rental land area (without land repurposing) and the floor area ratio (building density, building height) is higher than that stated in physical planning before executing the project.

7a. A public service provider whose levy-free land is allocated by the State and using part of or the entire area of land, house or construction work for production, trade, service provision, lease, joint venture or association purposes in accordance with regulations of law on management and use of public property shall pay for land rent as follows:

a) Where the State allocates or leases out land or property on land for the purposes of production, trade, service provision, lease, joint venture or association, the land rent shall be determined similarly to the cases where the State leases out land to a business entity.

b) Where part of land area or property on land is used for the purposes of production, trade, service provision, lease, joint venture or association, the payable land rent shall be determined according to land prices on the land price list, rate (%) of land rent/m² and coefficient k provided by the People's Committee of province and the rate (%) of area of land, house or construction work (used floor) used for the purposes thereof.

c) If the part of land area or property on land mentioned in Point b this Clause fails to separate from the area used for the purposes of production, trade, service provision, lease, joint venture or association, the payable land rent shall be determined according to the allocation coefficient. The allocation coefficient shall be determined according to the ratio of revenue earned from production, trade, service provision, lease, joint venture or association to total estimated collection of a public service provider approved by a competent state authority.

8a. The entity whose land is leased out by the State with annual land rent to execute the project on production or trade voluntarily returning land no longer used but a competent state authority delays giving a decision on land appropriation shall not pay for land rent from the time when a written request for land return is given to the time when the competent state authority gives the decision on land appropriation in accordance line regulations of law on land. Such entity shall make all payments related to land rent (including late payment) from the day on which the written request for voluntary return of land is given in compliance with regulations of law on land."

4. Clause 2 is amended and Clause 3a is added to Article 13 as follows:

"2. The lessee whose land is allocated by the State not in the form of auction and the lessee voluntarily advancing the compensation in conformity with the plan approved by the competent state authority shall have such advance deducted from the payable land rent provided that the deduction shall not exceed the payable land rent. The remaining compensation that has not been deducted from the payable land rent (if any) shall be added to the investment of the project.

An application for deduction from the compensation consists of:

- A copy of the plan for compensation approved by the competent state authority;
- The documentation and declaration of payment for compensation.

3a. In the cases where the State appropriates land, provide compensation and leases out land in the form of annual land rent but fails to balance the state budget for providing compensation, the Department of Finance of province shall request the People's Committee thereof to consider whether the lessee voluntarily advances the land rent corresponding to the compensation in accordance with the plan approved by the competent state authority. The tax authority shall convert such amount of money into the number of year(s) or month(s) of annual payment due and notify it to the land lessee provided that the deduction does not exceed the payable land rent.

5. Clause 2 Article 17 is amended as follows:

“2. In the cases where the land use term is extended and the land user is obliged to make payment for land rent, the land rent shall be determined in conformity with policies and land prices at the time for extension.

In case of annually rental land, the stable cycle of the land rent/m² shall be calculated from the time when a decision on land lease term extension is given by a competent state authority. In case the land lease term expires before the decision land lease term extension is given by the competent state authority, the land user shall make payment for annual land rent for such extension in line with the land rent/m² based on land prices on the land price list, coefficient k and rate (%) for calculating the land rent/m² provided by the People's Committee of province.”

6. Clause 7 is amended and Clause 9 and Clause 10 are added to Article 18 as follows:

“7. Where a competent state authority detects the land user whose land rent is remitted but failing to fulfill requirements for remission of land rent stated in the decision or agreement on land lease and not having land appropriated in accordance with regulations of law on land or having land appropriated in compliance with the provision of Point 1 Clause 1 Article 64 of the Land Law, the land user shall reimburse the remitted land rent to state budget as follows:

a) The remitted land rent reimbursed shall be determined according to land prices on the land price list, coefficient k and rate (%) for calculating the land rent/m² provided by the People's Committee of province at the time when the decision on remission of land rent is given and plus the amount of late payment over the reimbursed amount in conformity with regulations of law on management of tax in each period. The land user shall not reimburse the remitted amount in the area having investment incentives.

b) The amount of late payment specify in Point a shall be calculated from the date when the tax authority gives the decision on remission of land rent to the date when the competent state authority appropriate the remitted land rent.

c) The Department of Taxation of province shall request the People's Committee thereof to appropriate the remitted land rent if the land user is an overseas entity or foreign-invested enterprise.

d) The Department of Taxation of district shall request the People's Committee thereof to appropriate the remitted land rent if the land user is a household or individual.

dd) The tax authority shall make decisions on remission of land rent.

9. Where a land user leases land from the State with lump-sum payment and receives exemption from the entire land rent but wishes to pay for land rent (without incentives) during the land lease term, the payable land rent paid in lump sum for the remaining land lease term shall be determined according to policies and land prices at the time when the land user makes a request for land rent payment. The land user shall have the rights to land corresponding to the remaining land lease term when the land rent is not exempted.

10. If the land lessee not subject to remission of land rent or subject thereto but the remission expires when a competent state authority allows land repurposing for the execution of the project subject to remission of land rent but the lease term of land after repurposing from at least 50 years from the date when the decision on land repurposing is given onwards shall have land rent remitted.

7. Article 21 is amended as follows:

“Article 21. Procedures for remission of land rent or water surface rent

1. The land lessee shall submit an application for remission of land rent to the tax collector in person or to the application-receiving authority mentioned in the Decree No. 43/2014/ND-CP.

In case of submitting the application for remission of land rent to the application-receiving authority, the application transferred to the tax authority shall be carried out according to regulations of law on procedures for reception and transfer of documents on determination of financial obligations of the land user.

2. According to the application mentioned in Clause 3 this Article, the tax authority shall determine and decide the remitted land rent or water surface rent as follows:

a) The Director of the Department of Taxation of province shall make the decision on remission of land rent or water surface rent if the land lessee is a business entity, foreign entity or overseas Vietnamese.

b) The Director of the Department of Taxation of district shall make the decision on remission of land rent or water surface rent if the land lessee is a household or individual.

3. Applications for remission of land rent

a) Application for exemption from land rent during capital construction:

- A written request specifying area of rented land, land lease term, reasons and duration of the exemption;

- A copy of either of the investment certificate, investment license, investment registration certificate or decision on investment (except for the cases where issuance of such documents are not required according to regulations of law on investment);

- A copy of the project approved according to regulations of law on investment (except for the cases where issuance of the investment certificate, investment license, investment registration certificate or decision on investment is required);

- A copy of the decision on approval for the project;

- A copy of the decision on land lease made by a competent state authority.

b) Application for remission of land rent specified in regulations of law on investment:

- A written request specifying area of rented land, land lease term, reasons and duration of the remission;

- A copy of either of the investment certificate, investment license, investment registration certificate or decision on investment (except for the cases where issuance of such documents is not required according to regulations of law on investment and levy-free land allocated by the State is now repurposed as rented land or land leased out by the State is now eligible for remission of land rent);

- A copy of the project approved in compliance with regulations of law on investment (except for the cases where the levy-free land allocated by the State is now repurposed as rented land or land leased out by the State is now eligible for remission of land rent);

- A copy of the decision on approval for the project;

- A copy of the decision on land lease made by a competent state authority.

It is not required to include the approved project in the application if the project has obtained the investment certificate, investment license, investment registration certificate or decision on investment (except for the project mentioned in Point c or Point d Clause 2 Article 15 of the Law on Investment.

c) Application for remission of land rent for the entity specified in Point a, b, c or d Clause 1 Article 18 of the Decree No. 46/2014/ND-CP (amended in Clause 5 Article 3 of the Decree No. 135/2016/ND-CP):

- A written request specifying area of rented land, land lease term, reasons and duration of the remission;

- A copy of the decision on land lease made by a competent state authority;

- A copy of the document proving eligibility for remission of land rent.

d) Application for exemption from land rent during the suspension of operations due to force majeure events specified in Clause 1 Article 47 of the 2014 Law on Investment:

- A written request for exemption from land rent during the suspension of operations;
- A written confirmation made by an investment registration authority on the suspension of project operations or a written confirmation made by a competent state authority;
- A copy of the decision on land lease made by a competent state authority.

dd) Application for remission of land rent submitted by an investor executing the housing construction project for workers on subleased land of an enterprise trading in infrastructure of industrial parks or industrial clusters:

- A written request for exemption from land rent made by an enterprise trading in infrastructure for the land area subleased by a minor investor for execution of the project;
- A written request for exemption from land rent made by the minor subleasing land from the enterprise trading in infrastructure for execution of the project;
- A copy of the project that has been set up, inspected and approved in accordance with regulations of law on investment and housing;
- A copy of the decision on approval for the project;
- A copy of the agreement on land sublease concluded by and between the investor of the project and the enterprise trading in infrastructure of industrial parks or industrial clusters.

e) Application for remission of land rent submitted by a scientific research institution:

- A written request specifying each land area used for building the laboratory, technology incubator and business incubator, experimental institution or experimental production institution;
- A copy of either of the certificate of high-tech enterprise or certificate of scientific and technological enterprise/institution;
- A copy of the decision on land lease made by a competent state authority.

4. Time limit for submission of the application for remission of land rent by the land lessee shall be:

- a) 20 days from the day on which the competent state authority reaches the decision on land lease in case of remission of land rent during the capital construction and specified in regulations of law on investment (apart from the project mentioned in Point c or Point d Clause 2 Article 15 of the Law on Investment);
- b) 30 days from the date of repurposing as rented land or the date when land rent is remitted according to regulations of law on land or another effective date specified by the Government or the Prime Minister in case of remission of land rent stated in Point a, b, c or d Clause 1 Article

18 of the Decree No. 46/2014/ND-CP (amended in Clause 5 Article 3 of the Decree No. 135/2016/ND-CP).

5. Time limit for making the decision on remission of land rent or the notice of failure to receive remission thereof if the application is rejected:

a) 20 days from the date of receiving the valid application during the capital construction;

a) 30 days from the date of receiving the valid application in case of the project eligible for receiving incentives in accordance with regulations of law on investment (apart from the entity mentioned in Point a, b, c or d Clause 1 Article 18 of the Decree No. 46/2014/ND-CP (amended in Clause 5 Article 3 of the Decree No. 135/2016/ND-CP);

c) 20 days from the date of receiving the valid application in case of the project eligible for remission of land rental stated in Point c or Point d Clause 2 Article 15 of the Law on Investment;

d) 20 days from the date of receiving the valid application during the suspension of operations stated in Clause 1 Article 47 of the Law on Investment. The tax authority may cooperate with investment registration authorities and other authorities (if necessary) in organizing inspection visits, determining particular time for suspension of operations and making decisions on exemption from land rent;

dd) 20 days from the date of receiving the valid application in the cases where the investor executes the project on housing construction for workers and subleases land in industrial parks or industrial clusters of the enterprise trading in infrastructure in line with the planning approved by the competent state authority.

6. Determination of capital construction duration when the land rent is exempted

a) According to the application for remission of land rent, the tax authority shall cooperate with relevant authorities in determining capital construction duration and making the decision on exemption from land rent for each project provided that such duration does not exceed 3 years from the day on which the decision on land lease is given.

If the investment certificate, investment license, investment registration certificate or decision on investment that has been granted for the first time and specifies capital construction duration (project schedule), the tax authority shall rely on the investment certificate/investment license/investment registration certificate to make the decision on exemption from land rent for each project provided that such duration does not exceed 3 years from the day on which the decision on land lease is given.

b) Where the land user leases land from the State does not apply for exemption from land rent during capital construction, the duration for exemption from land rent shall comply with regulations of law on investment and apply from the day on which the decision on land lease is given. In case of late submission of the application for exemption from land rent stated in Point a

Clause 2 this Article, the land rent shall only be exempted for the remaining incentive duration (if any) from the date when the tax authority receives the application and shall not be exempted during the late submission.

7. Determination of remitted land rent stated in regulations of law on investment to specify in the decision on remission of land rent

a) In case of annual land rent:

- If the land price used for calculating the land rent determined by a competent state authority is available at the time when the application for remission of land rent is submitted, the remitted land rent shall be determined according to land price used for calculating the land rent.

- If the competent state authority fails to determine the land price used for calculating the land rent at the time when the application for remission of land rent is submitted, the remitted land rent shall be determined according to land prices on the land price list, coefficient k and rate (%) of the land rent/m² provided by the People's Committee of province.

- In the cases where the annual land rent is reduced by 50% for the whole land lease term or for a few years, the reduced amount specified in the decision on reduction in land rent shall be the amount determined within the stable duration of land rent/m² at the time when such decision is given and shall be adjusted when the land rent/m² is adjusted.

b) In case of lump-sum land rent:

- If the land rent is exempted for the whole land lease term, the exempted land rent specified in the decision on exemption from land rent shall be determined according to the provision of Point a of this Clause.

- If the land price used for calculating the land rent is determined according to coefficient k method and the land rent is exempted for a few years but the competent state authority fails to determine the land price used for calculating the land rent at the time when the land lessee submits the application for exemption from land rent, the exempted land rent shall be specified in the decision on exemption from land rent as follows:

$$\text{Exempted land rent} = \frac{\text{Land price on the land price list (x) coefficient k}}{\text{Duration of the type of land on the land price list}} \times \frac{\text{Number of year exempted from land rent (including exemption from land rent during the capital construction)}}{\text{Rented land area}}$$

- If the land price used for calculating the land rent is determined according to methods of direct comparison, deduction, income or surplus and the land rent is exempted for a few years but the competent state authority fails to determine the land price used for calculating the land rent at the time when the land lessee submits the application for exemption from land rent, the tax authority shall inform the natural resource and environmental authority of the duration when the land rent

is exempted in order to determine the land price used for calculating the lump-sum land rent corresponding to the duration of payable land rent. The exempted land rent specified in the decision on exemption from land rent shall be determined as follows:

$$\text{Exempted land rent} = \frac{\text{Land price on the land price list (x) coefficient k}}{\text{Duration of the type of land on the land price list}} \times \frac{\text{Number of year exempted from land rent (including exemption from land rent during the capital construction)}}{\text{Rented land area}}$$

The duration of payable land rent shall be equal to the land lease term minus (-) the duration when the land rent is exempted (including exemption from land rent during the capital construction).

- In the cases where the land rent is exempted for a few years but the competent state authority has determined the land price used for calculating the lump-sum land rent at the time when the land lessee submits the application for exemption from land rent (excluding the duration when the land rent is exempted), the land rent exempted to deduct from the payable land rent (determined) and specified in the decision on exemption from land rent shall be determined as follows:

$$\text{Exempted land rent} = \frac{\text{Land price used for calculating the land rent}}{\text{Land lease term}} \times \frac{\text{Number of year exempted from land rent (including exemption from land rent during the capital construction)}}{\text{Rented land area}}$$

8. Clause 3 is amended and Clause 5a is added to Article 24 as follows:

“3. Payment for annual land rent or water surface rent shall be divided into 2 phases: Making at least 50% of the payment before May 31 every year for the first phase and the remaining payment before October 31 every year for the second phase. If the time for determination of payment for payable land rent or water surface rent is between October 31 and December 31 inclusive in the first year, the tax authority shall provide the land/water surface lessee with a notice of making payment for land rent or water surface rent in the remaining months of the year and the time limit for making payment shall be 30 days from the effective date of the notice. After the aforesaid time limit, the land/water surface lessee shall make payment for extra amount of late payment in conformity with regulations of law on tax administration.”

“5a. In case of the lessee leasing land or water surface from the State before July 15, 2014 and being obliged to pay for land rent or water surface rent in arrears:

a) Within 30 days from the effective date of the notice of making payment for land rent or water surface rent in arrears, the land/water surface lessee shall pay 50% of the land rent/water surface rent stated in such notice;

b) Within the next 60 days, the land/water surface lessee shall pay 50% of the remaining land rent/water surface rent.

c) The land/water surface lessee failing to make full payment for land rent/water surface rent after the time limit mentioned in Point a or Point b this Clause shall make payment for extra amount of late payment in conformity with regulations of law on tax administration.”

9. Clauses 5, 6, 7 and 8 are added to Article 32 as follows:

“5. In case of a state-owned enterprise that has officially changed into a joint-stock company before July 01, 2014 but is responsible for adjustment to land rent/m², making financial statements on advance and making payment for payable land rent in arrears as specified in Point b Clause 4 Article 32 of the Decree No. 46/2014/ND-CP:

a) If a competent state authority fails to make financial statements on transferring capital or property to the joint-stock company at the time when the tax authority provides a notice of collecting the payable land rent from the state-owned enterprise, the joint-stock company shall transfer land rent in arrears to state budget. The land rent transferred by the joint-stock company shall be handled in accordance with regulations on making financial statements on transferring capital or property to the joint-stock company.

b) If the competent state authority has made financial statements on transferring capital or property to the joint-stock company in accordance with regulations of law on equitization of state-owned enterprises at the time when the tax authority provides a notice of collecting the payable land rent, the joint-stock company shall not transfer land rent in arrears to state budget as specified in Point b Clause 4 Article 32 of the Decree No. 46/2014/ND-CP until the official change into the joint-stock company.

6. If the People’s Committee of province makes a decision on reduction in the rate (%) to calculate land rent/m² or coefficient k to assist the enterprise in difficulty when the enterprise lease annually rented land from the State and the period of land rent/m² is stable, it shall be entitled to apply the reduced rate (%) or coefficient k from the effective date of such decision and apply to the remaining stable period of land rent/m². When the stable period is over, the land rent/m² shall be adjusted according to policies and land prices at the time for adjustment.

7. Handling of water/sea surface rent in case of effective agreements on exploration and extraction of oil/gas that are concluded before July 01, 2017:

a) The contractor shall make payment for sea surface rent if it is specified in the agreement. Where the responsibility of refunding the payment for tax amount or compulsory payment (including sea surface rent) from the contractor’s account to the contractor by the Vietnam Oil and Gas Group is stated in the oil/gas agreement, the Vietnam Oil and Gas Group shall pay for sea surface rent or refund the contractor the sea surface rent paid by the contractor.

b) The contractor that is exempted from all rent or other payments as stated in the oil/gas agreement or not obliged to pay for sea surface rent according to regulations of law on oil/gas shall not pay sea surface rent.

c) Contractors shall not pay for sea surface rent if they have concluded agreements in accordance with the model agreement mentioned in the Government's Decree No. 33/2013/ND-CP dated April 22, 2013. If the contractor wishes to extend the agreement according to regulations of law on petroleum after it expires, such contractor shall pay for extra sea surface rent during the extension.

8. The investor that has paid for compensation according to the plan approved by the competent state authority (both under an agreement and from reception of transfer) before July 01, 2004 and the leases land from the State after July 01, 2004 shall have amount of compensation for land and assistance in land according to the plan approved by the competent state authority or value of land use rights in line with purposes of legal land transfer reception determined and approved by the competent state authority (in case of agreement or reception of transfer) at the time for reaching the agreement or receiving transfer (allocated for the remaining land lease term corresponding to the rented land area and not aggregated with business expenses) deducted from the payable land rent provided that such amount does not exceed the payable land rent shall be converted into the number of year(s) or month(s) of annual land rent payment due. The land rent/m² used for the conversion shall apply to policies and land prices from January 01, 2016.”

10. The Minister of Finance shall provide detailed guidance on this Article.

Article 4. Effect

1. This Decree comes into force from January 01, 2018.

2. Article 7.9 of the model agreement attached to the Government's Decree No. 33/2013/ND-CP dated April 22, 2013 shall be annulled.

3. Ministers, heads of ministerial and governmental authorities and Chairpersons of People's Committees of provinces shall implement this Decree.

**ON BEHALF OF THE GOVERNMENT
PRIME MINISTER**

Nguyen Xuan Phuc

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