

Article 3.- The ministers the heads of the ministerial-level agencies and agencies attached to the Government and the presidents of the People's Committees of the provinces and cities directly under the Central Government shall, depending on their respective functions, tasks and powers, have to direct the concerned units to implement this Decision

For the Minister of Finance
Vice Minister
PHAM VAN TRONG

**DECISION No. 179/1998/QD-BTC OF
 FEBRUARY 24, 1998 OF THE MINISTER
 OF FINANCE TO ISSUE THE
 REGULATION ON THE LAND, WATER
 SURFACE AND SEA SURFACE RENTS
 APPLICABLE TO FOREIGN
 INVESTMENT FORMS IN VIETNAM**

**REGULATION ON THE LAND, WATER
 SURFACE AND SEA SURFACE RENTS
 APPLICABLE TO FOREIGN
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*(issued together with Decision No. 179/1998/
 QD-BTC of February 24, 1998
 of the Minister of Finance)*

THE MINISTER OF FINANCE

Pursuant to the Law on Foreign Investment in Vietnam of November 12, 1996;

Pursuant to the Land Law of July 14, 1993;

Pursuant to Decree No. 12-CP of February 18, 1997 of the Government detailing the implementation of the Law on Foreign Investment in Vietnam and Decree No. 10/1998/ND-CP of January 1, 1998 of the Government on a number of measures to encourage and guarantee foreign direct investment activities in Vietnam,

DECIDES:

Article 1.- To issue together with this Decision the Regulation on the land, water surface and sea surface rents applicable to foreign investment forms in Vietnam.

Article 2.- This Decision takes effect 15 days after its signing and replaces Decision No. 1417-TC/TCDN of December 31, 1994 of the Minister of Finance.

Article 1.- Payers of land, water surface or sea surface rents

Joint venture enterprises, enterprises with 100% of foreign capital and parties to business cooperation contracts (hereafter referred to as foreign invested enterprises) which are leased land, water surface or sea surface by the State of the Socialist Republic of Vietnam (hereafter collectively referred to as land lease) for project implementation shall have to pay land rents in accordance with this Regulation.

Article 2.- Non-payers of land rents

1. Joint venture enterprises and foreign parties shall not have to pay land rent in the following cases:

- Joint venture enterprises to which the Vietnamese parties contribute capital with land rents;

- Business cooperation contracts in the product-sharing form under which the land rent is already included in the portion of products shared to the Vietnamese parties.

2. The Vietnamese parties to the joint ventures and business cooperation contracts defined in Clause 1 of this Article shall have to pay land rents in accordance with this Decision.

Article 3.- The land, water surface and sea surface rent rates are defined as follows:

1. Urban land:

1.1. Urban land is land within cities, towns and townships as prescribed in Article 55 of the Land Law. The urban land rent rates are prescribed as follows:

Calculation unit: USD/m²/year

Category of urban land	Minimum rent	Maximum rent
Category 1:	1.00	12.00
Category 2:	0.80	9.60
Category 3:	0.60	7.20
Category 4:	0.35	4.20
Category 5:	0.18	2.16

The list of the urban land categories is included in Appendix 1 attached herewith.

1.2. For urban land in mountainous, deep-lying and remote areas and areas with difficult socio-economic conditions, the land rent rates shall be equal to 80% of the rates prescribed in Clause 1.1 of this Article. Particularly for district townships in these areas, the land rent rates shall be equal to 50% of the rates prescribed in Clause 1.1 of this Article;

1.3. The urban land rent is determined as follows:

The annual land rent (USD/m²/year) = The minimum rent rate prescribed for each urban land category (USD/m²/year) x The location coefficient x The infrastructure coefficient x The production-business line coefficient

The coefficients are determined as follows:

a/ The location (site) coefficient:

- The coefficient of 3 shall apply to Location 1 land lots or parcels (hereafter collectively referred to as land lots) with their frontage facing major urban thoroughfares and with locations adjacent to intra-municipal communication links, which are very convenient for production, business, service and tourism activities as well as for daily life and capable of yielding highest profits and have an actual highest land price;

- The coefficient of 2.5 shall apply to Location 2 land lots with their frontages facing streets other than

major thoroughfares or facing lanes directly linking to main streets, which are convenient for production, business, service and tourism activities and for daily life, and capable of yielding less profits than Location 1 land and have an average actual land price lower than the actual price of Location 1 land;

- The coefficient of 2 shall apply to Location 3 land lots with their fronts not facing any street, which are fairly convenient for production, business, service and tourism activities and for daily life, capable of yielding profits less than Location 2 land and have an average actual land price lower than the average actual price of Location 2 land;

- The coefficient of 1 shall apply to Location 4 land lots without any sides facing any street or lane, which are less convenient for production, business, service and tourism activities or daily life and have the lowest land price in urban areas.

On the basis of the above-mentioned provisions and depending on the characteristics of each urban area, when determining land rent rates for those land lots that have conditions falling in between the conditions of two kinds of location, a coefficient in between the two coefficients of these two kinds of location may be applied.

b/ The infrastructure coefficient:

- The coefficient of 2 shall apply to land lots that fully meet the following conditions:

+ Convenient communications;

+ There is a power supply facility near the project implementation site which can meet the project's demand;

+ There is a water supply system near the boundary of the project which can be used for the project.

- The coefficient of 1.7 shall apply to land lots that lack one of the above-mentioned conditions.

- The coefficient of 1.4 shall apply to land lots that lack two of the above-mentioned conditions.

- The coefficient of 1 shall apply to land lots that lack all of the three above-mentioned conditions.

c/ The production-business line coefficient:

- The coefficient of 1 shall apply to Group 1 production-business lines of power production and distribution, water supply and drainage, mining, metallurgy, machinery, equipment and transport means manufacturing, basic chemical, fertilizer and insecticide production, oil and gas refining and petrochemistry, oil and gas pipeline manufacturing, agricultural, forest, aquatic and marine product processing, agriculture, forestry and fishery, medical

examination and treatment, schools, production of medicines, manufacture of medical, physical training and sports equipment and instruments, treatment of pollution for environmental protection and treatment of waste matters, construction of bridges, roads, infrastructure businesses, construction of residential houses for sale or lease, industrial parks, export processing zones, high-tech parks and high-tech production establishments;

- The coefficient of 1.5 shall apply to Group 2 production-business lines other than those of Groups 1 and 3;

The coefficient 2 shall apply to Group 3 production-business lines which includes trade and tourism, businesses in hotels, restaurants, financial leasing, consultancy, brokerage, immovable assets (except for infrastructure businesses and construction of houses for sale or lease), finance, banking, insurance and auditing;

In cases where a project involves various production-business lines with different coefficients, the land rent shall be calculated for each production-business line on the basis of the land area used for such line so as to determine the aggregate land rent. If it is impossible to determine the land area used for each production-business line, the production-business line coefficient applicable to the total land area rented by the project shall be the coefficient of the project's principal production-business line.

1.4. For urban districts or communes which are newly established from suburban rural districts or communes, within 10 years from the year the establishment decision is issued, the land rent rates applicable thereto shall be lower than the urban land rent rates as follows:

- For Category 1 urban land, the minimum land rent rate shall not be lower than the minimum land rent rate of Category 3 urban land;

- For Category 2 urban land, the minimum land rent rate shall not be lower than the minimum land rent rate of Category 4 urban land;

- For Category 3 urban land, the minimum land rent rate shall not be lower than the minimum land rent rate of Category 5 urban land;

- For urban land of Categories 4 and 5, the minimum land rent rate shall be equal to 50% of the rent rate prescribed for such urban land;

2. Non-urban land:

Non-urban land is land not defined in Clause 1 of this Article, the non-urban land rent rate is prescribed as follows:

2.1. For residential land, special-purpose land, agricultural land, forestry land, land with water surface for aquaculture, unused land (which can be used for agriculture, forestry or aquaculture).

a/ For land of rural communes adjacent to inner urban areas:

Calculation unit USD/m²/year

Category of communes	Minimum rent	Maximum rent
1. Communes that have a side adjacent to inner urban area of Category 1	0.18	1.08
2. Communes that have a side adjacent to inner urban area of Category 2	0.10	0.60

b/ Remaining areas:

Calculation unit USD/m²/year

Category of communes	Minimum rent	Maximum rent
Plain	0.060	0.360
Midland	0.045	0.270
Mountain	0.020	0.120

The non-urban land rent is determined as follows:

The annual non-urban land rent (USD/m²/year) = The minimum rent prescribed for each category of communes x The location coefficient x The infrastructure coefficient x The production-business line coefficient

The coefficients are prescribed as follows:

The location (site) coefficient:

- The coefficient of 3 shall apply to Location 1 land lots that have at least one side adjacent to an urban area, to key communication links or along a major axis road or adjacent to an industrial zone, a trading or service area, which are convenient for production, business, service and tourism activities and for daily life, and capable of yielding highest profits and with the highest actual land price;

- The coefficient of 2.5 shall apply to Location 2

land lots adjacent to Location 1 land lots, fairly convenient for production, business, service and tourism activities as well as for daily life, capable of yielding less profits than Location 1 land and with an average actual land price lower than the actual average price of Location 1 land;

- The coefficient of 2 shall apply to Location 3 land lots outside Locations 1, 2 and 4;

- The coefficient of 1 shall apply to Location 4 land lots that are far from roads, less convenient for production, business, service and tourism activities as well as for daily life and with the lowest average land price.

For those land lots with conditions that falling in between the conditions of two kinds of location, a coefficient in between the two coefficients applicable to these two kinds of location may be applied.

The infrastructure coefficient:

- The coefficient of 2 shall apply to land lots that fully meet the following conditions:

+ Convenient communications;

+ There is a power supply facility near the project implementation site which can meet the project's demand;

+ There is a water supply system near the boundary of the project which can be used for the project.

- The coefficient of 1.5 shall apply to land lots that lack one or two of the above-mentioned conditions.

- The coefficient of 1 shall apply to land lots that lack all of the three above-mentioned conditions.

c/ The production-business line coefficient of 1 shall be uniformly applicable to all production-business lines.

2.2. With regard to non-urban land which is neither residential land nor special-purpose land and can not be used for agricultural production, forestry or aquaculture, the land rent shall range from 100 to 600 USD/hectare/year and the specific rent applicable to each project shall be determined according to Clause 2.1 of this Article. Particularly for land of rock mountains or bare hills hardly used for any purpose, if it is used for projects outside the fields of industrial production, service, tourism or trade, the land rent shall range from 30 to 100 USD/hectare/year;

The specific rent applicable to each project shall be decided by the agency competent to license investment.

2.3. In cases where land is used for agricultural production, forestry or aquaculture, the land rent shall be equal to 50% of the rent prescribed in Clauses 1 and 2 of this Article.

3. *Water surface and sea surface rents:*

3.1. The rent applicable to river, lake or bay water surface is from 75 to 525 USD/hectare/year.

Particularly for architectural works constructed on water surface in inner urban area, the land rent applicable to urban land as prescribed in Clause 1 of this Article shall apply.

3.2. The rent applicable to sea surface is from 150 to 600 USD/km²/year. In cases where an unfixed area of sea surface is rented the rent between 1,500 and 7,500 USD/year shall apply.

4. *The land rent equal to the minimum rent prescribed for each category of land shall apply to the following projects:*

- Projects that do not use land surface (not affecting on-land production activities) but use the space above the land (except for aviation operations) such as construction of fly-overs, conveyors and the like;

- Mineral prospection, exploration and exploitation projects involving regular use of land.

5. *The following cases shall not be subject to land rent:*

- Mineral prospection and exploration, construction of underground works without affecting the current use of land by organizations and individuals but any damages caused thereby must be compensated in accordance with the Law on Minerals;

- Underground mineral exploitation activities without using land surface; but any damage caused thereby must be compensated in accordance with the Law on Minerals.

Article 4.- Apart from paying land rents according to the land rent rates prescribed in this Regulation, organizations and individuals shall have to compensate the people whose land is recovered and leased to them for the loss of land and property thereon in accordance with the provisions of Vietnamese laws.

Article 5.- The land rent rate applicable to each project shall be stable for at least five years. Such rent rate can be increased but not exceeding 15% of the previous one, if the lease time remain under than five years counted from the time the applied rent

rate is determined, such land rent rate still applies till it is full five years before the application of the new rate.

Any adjustment to increase land rent rates shall not apply to the following cases where:

1. The rent has been fully paid in advance for the project's whole operating term and the rent rate has been already determined or the rent has been paid prior to the time of adjustment;

2. The rent has been fully paid immediately in the first year of each period of several years of land lease, during which the rent rate is increased.

3. The Vietnamese parties are permitted by the State to use land rents as capital contribution to the joint venture or to business cooperation contracts with foreign organizations and/or individuals and the land rent rate has been determined before the time of adjustment.

Article 6.- Competence to determine land rent rates

Basing themselves on this Regulation and at the proposal of the Directors of the provincial/municipal Departments of Finance, the People's Committees of the provinces and cities directly under the Central Government shall be entitled to:

- Decide the land rent rates applicable to investment projects licensed by themselves;

- Make written proposals on the land rent rates applicable to projects under the licensing competence of the Ministry of Planning and Investment or the agency authorized by the Ministry of Planning and Investment; in this case, the Ministry of Planning and Investment or its authorized agency shall decide the land rent rates.

The Ministry of Finance shall give its comments on the land rent rates only when so requested by the Ministry of Planning and Investment, its authorized agency or provincial-level People's Committees.

Article 7.- Time for starting to calculate land rent

The time for starting to calculate a land rent is the time an enterprise is assigned land for use. In cases where the land is not assigned yet but the enterprise has used it, the time for starting to calculate the land rent shall be from the time the enterprise uses the land.

Article 8.- Land rent exemption and reduction

Following are cases eligible for land rent exemption or reduction:

1. Investment projects in the forms of Build-Operate-Transfer (BOT), Build-Transfer-Operate (BTO) or Build-Transfer (BT) shall be entitled to land rent exemption or reduction as stipulated by the Government.

2. Investment projects dealing in industrial parks, export processing zones or high-tech zones shall be entitled to a 20% reduction of the payable land rent.

3. During the capital construction period, projects on construction of bridges, roads, airports, seaports, power plants, afforestation, growing perennial industrial plants and perennial fruit trees which are not specified in Clause 1 of this Article, shall be entitled to land rent exemption and the remaining projects enjoy a 50% reduction of the land rent. In cases where a project has different construction items or different phases of construction, its capital construction period shall be that of the construction item having the largest proportion of the project's investment capital.

Particularly for afforestation projects, they shall be also entitled to a 90% reduction of the payable land rent even during their operating term.

4. In cases where the land rent for several years is paid in lump sum right in the first year, it shall be reduced as follows:

- 5% reduction of the five year land rent, if the rent is fully paid for the whole five years; if it is paid in lump sum for a period of more than five years, each additional year shall be entitled to 1% reduction of the payable land rent but the total amount of reductions must not exceed 25% of the land rent to be paid for such period of time;

- In cases where the land rent for a period of more than 30 (thirty) years is paid in lump sum, a 30% reduction of the payable land rent shall apply.

5. The land rent exemption or reduction under this Decision shall only apply to projects licensed from the effective date of this Decision.

Article 9.- Provisions on the land rent payment

1. *The payment of land rents is prescribed as follows:*

1.1. Enterprises shall have to submit the declaration for land rent payment and relevant documents to the land rent collecting agency not later than one month from the time for calculating the land rent as prescribed in Article 7 of this Regulation.

1.2. The basis for calculating a land rent includes the leased land area, the lease duration and the land rent rate, of which:

- The leased land area is the actually assigned area of land;

- The duration of the land lease is the duration stated in the land lease decision issued by a competent State agency;

- The land rent rate is determined according to the decision issued by a competent State agency defined in Article 6 of this regulation.

1.3. The land rent shall be calculated on the yearly basis. Particularly for the first and last years of the land lease duration, it shall be calculated for the number of months of actual use of land in such years.

1.4. The land rent shall be paid twice a year, with 50% of the land rent being paid for each time not later than June 30 or December 31 every year.

1.5. The land rent shall be paid either in the US dollar or Vietnam dong; If it is paid in the Vietnamese currency, it shall be converted into the US dollar (USD) at the average exchange rate on the inter-bank foreign currency market announced by State Bank at the time of payment.

1.6. The land rent shall be remitted to the State Budget at the State Treasury as designated by the collecting agency and according to the State budget classification currently in force. In cases where any excess amount of the land rent is paid, such amount shall be deducted from the land rent to be paid for the following period, if there is no following period, the extra amount shall be refunded from the State budget.

2. In cases where organizations and individuals cooperate with Vietnamese organizations permitted to rent the State-owned land for construction of residential houses, they shall have to pay the land rent till the land lease term expires. Organizations and individuals that purchase residential houses shall have to pay the land use levy in accordance with the provisions of Vietnamese laws.

Article 10.- Land rents in a number of special cases

1. For Vietnamese organizations and individuals that are permitted by the State to use their land use right as capital contribution to joint ventures and business cooperation contracts with foreign organizations and individuals, the value of the land use right shall be agreed upon by the involved parties but not lower than the land rent calculated according to the land rent rates set forth in this Regulation.

2. In special cases, for land in downtown areas that are capable of yielding specially high profits and commercially advantageous, a land rent rate higher

than the land rent rate set forth in this Regulation may be set for such land area given that it is so agreed upon by the foreign party and approved by the investment licensing agency.

Article 11.- Provisions on handling of violations; commendation and settlement of complaints

1. Handling of violations

- Violations of the regulations on the registration, declaration and payment of land, water surface and sea surface rents shall be sanctioned in accordance with the provisions of Decree No. 22-CP of April 17, 1996 of the Government on sanctions against administrative violations in the field of taxation;

- For late payment of land rent, a fine of 0.2% of the delayed amount for each late day shall be imposed.

2. Complaints

Enterprises shall be entitled to lodge complaints about the matters related to land rent (excluding those related to the determination of the leased land areas) with the agency that decides land rent rates

In cases where an enterprise disagree with the decision of the People's Committee or the agency competent to grant investment licenses, it shall be entitled to lodge its complaints with the Ministry of Finance. Within 30 days after the receipt of the written complaint, the receiving agency shall have to settle it; for a more complicated case, the time limit for settlement shall not exceed 45 days.

3. Any organization or individual that abuses its position or power to misappropriate or cause losses of land rents shall have to compensate the whole misappropriated or lost money and shall be, depending on the seriousness of violation, disciplined, administratively sanctioned or examined for penal liability in accordance with the provisions of law.

4. The people who help detecting the violations prescribed in this Regulation shall be commended and rewarded according to general regulations of the State.

Article 12.- Implementation provisions

1. Foreign-invested enterprises and parties to business cooperation contracts shall have to strictly abide by this Regulation.

2. The General Department of Taxation shall have to direct the local tax Departments to organize the collection of land rents in accordance with this regulation.

3. The Departments of Finance of the provinces and cities directly under the Central Government shall

have to:

- Determine the land rent rates and submit them to the provincial-level People's Committees for decision or for further submission to the competent State agency for decision;

- Periodically report to the Ministry of Finance the land rent rates applicable to the licensed investment projects operating in their respective localities.

4. The Department for Management of Public Properties shall have to assume the prime responsibility and coordinate with the concerned units in guiding and determining the land rent and land rent rate for each specific project at the request of a branch or locality; and inspect the implementation of this Decision.

5. This Regulation shall only apply to projects that are licensed after this Regulation takes effect. For cases where the land rent rates have been decided by the competent State agency according to legal documents issued before the effective date of this Regulation, the provisions of such documents shall apply.

The Ministry of Finance may consider and adjust too unreasonable land rent rates set forth before the issuance of this Regulation at the proposal of the provincial-level People's Committees.

6. Any problems arising in the course of implementation should be reported to the Ministry of Finance for study and settlement.

*For the Minister of Finance
Vice Minister
PHAM VAN TRONG*

APPENDIX LIST OF CATEGORIES OF URBAN AREAS

Category 1: Inner areas of Ha Noi city and Ho Chi Minh City.

Category 2: Inner areas of the cities of Vung Tau, Bien Hoa and Hai Phong.

Category 3: Inner areas of the following cities, provincial and district towns:

1. Gia Lam
2. Van Dien (Thanh Tri)
3. Cau Dien (Tu Liem)

4. Ha Dong
5. Duc Giang
6. Hue
7. Da Nang
8. Nha Trang
9. Nha Be
10. Hoc Mon
11. Binh Chanh
12. Thu Duc

Category 4: Inner areas of the following cities, provincial and district towns:

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| 1. Dong Anh | 8. Nam Dinh | 15. Thanh Hoa |
| 2. Yen Vien | 9. Ninh Binh | 16. Tan An |
| 3. Soc Son | 10. Phu Ly | 17. Can Tho |
| 4. Bac Ninh | 11. Phuc Yen | 18. Thu Dau Mot |
| 5. Hai Duong | 12. Viet Tri | 19. Da Lat |
| 6. Do Son | 13. Vinh | 20. Ba Ria |
| 7. Ha Long | 14. Quy Nhon | 21. My Tho |

Category 5: Inner areas of the remaining cities, provincial and district towns.-

CIRCULAR No.25/1998/TT-BTC OF MARCH 4, 1998 AMENDING AND SUPPLEMENTING CIRCULAR No.78/ 1997/TT-BTC OF NOVEMBER 4, 1997 OF THE MINISTRY OF FINANCE

On November 4, 1997 the Ministry of Finance issued Circular No.78/1997/TT-BTC to provide guidance on tax and financial preferences for cooperatives in accordance with Decree No 15-CP of February 21, 1997 of the Government.

In order to encourage cooperatives to transform and re-register as prescribed in Decree No.16-CP of February 21, 1997 of the Government and to operate in the spirit of the Law on cooperatives and proceeding from the Prime Minister's opinions in Document No.6-CP/KTN of January 6, 1998 of the Government, the Ministry of Finance hereby makes the following amendments and supplements to a number of points in Circular No.78/1997/TT-BTC of November 4, 1997:

1. Point 1, Section I of Circular No.78/1997/TT-BTC of November 4, 1997 on the scope of application