

THE GOVERNMENT

DECREE No. 198/2004/ND-CP OF DECEMBER 3, 2004 ON COLLECTION OF LAND USE LEVIES

THE GOVERNMENT

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

Pursuant to the November 26, 2003 Land Law;

At the proposal of the Minister of Finance,

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1.- Governing scope

This Decree prescribes the collection of land use levies when:

1. The State assigns land with the collection of land use levies;
2. The land use purpose changes;
3. The land lease is shifted to land assignment with the collection of land use levies;
4. The land use right certificates are granted to subjects liable to pay the land use levies as provided for in Article 2 of this Decree.
5. Industrial parks, hi-tech parks, economic zones are built.

Article 2.- Land use levy payers

1. Subjects assigned land by the State for use for the following purposes:

- a) Households and individuals that are assigned residential land;
- b) Economic organizations which are assigned land to be used for the purpose of building dwelling houses for sale or lease;
- c) Economic organizations, households, domestic individuals, that are assigned land for use as grounds for construction of production and/or business establishments;
- d) Economic organizations assigned land to be used for the purpose of investment in construction of infrastructure for sale or lease;
- e) Economic organizations, households, individuals, that are assigned land for construction of public works for commercial purposes under the Government's regulations;
- f) Economic organizations assigned land for agricultural production, forestry, aquaculture, salt making;
- g) Overseas Vietnamese assigned land for execution of investment projects.

2. Current land users in the cases:

- a) They have been assigned agricultural land, non-agricultural land without the collection of land use levies or are leased land, and are now permitted by competent State bodies to shift to use such land as residential land or non-agricultural land with the collection of land use levies, as land used for construction of public works for commercial purposes (socialization) in the domains of education, healthcare, culture, physical training and sports;

b) They have been assigned agricultural land by the State with the collection of land use levies, and now shift to use such land as non-agricultural land with the collection of land use levies;

c) They have been assigned non-agricultural land (other than residential land) by the State with the collection of land use levies and now shift to use such land as residential land.

3. Households and individuals that are using residential land, and such land has been used from October 15, 1993 to the time of granting the land use right certificates, that have not yet paid the land use levies and are now granted the land use right certificates by competent State bodies.

4 Other cases as provided for by the Government.

Article 3.- Subjects not liable to pay land use levies

1. Persons assigned land by the State without the collection of land use levies as provided for in Article 33 of the 2003 Land Law.

2. Persons leased land by the State and having to pay land rents as provided for in Article 35 of the 2003 Land Law.

3. Persons using land for construction of infrastructures for common use in industrial parks under projects approved by competent authorities.

4. Current land-using households, individuals, when being granted land use right certificates in the following cases:

a) The land has been stably used and certified by commune, ward or district township People's Committees (hereinafter referred collectively to as the commune-level People's Committees) as dispute-free, falling into one of the cases prescribed

in Clauses 1, 2, 3, 4 of Article 50 of the 2003 Land Law;

b) Households, individuals, that had been assigned residential land by competent State bodies before October 15, 1993 according to the provisions of land legislation.

5. Households, individuals, that use land acreages where exist gardens, ponds, when being granted land use right certificates under the provisions of Article 87 of the 2003 Land Law, as provided for in Article 45 of the Government's Decree No.181/2004/ND-CP of October 29, 2004 on implementation of the Land Law.

6. Economic organizations which receive joint-venture capital contributed with the land use right value by other organizations, households or individuals or receive the land use rights transferred by lawful land users with payment money not originating from the State budget, and are now granted land use right certificates.

Article 4.- Bases for calculation of land use levies

The land use levy calculation bases shall include land acreages, land prices and land use terms.

1. The land acreages for land use levy calculation mean the land acreages assigned by the State, permitted for use purpose change, permitted for shift from the form of land lease to the form of land assignment with the collection of land use levies, and issued the land use right certificates.

2. The land prices for calculation of land use levies mean the land prices based on the assigned-land use purposes at the time of land assignment, which are promulgated by the People's Committees

of provinces or centrally run cities (hereinafter referred collectively to as the provincial-level People's Committees) under the Government's regulations.

3. The land prices for calculation of land use levies in case of land auction or land-using project bidding are the land-auction winning prices.

4. The land use term shall be determined according to the decisions on land assignment, decisions permitting land use purpose change, decisions extending land use terms or land use right certificates.

Chapter II

SPECIFIC PROVISIONS

Article 5.- Land use levy collection upon land assignment by the State

1. For land assigned in form of land use right auction or land-using project bidding, the land use levy collection shall be based on the provisions of Clauses 1 and 3, Article 4 of this Decree.

2. For land assigned for long-term stable use under decisions of competent State bodies without going through land use right auction, the land use levy collection shall be based on the provisions of Clauses 1 and 2, Article 4 of this Decree.

3. For land assigned for term use under decisions of competent State bodies:

a) For projects with land use duration of 70 years, the land use levy collection shall be based on the provisions of Clauses 1 and 2, Article 4 of this Decree;

b) For projects with land use duration of under

70 years, the land use levy for each year of non-assignment of land shall be reduced by 1.2% of the collection level applicable to the 70-year duration.

4. Where land assignees pay compensations, supports to persons with land recovered under the provisions of Article 3 of the Government's Decree No. 197/2004/ND-CP of December 3, 2004 on compensation, support and resettlement when the State recovers land, the land compensation, support money amounts shall be subtracted from the payable land use levy amounts, but the subtraction levels shall not exceed the payable land use levies.

Article 6.- Land use levy collection upon land use purpose changes

1. For economic organizations:

a) If they shift from agricultural land or non-agricultural land assignment without the collection of land use levies to land assignment for long-term stable use with the collection of land use levies, the land use levies shall be collected according to the provisions of Clause 2, Article 5 of this Decree.

b) If they shift from agricultural land or non-agricultural land assignment without the collection of land use levies to land assignment for use for definite terms, the land use levies shall be collected according to the provisions of Clause 3, Article 5 of this Decree.

2. For households, individuals:

a) If they convert garden or pond land within the same land plots where exist dwelling houses in population areas, which is not recognized as residential land, into residential land, the land use levies shall be collected at a level equal to 50% of

the difference between the land use levy level calculated according to residential land prices and the land use levy level calculated according to agricultural land prices;

b) If they convert agricultural land assigned by the State without the collection of land use levies into residential land, the land use levies shall be collected at a level equal to the difference between the land use levy level calculated according to residential land prices and the land use levy level calculated according to agricultural land prices;

c) If they change the purposes of using land transferred from lawful land users into residential land, the land use levies shall be collected as follows:

- If the transferred land is agricultural land, the land use levies shall be collected at a level equal to the difference between the land use levy level calculated according to residential land prices and the land use levy level calculated according to agricultural land prices;

- If the transferred land is non-agricultural land (other than residential land), the land use levies shall be collected at a level equal to the difference between the land use levy level calculated according to residential land prices and the land use levy level calculated according to non-agricultural land prices.

3. If the residential land assigned for long-term stable use is converted into land used as production and/or business ground, the land use levies shall not be collected.

4. If the land assigned for definite terms is converted into residential land (for long-term and stable use), the collected land use levies shall be calculated according to the residential land prices

minus the land use levies already paid according to the prices of the categories of land assigned for definite terms.

Article 7.- Land use levy collection upon the shift from land lease to land assignment with the collection of land use levies

1. Land assignment for long-term stable use:

In case of shifting from land lease to levied land assignment for long-term stable use, the land use levies shall be collected according to the provisions of Clause 2, Article 5 of this Decree.

2. Land assignment for term use:

In case of shifting from land lease to levied land assignment for definite-term use, the land use levies shall be collected according to the provisions of Clause 3, Article 5 of this Decree.

3. In cases where land users shift from land lease to levied land assignment, who previously paid the land-related compensations and paid in advance the land rents, they shall be entitled to subtract the land-related compensation expenses under the law provisions on compensations, supports and pre-paid land rents (of the remaining duration) from their payable land use levies.

Article 8.- Land use levy collection upon the granting of land use right certificates to current land users

1. Households and individuals, that have used residential land from October 15, 1993 to the time of land use right certificate granting and have not yet paid the land use levies, shall have to pay land use levies according to the bases prescribed in Clauses 1 and 2 of Article 4 and Points b and c, Clause 2, Article 6 of this Decree.

2. For current land-using households and individuals falling into the cases prescribed in Clause 6, Article 50 of the 2003 Land Law and being granted land use right certificates, the land use levy collection shall be calculated at prices equal to 50% of the corresponding land prices set by the provincial/municipal People's Committees at the time of granting the land use right certificates.

3. For households and individuals using residential land converted from land assigned with the collection of land use levies or leased by the State to land-using organizations which have distributed such residential land to their officials and employees within the period from October 15, 1993 to the date this Decree takes effect, when being granted the land use right certificates, the land use levies shall be collected according to the provisions of Clause 2, Article 5 of this Decree, concretely as follows:

a) The land use levies shall be collected at a level equal to 50% of the land use levy level for the acreages within the residential land assignment quotas; this provision shall apply only once to households, individuals; for the subsequent land assignments, the land use levies shall be collected 100%;

b) The land use levies shall be collected at a level equal to 100% of the land use levy level for acreages in excess of the residential land assignment quotas.

Article 9.- Collection of levies on the use of industrial-park land

1. For land assigned by the State with the collection of land use levies to economic organizations, overseas Vietnamese for investment in industrial-park infrastructure construction and

business, the land use levy collection is prescribed as follows:

a) For land assigned under decisions of competent State bodies, the land use levies shall be collected according to the provisions in Clauses 2 and 3, Article 5 of this Decree;

b) For land assigned in form of auction or bidding for projects involving land use, the land use levies shall be collected according to the provisions of Clause 1, Article 5 of this Decree;

c) For land areas used for construction of common infrastructural works under projects approved by competent authorities, the land use levies shall not be collected.

2. For organizations, households, individuals, overseas Vietnamese, that wish to use land in State-invested industrial parks as production and/or business grounds, the land use levy collection is prescribed as follows:

a) For land assigned in form of auction, the land use levy collection shall comply with the provisions of Clause 1, Article 5 of this Decree;

b) For land assigned under decisions of competent State bodies, the land use levy collection shall be calculated on the bases prescribed in Clauses 1 and 2 of Article 4 of this Decree.

Article 10.- Land use levy collection applicable to land used for construction of hi-tech parks, economic zones

For organizations, households, individuals, overseas Vietnamese, that wish to use land in hi-tech parks or economic zones as production and/or business grounds, the land use levy collection is prescribed as follows:

1. For land assigned in form of auction, the land

use levy collection shall comply with the provisions of Clause 1, Article 5 of this Decree.

2. For land assigned under decisions of competent State bodies, the land use levy collection shall be calculated on the bases prescribed in Clauses 1 and 2 of Article 4, this Decree.

Chapter III

LAND USE LEVY EXEMPTION, REDUCTION

Article 11.- Principles for land use levy exemption, reduction

1. Households and individuals that are eligible for land use levy exemption or reduction shall enjoy the exemption or reduction only once in the following cases: they are assigned land by the State for use as residential land or permitted for land use purpose change from other land into residential land or granted the residential-land use right certificates.

2. In cases where 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 shall not exceed the levies payable for the residential land within the prescribed quotas.

3. In cases where a household or a person is eligible for both land use levy exemption and reduction, such household or person shall enjoy the land use levy exemption; if a person is eligible for land use levy reduction at different levels, he/she shall enjoy the highest reduction level.

4. The land use levy exemption or reduction shall not apply in cases where the land use rights are put up for auction to assign land with the collection

of land use levies; where the form of land lease is shifted to form of land assignment with the collection of land use levies for use for production and/or business purposes.

5. Land use levy exemption or reduction under the provisions of Articles 12 and 13 of this Decree shall only be effected directly on subjects eligible therefor and calculated on the payable land use levy amounts as prescribed in Articles 5, 6, 7, 8, 9, 10 of this Decree.

Article 12.- Land use levy exemption

1. Land use levies shall be exempt under law provisions on investment promotion.

2. For land assigned for execution of investment projects on construction of dwelling houses in implementation of dwelling house policies towards people with meritorious services to the revolution under the legislation on people with meritorious services.

3. For land assigned for construction of students' dormitories with money from the State budget; land for construction of dwelling houses for displaced people due to natural calamities; land for construction of dwelling houses of ethnic minority people in areas facing exceptionally difficult socio-economic conditions; land for construction of high-rise condominiums for industrial park workers.

4. For land used for construction of public works for commercial purposes (socialization) in the domains of education, healthcare, culture, physical training and sports.

5. For residential land within land assignment quotas (including land assignment, land use right certificate granting to current land users, land use purpose change) for people with meritorious

services to the revolution under the Prime Minister's decisions.

6. For households and individuals, that have been granted the certificates of the rights to use the land, which had been used stably before October 15, 1993, and that have still owed the land use levies.

7. For other cases as decided by the Prime Minister.

Article 13.- Land use levy reduction

1. Land use levies shall be reduced according to law provisions on investment promotion.

2. To reduce 50% of land use levies for land within the residential land assignment quotas of poor households. The determination of poor households shall be stipulated by the Ministry of Labor, War Invalids and Social Affairs.

3. To reduce 20% of land use levies for land assigned by the State to factories or enterprises which have to be relocated under plannings; but the maximum land acreages entitled to reduction shall not exceed the land acreages at their former places.

4. For land within the land assignment quotas (including land assignment, land use purpose change, land use right certificate granting to current land users) for people with meritorious services to the revolution under the Prime Minister's decisions.

5. Other cases as decided by the Prime Minister.

Chapter IV

LAND USE LEVY COLLECTION, REMITTANCE

Article 14.- Determination of land use levies

and other collections

1. The cadastral dossiers (documents) sent by land use right registration offices or natural resources and environment agencies shall serve as basis for tax offices to determine the land use levies and other collectible amounts, which must be paid by organizations, households or individuals.

2. Within three working days as from the date of receiving the cadastral dossiers sent by land use right registration offices or natural resources and environment agencies, tax offices must:

a) Examine the cadastral dossiers, determine the payable land use levies and other collectible amounts; in case of inadequate bases for calculation of payable land use levies and other amounts, notify such in writing to the dossier-sending agencies for supplementation;

b) Notify the payable land use levies and other collections to the cadastral dossier-sending agencies. The notifications must clearly state the names of payers being organizations, households or individuals, the payable amount of each payment item, the payment venues (State Treasury), the payment time and other contents prescribed by the Finance Ministry.

Where the land use right registration offices or natural resources and environment agencies have to additionally send the cadastral dossiers, the three-working day time limit shall be counted from the date of receiving the additional dossiers.

Article 15.- Time limits for payment of land use levies and other amounts

1. Within three working days as from the date of receiving notices of the tax offices, the land use right registration offices or the natural resources and environment agencies must send the received

notices to the organizations, households or individuals that have the responsibility to fulfill their financial obligations.

2. Within 30 working days as from the date of receiving the notices on payment of land use levies and other amounts, the organizations, households or individuals must pay such land use levies and amounts at the payment locations strictly according to the notices.

3. Basing themselves on the tax offices' notices sent by the land use right registration offices or the natural resources and environment agencies, the agencies (State Treasuries) directly collecting the land use levies and other amounts must collect and remit immediately such land use levies and amounts into the State Treasuries when the organizations, households and/or individuals perform their obligations to pay such amounts.

Article 16.- Responsibilities of tax offices, treasuries and land use levy payers

1. Tax offices:

a) To calculate correctly, adequately the land use levies and other amounts and notify the payment thereof as scheduled;

b) To answer queries of land use levy payers; within three working days as from the date of receiving requests of persons who have the responsibility to perform the financial obligations, to consider and readjust the land use levies and other amounts and send the adjustment or non-adjustment notices to the land use right registration offices or the natural resources and environment agencies according to competence.

2. Treasury offices:

a) To fully collect land use levies and other

amounts and remit them immediately into the State treasuries right on the day of money payment by the persons having responsibility to perform the financial obligations;

b) Not to prolong the money collection to the following day when the procedures for money payment by the persons having responsibility to perform the financial obligations have already been completed;

c) Not to refuse the collection for any reason.

3. Responsibility of land users

If past the land use levy payment time limits notified by tax offices they still fail to fully pay the land use levies and other amounts, they shall be fined for late payment according to the provisions of Clause 1, Article 18 of this Decree.

Article 17.- Payment of land use levies in case of debt acknowledgement

1. Households and individuals, that have used land from October 15, 1993 to the date this Decree takes implementation effect, have been granted the land use right certificates but still owed the land use levy debts, shall have to pay the land use levies into the State budget according to regulations at the time of granting the land use right certificates.

2. Where households or individuals have been already granted the land use right certificates, had used such land stably before October 15, 1993 and have already paid the land use levies into the State budget according to law provisions, the State budget shall not refund such amounts.

Chapter V

HANDLING OF VIOLATIONS, COMPLAINTS

Article 18.- Sanctioning

1. Those who delay the payment of land use levies into the State budget shall be subject to a fine equal to 0.02% (two per ten thousand) of the late paid amount for each day of late payment.

2. Those who abuse their positions and/or powers to cause difficulties or obstacles to land use levy payers, to appropriate or embezzle land use levies; who falsify the dossiers, causing loss of State budget revenues, shall, depending on the seriousness of their violations, be disciplined, administratively sanctioned, subject to damage compensations or examined for penal liability according to law provisions.

Article 19.- Complaints and settlement of complaints

1. Land use levy payers shall have the right to complain about the improper implementation of the regulation on land use levy collection under this Decree. Their written complaints must be addressed to the agencies which directly calculate and collect the land use levies within 30 days as from the date of receiving the land use levy payment notices. Pending the settlement, the complainants must pay the notified land use levies fully and on time.

2. The settlement of complaints shall comply with the provisions of the Law on Complaints and Denunciations.

Chapter VI

IMPLEMENTATION PROVISIONS

Article 20.- Implementation organization

1. The Finance Ministry shall guide the payment

of land use levies, guide the procedures and dossiers and prescribe the competence to decide on land use levy exemption or reduction as provided for in this Decree.

2. The Ministry of Natural Resources and Environment shall guide the determination of land categories, land use acreages, lawful and valid papers on land use rights, which shall serve as bases for calculation of land use levies as provided for in this Decree.

3. The provincial/municipal People's Committees shall have to direct the authorities of all levels and branches under their local management in managing and collecting land use levies according to the provisions of this Decree, inspect and handle violation cases of wrongly declaring, determining the actual land use duration, thus causing damage to the State as well as land use levy payers.

Article 21.- Implementation effect

1. This Decree takes implementation effect 15 days after its publication in the Official Gazette.

2. The land use levy collection upon the sale of State-owned houses to current tenants shall comply with the provisions of the Government's Decree No. 61/CP of July 5, 1994 on dwelling house trading and business.

3. This Decree replaces the Government's Decree No. 38/2000/ND-CP of August 23, 2000 on collection of land use levies, Clause 1, Article 13 of the Government's Decree No. 71/2001/ND-CP of October 5, 2001 on preferential investment in construction of dwelling houses for sale and lease.

All previous regulations on land use levy collection, which are contrary to the provisions of this Decree, are hereby annulled.

Article 22.- Implementation responsibility

The Finance Minister shall have to guide the implementation of this Decree.

The ministers, the heads of the ministerial-level agencies, the heads of the Government-attached agencies, the presidents of the provincial/municipal People's Committees, the land use levy-paying organizations, households and individuals shall have to implement this Decree.

On behalf of the Government

Prime Minister

PHAN VAN KHAI