

*of the Land Law;*

*Pursuant to the Government's Decree No. 198/2004/ND-CP of December 3, 2004 on land use levy collection;*

*The Finance Ministry hereby guides the land use levy collection as follows:*

## **Part A**

### **GENERAL PROVISIONS**

#### **I. SCOPE OF APPLICATION**

This Circular guides the land use levy collection applicable to cases defined in Article 1 of the Government's Decree No. 198/2004/ND-CP of December 3, 2004 on land use levy collection (hereinafter referred to as Decree No. 198/2004/ND-CP).

#### **II. LAND USE LEVY PAYERS**

The land use levy payers are defined in Article 2 of Decree No. 198/2004-ND-CP; a number of cases mentioned in Clause 1 of this Article are guided in detail as follows:

1. The land assigned to economic organizations for use for the purpose of investment in construction of infrastructure for sale or lease as provided for at Point d shall include land for construction of infrastructures in industrial parks, export-processing zones, economic zones, rural population quarters, urban population quarters, and land for construction of other infrastructures.

2. The land assigned to economic organizations, households or individuals for construction of public works for commercial purposes as provided for at

## **CIRCULAR No. 117/2004/TT-BTC OF DECEMBER 7, 2004 GUIDING THE IMPLEMENTATION OF THE GOVERNMENT'S DECREE No. 198/2004/ND-CP OF DECEMBER 3, 2004 ON LAND USE LEVY COLLECTION**

*Pursuant to the Land Law of November 26, 2003;*

*Pursuant to the Government's Decree No. 181/2004/ND-CP of October 29, 2004 on implementation*

Point e is the land prescribed at Point b, Clause 5, Article 6 of the Government's Decree No. 181/2004/ND-CP of October 29, 2004 on implementation of the Land Law (hereinafter referred to as Decree No. 181/2004/ND-CP).

3. Point g prescribing overseas Vietnamese assigned land for execution of investment projects does not cover cases where overseas Vietnamese enter into joint ventures with foreign organizations or individuals for investment in Vietnam.

### **III. NON-PAYERS OF LAND USE LEVIES**

Subjects not liable to pay land use levies are defined in Article 3 of Decree No. 198/2004/ND-CP; a number of clauses of this Article are guided in detail as follows:

1. The land for construction of infrastructure works for common use in industrial parks under projects approved by competent authorities as provided for in Clause 3 means the land area for construction of common infrastructures in industrial parks, which is not used by industrial parks for production and business purposes, not reassigned, leased nor transferred to persons who wish to use it as ground for production and/or business.

2. Clause 4 defines households and individuals being current land users, that must not pay land use levies when being granted land use right certificates; a number of specific cases are as follows:

a/ The land being in stable use, certified as dispute-free by commune, ward or township People's Committees falls into one of the cases prescribed in Clauses 1, 2, 3 and 4 of Article 50 of the 2003 Land Law; in cases where land had been used stably before October 15, 1993 without any

dispute, the land use right certificate applicants, regardless of whether they had used the land before October 15, 1993 or have used the land after October 15, 1993 (due to transfer, inheritance, donation, present,...), shall not have to pay land use levies when they are granted land use right certificates;

b/ In case of purchase of liquidated dwelling houses (purchase of dwelling houses) affixed to residential land of State enterprises, cooperatives before October 15, 1993 as provided for in Item e, Clause 1, Article 50 of the Land Law, the permission of competent State bodies as prescribed by the land legislation at the time of purchase of houses affixed to land is required.

### **IV. BASES FOR CALCULATION OF LAND USE LEVIES**

1. The bases for calculation of land use levies include the land acreage, land price and land use duration as provided for in Article 4 of Decree No. 198/2004/ND-CP.

2. In cases where land use levy payers had previously to pay compensations for land or compensations for expenses invested in land (referred collectively to as land-related compensations), provide land supports for persons with land recovered, the land-related compensations and/or supports shall be subtracted from the payable land use levies under law provisions on compensations, supports and resettlement, but the subtracted amounts must not exceed the payable land use levies.

### **Part B**

### **SPECIFIC PROVISIONS**

**I. COLLECTION OF LAND USE LEVIES UPON LAND ASSIGNMENT BY THE STATE**

The collection of land use levies upon land assignment by the State is provided for in Article 5 of Decree No. 198/2004/ND-CP; a number of clauses of this Article are guided in detail as follows:

1. Clause 1 provides for the land use levy collection in case of land assignment in form of land use right auction or land-using project bidding; for this case, the land price used for calculation of land use levies shall be the winning auction price. The land acreage for calculation of land use levies shall be the auctioned land area. Upon the completion of auctions, land use levies shall not be exempted or reduced for any case.

The land use right auction and the land-using project bidding shall comply with the current law provisions on land auctions, project bidding.

2. Clauses 2 and 3 provide for the land use levy collection in case of land assignment under decisions of competent State bodies:

2.1. The land acreage for calculation of land use levy collection shall be the land area stated in the land assignment decisions; in cases where the actual land areas stated in the land handover records differ from the land areas stated in the land assignment decisions, the land use levies shall be collected according to the actual land areas stated in the land handover records, as decided by competent State bodies.

2.2. Land prices for land use levy calculation are as follows:

a/ Where the land is assigned for long-term stable use, the land price for calculation of collected land use levies shall be the land price at the time

of land assignment, promulgated by the provincial-level People's Committees according to the Government's regulations;

b/ Where the land is assigned for definite terms:

- For projects with the land use duration of 70 years, the land price for calculation of collected land use levies shall be the land price according to the use purpose of the assigned land categories, promulgated by the provincial-level People's Committees according to the Government's regulations.

- For projects with the 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. The formula for calculation of land use levies in this case is as follows:

$$\left. \begin{array}{l} \text{The land use levy of the land use duration (n years)} \\ \text{of the land use duration (n years)} \end{array} \right\} = \left. \begin{array}{l} \text{The land use levy of the 70 year-duration} \\ \text{of the 70 year-duration} \end{array} \right\} - \left. \begin{array}{l} \text{The land use levy of the 70 year-duration} \\ \text{of the 70 year-duration} \end{array} \right\} \times (70 - n) \times 1.2\%$$

In which: n is the land assignment duration calculated in year.

Example:

Organization A is assigned 2,000 m<sup>2</sup> of non-agricultural land for use as production and/or business ground for a duration of 50 years. At this time, the price of non-agricultural land used as ground for production and/or business is VND 5 million/m<sup>2</sup>. The payable land use levy shall be determined as follows:

- The land use levy for the 70 year-duration is:

$$\text{VND } 5 \text{ million/m}^2 \times 2,000 \text{ m}^2 = \text{VND } 10,000 \text{ million}$$

- The land use levy for the 50 year-duration is determined as follows:

The  
land  
use levy  
for the = VND10,000 million - [VND10,000 million x (70-50) x 1.2%]  
50 year-  
land  
assignment  
duration  
= VND 7,600 million

## **II. LAND USE LEVY COLLECTION UPON LAND USE PURPOSE CHANGE**

Land use levy collection upon permitted land use purpose changes is provided for in Article 6 of Decree No. 198/2004/ND-CP; a number of clauses of this Article are guided in detail as follows:

1. Clause 1 provides for economic organizations; when agricultural land or non-agricultural land assigned without the collection of land use levies is changed to land assigned with the collection of land use levies, the land use levies shall be fully collected according to the price of the land with the new use purpose. Where the land subject to land use purpose change originates from the land use right transfer or where upon land assignment, land-related compensations or supports must be provided for persons with land recovered, the land use levies shall be collected according to the difference between the land price for new use purposes and the land price for the previous use purpose at the time of use purpose change.

2. Clause 3 provides for change from residential land assigned for long-term stable use with land use levies already paid or not paid under the provisions in Clauses 4, 5 of Article 3 of Decree No. 198/2004/ND-CP to production and/or business non-agricultural land, the land use levies

must not be paid.

3. Clause 4 provides for change from land assigned with definite terms to residential land with the collection of land use levies calculated according to residential land price minus the paid land use levies calculated according to the price of the land assigned for definite terms at the time of use purpose change.

Example:

On August 1, 2004, Organization A was assigned 20,000 m<sup>2</sup> of non-agricultural land for use as production and/or business ground for a duration of 50 years; the land use levy calculation price is VND 4 million/m<sup>2</sup>; the land use levies were already paid according to regulations; in 2006, such land is permitted to change to residential land; at this time, the price of non-agricultural land used as production and/or business ground for 50 years is VND 5 million/m<sup>2</sup> and the residential land price is VND 6 million/m<sup>2</sup>.

The land use levies to be paid by Organization A when being permitted to change 20,000 m<sup>2</sup> of non-agricultural land to residential land shall be determined as follows:

$20,000 \text{ m}^2 \times (\text{VND } 6 \text{ million/m}^2 - \text{VND } 5 \text{ million/m}^2) = \text{VND } 20,000 \text{ million.}$

[exclusive of the exempted or reduced land use levies (if any) entitled by the Organization]

## **III. CHANGE FROM LAND LEASE TO LAND ASSIGNMENT WITH THE COLLECTION OF LAND USE LEVIES**

The collection of land use levies upon change from land lease to land assignment with the collection of land use levies is provided for in Article 7 of Decree No. 198/2004/ND-CP; a number of

clauses of this Article are guided in detail as follows:

1. Clause 1 provides for the change from land lease by the State to land assignment for long-term stable use (residential land) with the collection of land use levies; for this case, the land price used for calculation of collected land use levies shall be the land price at the time of change from land lease to land assignment.

2. Clause 2 provides for the change from land lease to land assignment for definite terms with the collection of land use levies, the land price for calculation of the collected land use levies shall be the land price according to the use purpose at the time of change from land lease to land assignment.

3. Clause 3 provides for cases where the State leases land but land-related compensations and/or supports must be paid; if the land-related compensation and/or support money have not yet been subtracted from the payable land rents, they shall be subtracted from the payable land use levies; the subtracted land-related compensation level is calculated as being equal to the leased land area subject to land-related compensation and change to land assignment with the collection of land use levies multiplied by the land price calculated for compensation of the land category when compensations are made at the time of being permitted for change from land lease to land assignment with the collection of land use levies.

The land rent paid for the duration when land was used shall not be subtracted from the payable land use levies. The land rents already paid for the land non-use duration shall be subtracted from the payable land use levies and be calculated according to the following formula:

$$\begin{array}{l} \text{The} \\ \text{land rent} \\ \text{amount} \\ \text{to be} \\ \text{subtracted} \\ \text{from the} \\ \text{payable} \\ \text{land} \\ \text{use levies} \end{array} = \begin{array}{l} \text{The land} \\ \text{acreage} \\ \text{permitted} \\ \text{for change} \\ \text{from land} \\ \text{lease} \\ \text{to land} \\ \text{assignment} \end{array} \times \begin{array}{l} \text{The lease} \\ \text{unit price of} \\ \text{one-year} \\ \text{duration} \\ \text{at the time of} \\ \text{change} \\ \text{from land} \\ \text{lease to land} \\ \text{assignment} \end{array} \times \begin{array}{l} \text{The} \\ \text{number} \\ \text{of years} \\ \text{for which} \\ \text{land rent} \\ \text{was paid} \\ \text{but the} \\ \text{land is not} \\ \text{used yet} \end{array}$$

**IV. LAND USE LEVY COLLECTION UPON GRANTING OF LAND USE RIGHT CERTIFICATES TO CURRENT LAND USERS**

Land use levy collection upon granting of land use right certificates is provided for in Article 8 of Decree No. 198/2004/ND-CP; Clause 1 of this Article is guided in detail as follows:

Households and individuals having used land from October 15, 1993 to the time of land use right certificate granting and having not yet paid the land use levies shall have to pay the land use levies according to the provisions in Clauses 1 and 2 of Article 4 and Points b and c, Clause 2, Article 6 of Decree No. 198/2004/ND-CP.

Following are some cases not subject to land use levy payment upon the granting of land use right certificates:

1. Upon land assignment, the damage compensations were paid under Decision No. 186-HDBT of May 31, 1990 of the Council of Ministers (now the Government) on compensations paid for loss of agricultural land, forest land when such land is used for other purposes.

2. Land use levies were already paid into the State budget as provided for in the Finance Ministry's Circular No. 60-TC/TCT of July 16, 1993 upon the purchase of State-owned houses and the

purchase of houses not owned by the State together with the reception of the right to use land on which exist such houses; upon land assignment for construction of dwelling houses and works; upon assignment of land instead of payment for the value of the constructed infrastructure works.

3. Purchase of houses owned by the State, purchase of houses of State-owned housing companies under the provisions of the Government's Decree No. 61/CP of July 5, 1994 on dwelling house purchase, sale and dealing.

4. Purchase of houses together with the reception of the right to use land on which exist the houses, for which the income tax was paid under the Ordinance on income tax on high-income earners.

The cases guided above shall only apply to cases not covered by Clauses 2 and 3, Article 8 of Decree No. 198/2004/ND-CP.

### ***Part C***

## **LAND USE LEVY EXEMPTION, REDUCTION**

### ***I. PRINCIPLES FOR LAND USE LEVY EXEMPTION, REDUCTION***

The land use levy exemption and reduction principles are prescribed in Article 11 of Decree No. 198/2004/ND-CP; a number of clauses of this Article are guided in detail as follows:

1. Households and individuals eligible for land use levy exemption or reduction shall enjoy land use levy exemption or reduction only once in one of the cases where they are assigned land by the State for construction of dwelling houses, are permitted to change the purpose of using other land

for residential land, or are granted the certificates of the right to use residential land. Particularly, economic organizations shall enjoy the exemption or reduction only once when they are assigned land or permitted to change the land use purposes under each investment project.

2. The land use levy exemption or reduction under the provisions of Decree No. 198/2004/ND-CP and the guidance in this Circular shall be effected directly only for the eligible subjects and calculated on the land use levy amounts payable under the provisions of Decree No. 198/2004/ND-CP and the guidance in this Circular.

3. The land use levy exemption or reduction under the provisions of Decree No. 198/2004/ND-CP shall be considered and approved only for cases of starting to pay the land use levies from the effective date of Decree No. 198/2004/ND-CP. For cases where the land use levies are already paid or not fully paid before Decree No. 198/2004/ND-CP takes implementation effect, the land use levy exemption and reduction shall comply with the regulations promulgated before the effective date of Decree No. 198/2004/ND-CP.

4. Land-using organizations which have enjoyed the land use levy exemption or reduction under the provisions of Clauses 1, 2, 3 and 4 of Article 12; Clauses 1 and 3 of Article 13 of Decree No. 198/2004/ND-CP but have later transferred their land use rights shall have to fully remit the exempted or reduced land use levies into the State budget according to the land prices at the time of land use right transfer.

### ***II. LAND USE LEVY EXEMPTION***

Land use levy exemption for eligible subjects is

defined in Article 12 of Decree No. 198/2004/ND-CP; a number of clauses of this Article are guided in detail as follows:

1. Clause 1 provides for land use levy exemption under the law provisions on investment encouragement for execution of:

a/ Investment projects in branches, trades or domains entitled to investment preferences and executed in geographical areas entitled to investment preferences under the Government's regulations;

b/ Investment projects in geographical areas facing difficult socio-economic conditions, geographical areas facing exceptionally difficult socio-economic conditions under the Government's regulations;

c/ Other cases as provided for by the Government.

2. Clause 3 is guided as follows:

a/ Land assigned for execution of projects on construction of students' dormitories with State budget money; units assigned to manage such dormitories may only calculate and collect charges enough to cover expenses for services, electricity, water, management and other relevant expenses; and shall not be allowed to calculate expenses for land use levies and amortization of house value;

b/ Land assigned for construction of dwelling houses under projects in service of people displaced due to natural disasters; the persons assigned new residential land under relocation projects shall be exempt from land use levies when they are not compensated for the land in the former places (departure places), but provided with relocation supports (if any);

c/ Land assigned for construction of dwelling

houses of ethnic minority people in regions facing exceptionally difficult socio-economic conditions. Persons to be exempt from land use levies must have the permanent residence registration in the localities facing exceptionally difficult socio-economic conditions but have not had land for construction of dwelling houses or have had their dwelling houses but the premise areas are below the land assignment norms as provided for by the land legislation;

The regions facing exceptionally difficult socio-economic conditions shall comply with the Government's regulations.

d/ Land for construction of high-rise dormitories of workers in industrial parks; the units assigned land for project execution must get the provincial-level People's Committees' approval of the projects, the house selling prices or house rents; the house selling prices or rents do not cover the expenses for land use levies.

3. Clause 5 provides for the exemption of levies on the use of land within the land assignment norms, covering the following cases of being assigned land, being permitted to change land use purposes, being granted land use right certificates for subjects defined in the Prime Minister's Decision No. 118/TTg of February 27, 1996 on supports for people with meritorious services to the revolution in improving their housing conditions and Decision No. 20/2000/QD-TTg of February 3, 2000 on supports for people engaged in revolutionary activities before the August 1945 Revolution in improving their housing conditions, concretely as follows:

a/ People who had joined revolutionary organizations before December 31, 1935 shall be fully exempt from land use levies;

b/ People who joined revolutionary organizations in the period between January 1, 1936 and

December 31, 1944, were conferred the Gold Star Order, Ho Chi Minh Order or Independence Order of first class shall be exempt from land use levies for not more than 300 square meters (m<sup>2</sup>) of land;

c/ People who joined revolutionary organizations in the period between January 1, 1936 and December 31, 1944 and do not fall into the cases prescribed at Point b of this Clause shall be exempt from land use levies for the land acreages within the residential land assignment norms prescribed by the provincial-level People's Committees;

d/ People's Armed Force Heroes or Heroines, Vietnam Heroic Mothers, Labor Heroes or Heroines; war invalids, diseased army men, persons enjoying policies like war invalids, who have lost 81% or more of their working capacity; relatives of war martyrs who are enjoying monthly death allowances, shall be exempt from land use levies for land areas within the residential land assignment norms;

4. Clause 6 provides for households, individuals, already granted the land use right certificates, but such land has been stably used since before October 15, 1993, falling into one of the cases defined in Clauses 1, 2, 3 and 4 of Article 50, Article 87 of the Land Law and Article 45 of Decree No. 181/2004/ND-CP, and having still owed the land use levies, such households and individuals shall be exempt from the outstanding land use levies.

### **III. LAND USE LEVY REDUCTION**

Land use levy reduction for subjects is prescribed in Article 13 of Decree No. 198/2004/ND-CP; a number of clauses of this Article are guided in detail as follows:

1. Clause 3 provides the 20% reduction of land

use levies when the State assigns land to factories, enterprises, which must be relocated under plannings (including relocation due to environmental pollution). The to be-relocated factories and enterprises must obtain decisions of the provincial-level People's Committees and the land use levy reduction shall apply only to land areas used for construction of the factories or enterprises.

2. Clause 4 provides the reduction of use levies for land within the land assignment norms for cases of land assignment, of permitted change of land use purpose, of granting land use right certificates to current land users being persons with meritorious services to the revolution under the provisions of Decision No. 118/TTg and Decision No. 20/2000/QD-TTg but not being subjects eligible for land use levy exemption, defined at Point 3, Section II of this Part, concretely as follows:

- War invalids, persons enjoying policies like war invalids, diseased army men who have lost between 61% and 80% of their working capacity shall be entitled to 90% reduction of the payable land use levies;

- War invalids, persons enjoying policies like war invalids, who have lost between 41% and 60% of their working capacity, cadres engaged in revolutionary activities before the uprising (persons joining revolutionary organizations in the period between January 1, 1945 to before the August 1945 General Uprising) shall be entitled to 80% reduction of the payable land use levies;

- Relatives of war martyrs, persons having rendered assistance to the revolution who are enjoying monthly allowances, war invalids and persons enjoying policies like war invalids who have lost between 21% and 40% of their working capacity shall be entitled to 70% reduction of the payable land use levies;

- Persons engaged in revolutionary activities, having performed international duties, who were awarded the Resistance War Order of first class or the Exploit Order of first class shall be entitled to 65% reduction of the payable land use levies.

#### ***IV. LAND USE LEVY EXEMPTION, REDUCTION DOSSIERS***

1. Organizations, households and individuals, when carrying out procedures for being assigned land, being permitted to change land use purposes, to shift from land lease to land assignment, being granted land use right certificates shall make land use levy exemption or reduction declaration in the land use levy payment declaration papers (not printed herewith) in the land dossiers to be addressed to the land use right registration offices or the natural resources and environment agencies in case of submitting the dossiers at the natural resources and environment agencies or the commune, ward or township People's Committees in case of submitting the dossiers at the commune, ward or township People's Committees (hereinafter referred collectively to as the natural resources and environment agencies). The land use levy payment declaration paper shall be made in two copies; one shall be kept at the tax offices, one shall be returned to the natural resources and environment agency together with the land dossier so that the natural resources and environment agency sends them to the land user for performance of financial obligations.

2. The declaration must be enclosed with papers (notarized copies), evidencing one of the cases entitled to land use levy exemption or reduction, concretely as follows:

a/ For cases of investment encouragement, the investment preference certificates are required;

b/ For projects on public works for commercial purposes; projects on construction of students' dormitories, construction of dwelling houses for persons with merits, construction of high-rise dormitories for industrial park workers, the written approval of the investment projects by competent bodies is required;

c/ For factories, enterprises to be relocated under plannings, there must be relocation decisions and investment projects approved according to law-prescribed competence;

d/ For cases of persons with meritorious services to the revolution, there must be papers relevant to the land use levy exemption, reduction regimes guided at Point 3, Section II and Point 2 of Section III of this Part;

e/ For persons in poor households, there must be certification by the district-level labor, war invalids and social affairs offices;

f/ For ethnic minority households, there must be permanent residence registration books (in areas where the permanent residence registration books have been available) or certification of the commune-level People's Committees (in areas where permanent residence registration books are unavailable).

#### ***V. COMPETENCE TO APPROVE LAND USE LEVY EXEMPTION, REDUCTION***

1. Tax offices shall base on the cadastral dossiers enclosed with papers proving the subjects eligible for land use levy exemption, reduction, defined in Articles 12 and 13 of Decree No. 198/2004/ND-CP and guided in Sections II, III and IV of Part C of this Circular to determine the payable land use levy amounts, the exempted or reduced land use levy amounts.

The directors of the provincial/municipal Tax Departments shall approve the land use levy exemption or reduction in Part II (Part for certification by tax office) in the land use levy payment declarations of domestic organizations, overseas Vietnamese.

The heads of Tax Sub-Departments shall approve the land use levy exemption or reduction in Part II (Part for certification by tax office) in the land use levy payment declarations of households, individuals.

2. The declaration enclosed with the tax office's certification of land use levy payment shall be made in two copies; one copy shall be addressed to the natural resources and environment agency for transfer to the land use levy payer; one copy shall be kept at the tax office.

#### ***Part D***

### **LAND USE LEVY COLLECTION AND PAYMENT**

#### ***I. DETERMINATION OF PAYABLE LAND USE LEVIES***

1. Within three working days as from the date of receiving the valid dossiers, the tax offices shall base on the cadastral dossiers and the land use levy payment declarations sent by the natural resources and environment agencies to determine the payable land use levy amounts and other collections (if any), payment locations (State treasuries or collecting agencies), payment time and other relevant contents and send them to the natural resources and environment agencies.

2. In cases where the dossiers supplied by the natural resources and environment agencies do not provide adequate grounds for calculation of land use

levies and other payable amounts, they must notify such in writing to the dossier-sending agencies for supplement.

Within three working days as from the date of receiving the complete and valid supplemented dossiers, the tax offices shall determine the payable land use levy amounts and other collections (if any) under the guidance at Point 1 of this Section, write the payment receipts and carry out other procedures according to current regulations; then return them to the natural resources and environment agencies together with the payment receipts so that the natural resources and environment agencies shall send them to persons who have the responsibility to perform the financial obligations.

#### ***II. LAND USE LEVY PAYMENT PROCEDURES***

1. Within three working days as from the date of receiving the dossiers from the tax offices, the natural resources and environment agencies shall have to send the land use levy payment and other payable amount declarations to organizations, households or individuals that have to pay the land use levies and other amounts due.

2. Organizations, households and individuals shall base on the tax offices' determination to directly pay the money (in cash or by account transfer) at the money payment locations stated in the notices within 30 working days as from the date of receiving the notices.

3. The collecting agencies (the State treasury or tax office), when collecting land use levies, must make vouchers on collection of money into the State budget according to the provisions in Circular No. 80/2003/TT-BTC of August 13, 2003 guiding the concentration and management of State budget revenues via State treasuries.

4. Tax offices shall coordinate with the State treasuries of the same level in working out measures to organize the land use levy collection convenient for payers, ensuring safety of the land use levy amounts paid into the State budget and in accordance with the regulations on circulation of land dossiers prescribed in Decree No. 181/2004/ND-CP; Decree No. 198/2004/ND-CP and the guidance in this Circular.

### ***III. HANDLING EXISTING PROBLEMS IN LAND USE LEVY PAYMENT***

1. For cases where the land use levies were fully paid according to regulations before the effective date of Decree No. 198/2004/ND-CP but until now the land use right certificates are granted, the land use levy collection shall still comply with the provisions of legislation promulgated before the effective date of Decree No.198/2004/ND-CP.

Where land has been already assigned while the land use levies have not yet been paid, now the land use levies shall be paid under the provisions of Decree No.198/2004/ND-CP and the guidance in this Circular.

2. For cases where the land use right certificates were granted before the effective date of Decree No. 198/2004/ND-CP and the land has been used as residential land since October 15, 1993, the land use levies must be paid but have not yet fully paid and the outstanding land use levies have been inscribed in the land use right certificates, the land use levies shall be collected into the State budget according to the outstanding amounts.

In cases where the outstanding land use levies are not inscribed in the land use right certificates, the land use levies shall be calculated and collected according to the Government's Decree No.38/2000/

ND-CP of August 23, 2000 and the Finance Ministry's Circular No. 115/2000/TT-BTC of December 11, 2000. The land price for calculation of land use levies shall be the land prices set by the provincial-level People's Committees at the time of granting the land use right certificates.

The collection of outstanding land use levies prescribed at Point 2 of this Section and the application of Decree No. 38/2000/ND-CP and Circular No. 115/2000/TT-BTC to the collection of outstanding land use levies inscribed in the granted land use right certificates shall be effective till December 31, 2005. As from January 1, 2006, the land use levies, if still outstanding, shall be calculated and collected according to the provisions of Decree No. 198/2004/ND-CP and the guidance in this Circular.

3. Land use levy exemption or reduction under the provisions of the laws on investment promotion in cases where land was assigned and the investment preference certificates were granted before the effective date of Decree No. 198/2004/ND-CP and the tax offices have notified the payable land use levy amounts and the land use levies have been partly paid into the State budget, the remaining land use levy amounts shall be paid into the State budget, without the application of the provisions of Decree No. 198/2004/ND-CP and the guidance in this Circular, but the time for payment of the remaining land use levy amounts shall not exceed 90 days counting from the effective date of this Circular. If after 90 days the remaining land use levies are not full paid, fines shall be imposed according to the provisions of Article 18 of Decree No. 198/2004/ND-CP.

### ***IV. COMPLAINTS AND SETTLEMENT OF COMPLAINTS***

1. If land use levy payers complain about the improper implementation of the regulations on land use levy collection under the provisions of Article 19 of Decree No. 198/2004/ND-CP, they shall file their complaints to the tax offices which have approved the payable land use levies; pending the settlement thereof, they shall still have to fully pay the notified land use levy amounts on time.

2. The complaint-receiving agencies, if finding that the complaint dossiers have been improperly made or inadequate, shall request the complainants to supplement them or make additional explanation, and must notify such to the complainants within 10 working days as from the date of receiving the written complaints.

3. The time, order and procedures for settlement of complaints shall comply with law provisions on complaints and denunciations.

4. Within 30 days as from the expiration of the settlement time limit prescribed in Article 36 of the Law on Complaints and Denunciations, if the complaints are not settled, or as from the date of receiving the decisions on the first-time settlement of complaints, if the complainants disagree therewith, they may lodge their complaints to the immediate superior bodies of the agencies which have approved the payable land use levies or initiate lawsuits at courts. For difficult-to-access deep-lying and/or remote regions, the above-said time limit may be prolonged but shall not exceed 45 days.

5. The Finance Minister's decisions on settlement of complaints about land use levies, after obtaining the opinions of the provincial-level People's Committees, shall be final.

## **V. IMPLEMENTATION ORGANIZATION**

1. The provincial-level People's Committees

shall have to direct the tax offices, State treasuries to coordinate with authorities at all levels and branches in the localities in land use levy collection strictly according to the provisions of Decree No. 198/2004/ND-CP and the guidance in this Circular; inspect and handle cases of violation or complaints or denunciations against untruthful declaration and certification of the land use time points, thus causing losses to the State budget or the land use levy payers.

2. The General Department of Tax shall have to direct the collection of land use levies strictly according to the process of reforming the administrative procedures, receive dossiers from the natural resources and environment agencies so as to determine and notify the payable land use levies, other collections (if any); approve land use levy exemption and reduction, handle problems in land use levy collection according to the provisions in Decree No. 198/2004/ND-CP and this Circular.

3. The State Treasuries shall have to direct the collection of land use levies strictly according to the process of State budget collection and reach agreement with the tax offices to organize the land use levy collection convenient for persons paying the money into the State budget.

4. This Circular takes effect 15 days after its publication in the Official Gazette.

This Circular replaces Circular No. 115/2000/TT-BTC of December 11, 2000 of the Finance Ministry guiding the implementation of the Government's Decree No. 38/2000/ND-CP of August 23, 2000 on land use levy collection; Items a and b of Point 1, Section I, Part B of Circular No. 20/2002/TT-BTC of February 28, 2002 of the Finance Ministry, guiding the implementation of Decree No. 71/2001/ND-CP of October 5, 2001 of the Government on investment preferences for

construction of dwelling houses for sale or lease. The land use levy collection upon the sale of State-owned houses to current tenants shall comply with the provisions of Decree No. 61/CP of July 5, 1994 of the Government and the documents guiding the implementation thereof.

The previous regulations contrary to this Circular are now hereby all annulled.

If problems arise in the course of implementation of this Circular, the provincial/municipal People's Committees are requested to report them in time to the Finance Ministry for study and settlement.

*For the Finance Minister*

*Vice Minister*

**HUYNH THI NHAN**