

CIRCULAR No. 105/2005/TT-BTC OF NOVEMBER 30, 2005: On environmental protection charges for mineral exploitation

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Pursuant to the Government's Decree No. 137/2005/ND-CP of November 9, 2005, on environmental protection charges for mineral exploitation;

Pursuant to the Government's Decree No. 57/2002/ND-CP of June 3, 2002, detailing the implementation of the Ordinance on Charges and Fees;

The Ministry of Finance hereby guides the implementation of environmental protection charges for mineral exploitation as follows:

I. GENERAL PROVISIONS

1. Subject to environmental protection charges for mineral exploitation are minerals, including stone, feldspar, gravel, clay, gypsum, sand, earth, coal, natural mineral water, and ilmenite, specified in Article 2 of the Government's Decree No. 137/2005/ND-CP of November 9, 2005, on environmental protection charges for mineral exploitation (hereinafter called Decree No. 137/2005/ND-CP for short).

2. Payers of environmental protection charges for mineral exploitation are (domestic and foreign) organizations and individuals that exploit minerals specified at Point 1 of this Section.

II. SPECIFIC PROVISIONS

1. Calculation methods and charge rates

a/ Environmental protection charges for mineral exploitation payable for a charge payment period shall be calculated as follows:

$$\begin{array}{lcl} \text{Environmental} & \text{Volume of} & \\ \text{protection charges} & \text{each type of} & \text{Corresponding} \\ \text{payable (VND)} & = \text{exploited in the} & \text{x charge rate} \\ & \text{period mineral} & \text{(VND/ton or m}^3\text{)} \\ & \text{(ton or m}^3\text{)} & \end{array}$$

b/ The rates of environmental protection charges for mineral exploitation (under the provisions of Article 4 of Decree No. 137/2005/ND-CP) are specified in an absolute amount of money per unit of mineral product at the place of exploitation, specifically as follows:

Ordinal number	Minerals	Unit of measurement	Rate (VND)
1	Stone:		
a/	Stone for production of cement, industrial minerals or construction materials	m ³	2,000
b/	Wall-covering and flooring stones, fine-art stones (granite, gabbro, ashlar, etc.)	m ³	50,000
2	Feldspar	m ³	20,000
3	Gravel	m ³	4,000
4	Clay	ton	1,500

5	Gypsum	ton	2,000
6	Sand:		
a/	Construction sand (sand for ground leveling), yellow sand (sand for constructing and plastering)	m ³	2,000
b/	Glass sand	m ³	5,000
7	Earth:		
a/	Earth for ground leveling	m ³	1,000
b/	Earth for kaolin production	m ³	5,000
8	Coal:		
a/	Pit coal	ton	6,000
b/	Peat	ton	2,000
9	Natural mineral water	m ³	2,000
10	Ilmenite	ton	30,000

c/ The exploited mineral volumes used for determining payable environmental protection charges are the mineral volumes actually exploited in the charge-payment period, regardless of exploitation purposes (for sale, exchange, internal consumption, reserves for subsequent production), exploitation technologies (manual or mechanical) or geographical locations and exploitation conditions (mountainous areas, midlands, delta areas or difficult or complicated exploitation conditions).

d/ Environmental protection charges for mineral exploitation shall be collected in Vietnam dong. Where charge payers wish to pay charges in a foreign currency, charges may be collected in a foreign currency on the basis of converting such foreign currency into Vietnam dong at the exchange rate on the inter-bank market announced by the Vietnam State Bank at the time of charge collection.

2. Charge registration, declaration, collection, and payment

a/ Payers of environmental protection charges for mineral exploitation have the obligations:

- To make charge payment registration with their managing tax offices according to a set form within 10 working days after they are licensed to exploit minerals. In case of merger, consolidation, division, separation, dissolution, bankruptcy; ownership transformation; assignment, sale, contracting, or lease of state enterprises, or in case of changes in their exploitation activities, mineral-exploiting organizations or individuals shall have to declare such to the tax offices at least 5 working days in advance.
- To declare monthly charge amounts with their managing tax offices according to a set form within the first 10 days of the subsequent month; where no environmental protection charge for mineral exploitation arises in a month, the mineral-exploiting organizations or individuals must still make and submit declarations to the tax offices. The mineral-exploiting organizations and individuals must completely fill in declaration forms and be answerable for the accuracy of their declarations.
- To calculate and pay themselves environmental protection charges for mineral exploitation to the state budget at state treasuries in localities where minerals are exploited according to the data declared to the tax offices no later than the 25th of the subsequent month. The process of payment of environmental protection charges for mineral exploitation at state treasuries shall comply with the provisions of the Finance Ministry's Circular No. 80/2003/TT-BTC of August 13, 2003, guiding the concentration and management of state budget revenues through state treasuries.

- Within 60 days after the end of a year (calendar year, which begins on January 1 and ends on December 31 of the same year, or fiscal year other than the calendar year, if so permitted by competent agencies), charge payers must settle the payment of environmental protection charges for mineral exploitation with the tax offices. Within 10 days after the tax offices check and issue notices, charge payers must fully remit outstanding charge amounts (if any) to the state budget; overpaid charge amounts shall be refunded or subtracted from the payable charge amount of the subsequent period.

- In case of termination of mineral exploitation contracts; merger, consolidation, division, separation, dissolution, bankruptcy; ownership transformation; assignment, sale, contracting, or lease of state enterprises, charge payers shall have to fully remit outstanding charge amounts (if any) to the state budget within 60 days after the date of terminating mineral exploitation contracts or the date of obtaining competent agencies' decisions on the merger, consolidation, division, separation, dissolution, bankruptcy; ownership transformation; assignment, sale, contracting, or lease; overpaid charge amounts shall be refunded by the tax offices or transferred to new business establishments according to current regulations.

b/ For charge payers that do not observe or fail to fully observe the regime on vouchers, invoices or accounting books, the tax offices shall, based on the situation of mineral exploitation of each charge payer, determine in writing the exploited mineral volumes and payable charge amounts under the provisions of Decree No. 137/2005/ND-CP and the guidance in this Circular. Bases for determination of the exploited mineral volumes of each charge payer include investigation documents of tax offices or the exploited mineral volumes of establishments that have exploitation activities on a similar scale. If provincial/municipal Tax Departments, through investigating the mineral exploitation situation in localities (on the basis of declarations of mineral-exploiting establishments and documents on actual surveys of mineral resources, capital, labor and exploitation equipment), can determine the average exploited mineral volume of mineral-exploiting establishments that do not observe or fail to fully observe the regime on vouchers, invoices and accounting books, environmental protection charges for mineral exploitation shall be determined for these establishments according to the following formula:

$$\begin{array}{lll} \text{Environmental protection} & \text{The average exploited} & \text{Corresponding} \\ \text{charge payable} & = \text{mineral volume} & \text{x charge rate} \\ \text{in the period (VND)} & \text{(ton or m}^3\text{)} & \text{(VND/ton or m}^3\text{)} \end{array}$$

The average exploited mineral volumes of mineral-exploiting establishments must be determined in a public and democratic manner and in conformity with mineral exploitation activities.

c/ For small and scattered establishments liable to small environmental protection charges for mineral exploitation and located far from state treasuries, tax offices may directly collect charges, then remit them periodically to state treasuries according to the provisions of the Finance Ministry's Circular No. 80/2003/TT-BTC of August 13, 2003, guiding the concentration and management of state budget revenues through state treasuries. If exploited mineral volumes are bought by an establishment, the provincial/municipal Tax Department may issue a decision to permit the mineral-purchasing organization or individual to pay environmental protection charges on behalf of charge payers, provided that the purchasing establishment so agrees. Mineral-purchasing establishments shall have to make declaration according to a set form, calculate and pay charges by themselves and settle charge payment according to the provisions of Item a, Point 2 of this Section.

d/ Environmental protection charges for mineral exploitation shall be remitted to state treasuries in localities where minerals are exploited, and be recorded and settled in the relevant chapter, category and clause, Section 042, sub-section 06 of the current State Budget Index.

3. Management and use of collected charges

a/ Environmental protection charges for mineral exploitation shall all belong to local budgets and used to support the following specific environmental protection activities in localities where mineral exploitation is conducted:

- Prevention and limitation of negative impacts on the environment in the localities.
- Overcoming of environmental degradation or pollution caused by mineral exploitation activities.
- Cleaning, protection and rehabilitation of the environment and landscapes in the localities.

b/ The estimation, allocation and settlement of amounts coming from the source of collected environmental protection charges for mineral exploitation which are spent on the activities stated at Point a of this Section shall comply with the provisions of current law on environmental protection and state budget.

III. ORGANIZATION OF IMPLEMENTATION

1. Tax offices shall have the following tasks and powers:

a/ To guide, supervise and urge mineral-exploiting organizations and individuals to register, declare and pay charges under the provisions of Decree No. 137/2005/ND-CP and the guidance in this Circular.

b/ To examine and inspect the declaration, payment and settlement of environmental protection charges for mineral exploitation; to determine the exploited mineral volumes in order to calculate environmental protection charges to be paid by charge payers who do not observe or fail to fully observe the regime on documents, invoices or accounting books under the guidance in this Circular.

c/ To handle administrative violations related to environmental protection charges for mineral exploitation according to their competence and the provisions of law.

d/ To keep and use data and documents supplied by mineral-exploiting establishments or other subjects according to regulations.

2. This Circular takes effect as from January 1, 2006.

3. Other issues related to charge collection, remittance, management and use and publicization of the charge collection regime not mentioned in this Circular shall comply with the guidance in the Finance Ministry's Circular No. 63/2002/TT-BTC of July 24, 2002, guiding the implementation of the provisions of law on charges and fees.

4. In the course of implementation, if meeting with any difficulties or problems, organizations and individuals are requested to report them to the Ministry of Finance for study and settlement.

For the Minister of Finance

Vice Minister

TRUONG CHI TRUNG