

DECREE No. 13/2006/ND-CP OF JANUARY 24, 2006, ON THE DETERMINATION OF LAND-USE RIGHT VALUE FOR INCLUSION IN ASSET VALUE OF ORGANIZATIONS ALLOCATED LAND BY THE STATE WITHOUT COLLECTION OF LAND USE LEVY

THE GOVERNMENT

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

Pursuant to the November 26, 2003 Land Law;

Pursuant to the November 26, 2003 Law on State Enterprises;

At the proposal of the Minister of Finance,

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1.- Objects and scope of application

Land subject to determination of land-use right value for inclusion in the value of organizations' assets assigned by the State under this Decree means:

1. Land for construction of working offices of state management agencies, political organizations, socio-political organizations, socio-political-professional organizations, social organizations, socio-professional organizations, economic organizations, socio-economic organizations, non-business public organizations (non-business units), state companies, people's armed forces units, and other organizations (hereinafter referred to as collectively organizations), which are allocated land by the State without collection of land use levy.

2. Land allocated by the State with collection of land use levy and land received from land-use right transfer for which land use levy already remitted or money amounts already paid for land-use right transfer originate from the state budget.

3. Land allocated by the State without collection of land use levy to organizations for use for research, test or experimentation in agriculture, forestry, aquaculture or salt-making (except for cases where organizations pay for land-use right transfer with non-state budget capital).

4. Land used by agricultural cooperatives as grounds for construction of their working offices, drying yards or warehouses; for construction of service establishments in direct service of agricultural and forestry production, aquaculture or salt-making.

5. Land under protective forests or special-use forests allocated to organizations.

6. Land allocated by the State with collection of land use levy to organizations which, however, are exempt from paying land use levy under the provisions of Article 12 of the Government's Decree No. 198/2004/ND-CP of December 3, 2004, on the collection of land use levy.

7. Land allocated by the State without collection land use levy or with collection of land use levy to equitized state enterprises which, however in the latter case, are exempt from paying land use levy under the provisions of Article 12 of the Government's Decree No. 198/2004/ND-CP of December 3, 2004, on the collection of land use levy.

Article 2.- Bases for the determination of land-use right value

Bases for the determination of land-use right value are land area and land price:

1. Land areas subject to determination of land-use right value are land areas currently in use,

which are allocated under decisions of competent state agencies or received from land-use right transfer. In case of discrepancy between land areas currently in use and land areas stated in land allocation decisions or documents on land-use right transfer, land-use rights shall be valued based on actually used land areas which are certified by provincial/municipal Natural Resources and Environment Services.

2. Land prices for the determination of land-use right value are land prices promulgated by provincial/municipal People's Committees (hereinafter referred collectively to as provincial-level People's Committees) under the Government's Decree No. 188/2004/ND-CP of November 16, 2004, on methods for determination of land prices and price brackets for land of all types (hereinafter called Decree No. 188/2004/ND-CP for short). Where land-use rights are transferred or auctioned, if the transfer prices or successfully bid prices are higher than those promulgated by provincial-level People's Committees, land prices for the determination of land-use right value shall be the actual prices for land-use right transfer or successfully bid prices.

Article 3.- Land-use rights constituting a state asset

1. Land allocated by the State without collection of land use levy to organizations; land allocated by the State with collection of land use levy to organizations which, however, are exempt from paying land use levy; land allocated by the State with collection of land use levy and land received from land-use right transfer for which land use levy already remitted or money amounts already paid for land-use right transfer originate from the state budget, constitute a state asset assigned to organizations.

2. Land-use right value constitutes state asset value and state investment capital allocated to organizations.

3. The transfer and recovery of land-use rights shall comply with the provisions of laws on land and state asset management.

Chapter II

SPECIFIC PROVISIONS

Article 4.- Land prices used for valuation of land-use rights

1. The prices of land used for construction of working offices or non-business works shall be determined according to land prices promulgated by provincial-level People's Committees under Decree No. 188/2004/ND-CP.

2. The prices of land used as grounds for production and business activities shall be determined according to the prices of non-agricultural land (other than residential land) promulgated by provincial-level People's Committees under Decree No. 188/2004/ND-CP.

3. The prices of land used for production, research and experimentation in agriculture, forestry, aquaculture or salt-making shall be determined according to the prices of agricultural, forest (including protection forests and special-use forests), aquacultural or salt-making land promulgated by provincial-level People's Committees under Decree No. 188/2004/ND-CP.

Article 5.- Valuation of land-use rights

1. Where organizations are allocated land without collection of land use levy or are donated land-use rights, land-use right value shall be determined by multiplying land areas by land prices defined in Article 4 of this Decree.

2. Where organizations are allocated land by the State with collection of land use levy but are exempt from paying land use levy, land-use right value shall be determined by multiplying allocated land areas by land prices determined according to land-use purposes and land allocation duration.

3. Where organizations have been using land before the effective date of this Decree, the valuation of land-use rights shall comply with Clauses 1 and 2 of this Article.

Article 6.- Adjustment to land-use right value

Organizations must adjust land-use right value included in their asset value if:

1. There is any change in land areas of which land-use rights have been valued due to:

a/ Land inventory carried out under the provisions of the Land Law.

b/ Decisions of competent state agencies on the recovery, further allocation, receipt from transfer of part of land according to the provisions of law.

c/ Other reasons as certified by competent state agencies.

2. Land-use purposes are changed under decisions of competent state agencies.

3. The Prime Minister issues decisions on general inventory and re-valuation of assets.

Article 7.- Accounting land-use right value into asset value

1. For state organizations and agencies, political organizations, socio-political organizations, public non-business organizations, armed forces units, and other organizations, the monetary value of land-use rights shall constitute fixed asset value included in agencies' or units' asset value and constitute a state asset at organizations.

2. For state companies, the monetary value of

land-use rights shall be included in their asset value and constitute part of capital allocated by the State. Companies shall have to preserve and manage such land areas according to the provisions of law on management of state assets.

3. Land-use right value shall be accounted into asset value as a separate item in accounting books according to the provisions of law on accounting; land areas and land dossiers shall be recorded and monitored on asset registers of organizations or units.

Article 8.- Recovery and transfer of land-use rights

1. Land allocated without collection of land use levy to organization shall be recovered or have their use rights transferred in the following cases where:

a/ It is used for improper purposes or left unused due to re-arrangement of working offices.

b/ Working offices, non-business establishments or production and business establishments (referred to as collectively working offices) must be relocated under planning due to environmental pollution.

2. The transfer shall be carried out only after obtaining permission for the change of land-use purposes to residential land, agricultural land, or non-agricultural land used as production and business ground according to the provisions of land law.

a/ The Prime Minister or the Finance Minister, as decentralized by the Government, shall decide on the recovery and sale of assets, including land-use rights over land allocated with collection of land use levy or leased land, of centrally-run organizations, to the transferees.

b/ Presidents of provincial-level People's Committees shall decide on the recovery and sale of assets, including land-use rights over land allocated with collection of land use levy or leased

land, of locally-run organizations, to the transferees.

3. The transfer of land-use rights or sale of assets attached to land shall be effected mainly by mode of auction or decided by competent state agencies (mandated sale).

The whole proceeds from the transfer of land-use rights must be remitted into the state budget according to the provisions of law on the state budget. In cases where it is necessary to invest in the construction of new working offices (due to relocation or re-arrangement thereof), proceeds from the transfer of land-use rights may be used for execution of investment projects approved by competent agencies and shall be managed and allocated in accordance with current regulations on management of state budget capital in capital construction investment.

Chapter III

ORGANIZATION OF IMPLEMENTATION

Article 9.- Order for valuation of land-use rights

1. Land-using organizations defined in Article 1 of this Decree shall send reports on the use of land, together with land-use right certificates, to the Finance Services of provinces or centrally-run cities where exists the used land; if they have not yet been granted land-use right certificates, they shall send documents related to land-use rights (land allocation decisions, minutes on the delivery of land, production and business establishments or working offices); where they do not have papers evidencing their land-use rights, they must fill in procedures for the establishment of land-use rights according to the provisions of land law.

2. On the basis of reports and dossiers of organizations and land prices promulgated by provincial-level People's Committees, provincial/

municipal Finance Services shall assume the prime responsibility for, and coordinate with concerned branches in, determining the value of land-use rights to be included in the value of organizations' assets. Documents on the valuation of land-use rights shall be made in 04 copies (for centrally-run organizations) or 03 copies (for locally-run organizations) and sent to the following agencies:

a/ 01 copy to be archived by the provincial/ municipal Finance Service.

b/ 01 copy to be sent to the land-using organization.

c/ 01 copy to be sent to the ministry, ministerial-level agency or another central organization which manages the organization (for centrally-run organizations) or to provincial/municipal services and departments and People's Committees of districts, towns or provincial capitals (for locally-run organizations).

d/ 01 copy to be sent to the Ministry of Finance (the Department for State Asset Management), for centrally-run organizations.

3. Land-using organizations shall account the value of land-use rights determined under Clause 2 of this Article into the value of their assets or state capital allocated to organizations according to the provisions of current accounting and statistical regimes.

Article 10.- Deadline for valuation of land-use rights

1. The first-time valuation of land-use rights under this Decree must be completed before December 31, 2007.

2. The adjustment to land-use right value specified in Article 6 of this Decree shall comply with decisions of competent state agencies.

Article 11.- Management of land-use right value

of organizations which are allocated land without collection of land use levy or allocated land with collection of land use levy but are exempt from paying land use levy

1. Annually, organizations shall have to report to provincial/municipal Finance Services on any change in land areas in use or in land use purposes.

2. On the basis of reports of organizations and decisions on adjustment to land prices or decisions on promulgation of land prices, provincial/municipal Finance Services shall adjust the land-use right value of organizations according to the provisions of Clause 2, Article 9 of this Decree.

Article 12.- Responsibilities of organizations directly managing or using land

1. To manage and use land for proper purposes and within allocated areas.

2. To determine, monitor, account on accounting books, and adjust the land-use right value according to the provisions of this Decree.

Where a land area or a house is jointly used by many organizations, the organization which is assigned to manage such land area shall have to value its use rights according to the provisions of this Decree.

3. Heads of organizations, general directors and directors of state companies which are directly managing and using land shall have to preserve the allocated land funds. It is strictly prohibited from using land for purposes other than the prescribed ones. In case of using land for improper purposes or letting land loss occur such as letting individuals encroach land illegally, allocating land without permission to individuals for construction of dwelling houses, or using land for improper purposes: lease or lending, such land must be recovered and concerned individuals shall be handled according to the provisions of law.

Article 13.- Responsibilities of ministries, ministerial-level agencies, Government-attached agencies, central agencies of mass associations and provincial-level People's Committees

1. To guide state agencies, units and companies under their management to conduct the determination, adjustment to and accounting of the land-use right value according to the provisions of this Decree.

2. To inspect the management and use of land by state organizations and companies under their management. To handle according to their competence or propose competent authorities to handle violations in land management and use according to the provisions of law.

Article 14.- Responsibilities of the Ministry of Finance

To guide and inspect ministries, ministerial-level agencies, Government-attached agencies, central agencies of mass associations, provincial-level People's Committees and land-using organizations in organizing the implementation of this Decree.

Article 15.- Responsibilities of the Ministry of Natural Resources and Environment

1. To guide the settlement of problems on the establishment of organizations' land-use rights.

2. To coordinate with the Ministry of Finance in guiding the implementation of this Decree, within the scope of their functions, tasks and powers.

Chapter IV

IMPLEMENTATION PROVISIONS

Article 16.- This Decree takes effect 15 days after its publication in "CONG BAO." Other previous provisions contrary to this Decree are hereby annulled.

Article 17.- Ministers, heads of ministerial-level agencies and Government-attached agencies, presidents of provincial/municipal People's Committees and heads of concerned agencies shall have to implement this Decree.

On behalf of the Government

Prime Minister

PHAN VAN KHAI