

CIRCULAR No. 35/2001/TT-BTC OF MAY 25, 2001 GUIDING THE PAYMENT OF LAND RENT AND CONTRIBUTION OF CAPITAL TO JOINT VENTURES WITH LAND USE RIGHT VALUE BY DOMESTIC ORGANIZATIONS, FAMILY HOUSEHOLDS AND INDIVIDUALS

Pursuant to the Land Law and the Law Amending and Supplementing a Number of Articles of the Land Law;

Pursuant to the Law on Domestic Investment Promotion;

Pursuant to the Government's Decree No.04/2000/ND-CP of February 11, 2000 detailing the implementation of the Law Amending and Supplementing a Number of Articles of the Land Law;

Pursuant to the Government's Decree No.128/CP

of October 28, 1994 on tasks, powers and organizational structure of the Finance Ministry;

The Finance Ministry hereby guides the payment of land rent and contribution of capital to joint ventures with the land use right value by domestic organizations, family households and individuals, as follows:

Part I

PAYMENT OF LAND RENT

I. LAND RENT PAYERS

1. Subjects leased land by the State as defined in Article 9 of the Government's Decree No.04/2000/ND-CP of February 11, 2000 detailing the implementation of the Law Amending and Supplementing a Number of Articles of the Land Law (hereinafter referred to as Decree No.04/2000/ND-CP), (see Appendix I to this Circular), shall have to pay land rent for the whole leased land area.

2. Economic organizations assigned land for use for agricultural production, forestry, aquaculture or salt making after January 1, 1999.

3. Subjects assigned land without the collection of land use levy as defined in Clause 1, Article 7 of Decree No.04/2000/ND-CP and using part of the assigned land area for production, business and/or service purposes other than the assigned land use purposes (specified in Appendix I to this Circular) shall have to pay land rent for the land area used for production, business and/or service activities.

4. Economic organizations which have been assigned land by the State with the collection of land use levy or transferred with the land use right, and have paid land use levy or transfer charge, which originates from the State budget, shall have to switch to land lease and pay land rent.

5. Organizations and individuals performing the tasks of exploiting minerals and building materials... shall have to annually pay land rent for the land area where the exploitation is carried out.

II. SUBJECTS NOT LIABLE TO LAND RENT

1. Organizations, family households and individuals that are assigned land by the State with the collection of land use levy as defined in Article 8 of Decree No.04/2000/ND-CP (Appendix II to this Circular).

2. Subjects assigned land without the collection of land use levy as defined in Clauses 2 and 3, Article 7

(Appendix II to this Circular) and Clause 1, Article 7 of Decree No.04/2000/ND-CP (except for land area used for production and business purposes mentioned in Clause 3, Section I, Part I of this Circular).

3. Economic organizations which have been transferred with the lawful land use right from other persons or assigned land by the State with the collection of land use levy, which does not originate from the State budget, shall not have to switch to land lease.

In cases where the transfer of the right to use agricultural or forestry land is received together with the change of land use purpose permitted by the competent State bodies with money paid for such transfer reception and land use purpose change not originating from the State budget, the land use right transferees shall neither have to switch to land lease nor pay land rent.

4. Organizations currently using land, which was previously residential land lawfully used by family households or individuals, after being permitted by the competent State bodies to use such land area for building offices or workshops for production and/or business activities, must neither switch to land lease nor pay land rent.

5. State organizations which are permitted by the competent State bodies to contribute land use right value as capital to joint ventures with foreign organizations and/or individuals.

6. Organizations and individuals that are permitted to exploit underground minerals shall not have to pay land rent for unused land surface area.

III. DETERMINATION AND PAYMENT OF LAND RENT

1. Land rent for one year (VND/year) shall be calculated equal to the leased land area (m^2) multiplied by the land rent rate per year ($VND/m^2/year$).

- The land area for calculating land rent is the whole area currently managed and used by an organization, family household or individual for production and/or business activities. Such an area shall be determined under the land lease contract and the written declaration for land rent payment registration. Where the land lease contract is not available yet, the land assignment dossier, the dossier on the hand-over of production and/or business establishment, the land lease dossier or written declaration by the land user shall serve as basis for such determination. Once the land area is officially determined, the calculated figures shall be readjusted

according to the reality.

The land rent rate per year is determined as follows:

Land rent rate per year (VND/m ² /year)	Price of 1 m ² of land prescribed by provincial-level People's Committee according to the Government's price bracket of land of various categories	Coefficient for calculating land rent rate applicable to each group of business lines or trades prescribed in Article 2 of the Regulation on land rent rate bracket for domestic organizations leased land by the State, promulgated together with the Finance Minister's Decision No. 1357/TC/QĐ/TTCT of December 30, 1995
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+ Land rent rates applicable to investment projects for the construction of infrastructure of industrial parks (IP), export processing zones (EPZ) and hi-tech parks (HTP) shall be equal to 80% of those determined according to the above-said method.

- Land rent calculated for the first year and the last year of the land lease term shall be determined according to the number of months during which the land is actually leased.

For the land area to be returned to the State, the land rent shall be calculated up to the time of hand-over. In cases where an organization, family household or individual had made a written request for land return, but the State has not yet received the hand-over of land, one month after the record on acceptance of land return is made between the land lessee and the State body competent to lease land, such organization, family household or individual shall not have to pay land rent for such area.

2. Time point for land rent calculation: Time point of land rent calculation is that when the enterprise is handed the land for use.

3. Payment of land rent:

- Organizations, family households and individuals that are liable to pay land rent shall have to submit written declarations for land rent payment registration and relevant vouchers to land rent collecting bodies within 1 month after the land rent is calculated.

- Land rent (including capital use levy collected in cases where the land use right value is contributed as

capital to joint ventures as prescribed in Part II of this Circular) for leased land in a certain geographical area (rural or urban district) shall be paid into the State budget at the State Treasury located in such geographical area (rural or urban district) according to the current State budget index.

The payment of land rent shall be made twice a year, with 50% of the land rent calculated for one year being paid each time. The first payment time must not be later than June 30; the second time must not be later than October 30 of the year.

- Land rent may be paid annually and accounted into annual production and/or business costs of land lessees. In cases where the land rent is paid in lump sum for many years, it shall be distributed to the number of years for which the land rent is paid and be accounted into the production and/or business costs corresponding to such number of years.

4. Obligations of organizations, family households and individuals when being leased land by the State:

4.1. Organizations, family households and individuals leased land by the State shall have to pay land rent in full and on time to the State Treasury and follow the guidance of the tax offices directly managing the land rent collection.

4.2. Land under use for which the land rent has already been paid according to the provisions of this Circular shall not be subject to agricultural land use tax or house and land tax.

5. Land rent exemption and reduction:

Domestic organizations, family households and individuals that are leased land by the State shall be entitled to land rent exemption or reduction in the following cases:

5.1. The land rent shall be exempt during the period of capital construction of the projects. In cases where a project consists of numerous construction items or independent construction stages, the land rent exemption or reduction shall be calculated for each construction item or independent construction stage. In cases where the land rent exemption or reduction cannot be calculated separately according to construction items or independent construction stages, the capital construction period shall be calculated according to the construction item with the largest capital proportion.

5.2. The land rent shall be exempt as from the date

the capital construction is completed in order to effect the domestic investment promotion (see Appendix III to this Circular) according to the investment projects' approval by the competent State bodies.

5.3. The land rent shall be exempt for 3 years as from the date the capital construction is completed for enterprises having their factories or plants located in inner quarters of cities or provincial towns when such factories or plants are relocated to the city outskirts or suburban areas under the planning.

5.4. The land rent shall be exempt or reduced for traders conducting trade activities in mountainous regions, islands and/or regions inhabited by ethnic minority people according to the provisions of the Government's Decree No.20/1998/ND-CP of March 31, 1998 as follows:

- Land rent exemption for the first 5 years and 50% reduction for the 5 subsequent years for traders conducting business in region II.
- Land rent exemption for the construction or expansion of business establishments for traders conducting business in region III.

5.5. Organizations, family households and individuals renting land and simultaneously being entitled to different land rent exemption or reduction levels provided for in Items 5.2, 5.3 and 5.4 of this Clause 5 or other legal documents, shall only enjoy the highest exemption or reduction level.

After the land rent exemption or reduction provided for in Item 5.1, 5.2, 5.3 or 5.4 of this Clause 5 is effected, the organizations, family households and individuals that pay land rent in advance for many years right in the first year shall be entitled to further land rent reduction as follows:

If the land rent is paid for 5 years, land rent shall be reduced by 5% for such 5 years. If the land rent is paid for a land lease term of over 5 years, each additional year shall be entitled to 1% reduction more (6% for 6 years paid, 7% for 7 years paid...), but the total reduction level must not exceed 25% of the payable land rent amount for such period. In cases where the land rent is paid for the total land lease term of over thirty (30) years, the 30% reduction of the payable land rent shall be given.

5.6. For hotels, rest houses and guest houses, engaged in seasonal business activities, if they fully pay land rent according to the provisions of this Circular but suffer from losses, they shall be considered for land rent reduction. The reduced land rent must be equal

to the loss amount, but the maximum reduction level shall be 50% of the payable land rent amount.

5.7. For leased land used for agricultural production, forestry, aquaculture or salt making purpose but hit by natural calamities or fire, which cause loss to the production output, the land rent exemption or reduction corresponding to the agricultural land use tax exemption or reduction level shall be considered, concretely as follows:

- + For one year's output loss of between 10 and under 20%, the land rent shall be reduced correspondingly to the loss level;
- + For one year's output loss of between 20 and under 30%, the 60% reduction of the payable land rent shall be given;
- + For one year's output loss of between 30 and under 40%, the 86% reduction of the payable land rent shall be given;
- + For one year's output loss of 40% or higher, the land rent shall be exempt for one year.

The determination of loss level for effecting the land rent exemption or reduction prescribed in this Item shall be made by the method of determining damage level to effect the agricultural land use tax reduction or exemption.

5.8. For leased land used for production and business purposes other than agricultural production, forestry, aquaculture and salt making, when property damage is caused by natural calamities, fire or force majeure events, which is equal to 20% to under 50% of the property value, the 50% reduction of land rent payable in one year shall be given. For property damage level of 50% or higher, the land rent exemption for the whole year shall be given. The damage level shall be calculated equal to the damaged property value on the total existing property value at the time right before the damage is caused.

5.9. The land rent amount to serve as basis for calculating exemption or reduction according to the provisions in Items 5.6, 5.7 and 5.8 is the land rent to be paid after the exemption or reduction amount is subtracted according to the provisions in Items 5.1, 5.2, 5.3 and 5.4 of Clause 5 (if any).

5.10. The land rent exemption or reduction under this Circular shall apply to all projects with land leased by the State before and after the effective date of this Circular.

- Projects, being in the stage of capital construction

and entitled to land rent reduction according to Circular No. 70/TC-QLCS of October 7, 1997, shall now enjoy the land rent exemption according to the provisions in *Item 5.1 of this Clause 5* for the remaining capital construction period.

- Projects, which have commenced operation from the date of completion of their capital construction up to the effective date of this Circular and are still eligible for land rent exemption or reduction as prescribed in *Items 5.2, 5.3 and 5.4 of this Clause 5* to go, shall enjoy land rent exemption or reduction for the remaining land rent exemption or reduction period.

5.11. To enjoy land rent exemption or reduction, organizations, family households and individuals shall have to file applications for land rent exemption or reduction enclosed with necessary papers to tax offices directly managing the land rent collection, each dossier comprises:

- An application for land rent exemption or reduction. Particularly for cases of application for reduction or exemption specified in *Items 5.7 and 5.8 of this Clause 5*, dossiers and papers evidencing production and/or property damage must be enclosed.

- The investment license or business registration;

- The land lease decision or written declaration for land rent payment registration;

- The certificate of investment preferences issued by the competent State body (if any).

Part II

CONTRIBUTION OF CAPITAL TO JOINT VENTURES WITH LAND USE RIGHT VALUE; HANDLING OF CASES WHERE DEBTS HAVE BEEN ACKNOWLEDGED AND LAND RENTS CONTRIBUTED AS CAPITAL TO JOINT VENTURES HAVE BEEN REFUNDED, WHERE LAND USE LEVY HAS BEEN PAID OR WHERE THE TRANSFER OF LAND USE RIGHT HAS BEEN RECEIVED

I. CONTRIBUTION OF CAPITAL WITH LAND USE RIGHT VALUE TO JOINT VENTURES WITH DOMESTIC ORGANIZATIONS AND/OR INDIVIDUALS

1. When the value of the right to use assigned agricultural land and forestry land is contributed as capital to joint ventures for further use for agricultural

production, forestry, aquaculture or salt making purpose, the land use right value of the party contributing land as capital to a joint venture shall be agreed upon by the joint venture parties, provided that the land price for determining the land use right value must not be lower than the agricultural land price prescribed by the provincial People's Committee within the land price bracket promulgated by the Government.

The parties contributing land as capital to joint ventures shall have to pay agricultural land use tax as prescribed by law, but not have to pay land rent and State budget capital use levy.

2. Capital contribution in cases of permission for change of use purposes from agricultural land or forestry land to other purposes or capital contribution with leased land, the land use right value contributed as capital to joint ventures shall be determined as equal to the land rent paid into the State budget according to the new use purposes within the joint venture duration.

3. In cases where the land use levy has already been paid according to the provisions of Section IV, Part II for land contributed as capital to joint ventures, the parties contributing land to the joint ventures shall have to pay only the land tax but not the land rent and State budget capital use levy.

II. CONTRIBUTION OF CAPITAL WITH LAND USE RIGHT VALUE TO JOINT VENTURES WITH FOREIGN ORGANIZATIONS AND/OR INDIVIDUALS

For Vietnamese organizations, which are permitted by the State to contribute land use right value (land rent) as capital to joint ventures or business cooperation contracts with foreign organizations and individuals, the land rent rate shall be agreed upon by the parties but must not be lower than the land, water surface and sea surface rent rates applicable to the forms of foreign investment in Vietnam. The contribution of capital with land use right value is specified as follows:

1. Organizations, which have been assigned land by the State with the collection of land use levy, and organizations, which have been transferred the lawful land use right from other persons with money paid for such transfer having not originated from the State budget or which have used land of family households and/or individuals with lawful land use right and such land is not the land leased by the State, when being permitted to contribute the land use right value to joint ventures.

shall not have to pay the levy for the use of the State budget capital for the land use right value contributed to joint ventures, but shall have to annually pay land use tax (land tax) to the State according to the current law provisions.

2. For organizations leased land by the State:

2.1. State enterprises leased land by the State and permitted to contribute land use right value (land rent) to joint ventures with foreign countries, the land rent amount contributed as capital to the joint ventures shall be the capital invested by the State in such enterprises (the Vietnamese parties) and such enterprises shall have to pay the levy for the use of the State budget capital according to the current regulations. The time for calculating and paying the State budget capital use levy shall be counted from the time the land rent is contributed as capital to joint ventures.

In cases where they have paid land rent for the whole land lease term, when being permitted by the State to contribute the land use right value to joint ventures within the term for which the land rent has already been paid, they shall not have to pay the levy for the use of the State budget capital for the land use right value contributed as capital to joint ventures.

2.2. Organizations other than State enterprises, which are leased land by the State and have paid land rent for the whole land lease term or for the remaining land lease term of at least 5 years, when being permitted by the State to contribute the land use right value as capital to joint ventures within the term for which the land rent has been paid, shall have to pay land rent according to the regulation on land, water surface and sea surface rent rates applicable to the forms of foreign investment in Vietnam promulgated together with the Finance Minister's Decision No. 189/2000/QĐ-BTC of November 24, 2000.

3. For State enterprises previously permitted to contribute the land use right value as capital to joint ventures with foreign organizations and/or individuals, the land use right value (land rent) calculated for the whole duration of joint venture capital contribution shall now be converted into the State budget capital invested in such enterprises which shall have to pay the State budget capital use levy. The time for calculating and paying the State budget capital use levy shall comply with the provisions in Clause 2.1 of this Section.

3.1. For State enterprises specified in Clause 1 of this Section, if they have already acknowledged debts and refunded land rent to the State budget under the

guidance in the Finance Ministry's Circular No. 70/TC-QLCS of October 7, 1997, the already paid land rent shall be cleared against the payable land use tax (land tax) counting from the time of handing over the land for capital contribution to joint ventures. If they have not yet fully paid the land rent, they now shall pay the land use tax (land tax) instead for the period for which the land rent has not yet been paid. In cases where the already paid land rent amount is larger than the land use tax payable for the whole term of contributing land use right value as capital to joint ventures, such overpaid land rent amount shall be reimbursed to organizations by the State budget.

3.2. For State enterprises specified in Clause 2.1 of this Section, if they have acknowledged debts and refunded land rent to the State budget under the guidance in the Finance Ministry's Circular No. 70/TC-QLCS of October 7, 1997, the already paid land rent shall be cleared against the payable State budget capital use levy as from the time of contributing the land rent as capital to joint ventures. If they have not yet fully paid the land rent, they shall now pay the State budget capital use levy instead for the whole period for which the land rent has not yet been paid. In special cases where the already paid land rent is larger than the capital use levy payable for the whole term of contributing the land use right value as capital to joint ventures, such overpaid land rent amount shall be reimbursed to the enterprises by the State budget.

III. RECORDING THE CAPITAL IN LAND USE RIGHT VALUE CONTRIBUTED AS CAPITAL TO JOINT VENTURES

1. Basing themselves on requests of organizations having land contributed as capital to joint ventures and relevant dossiers, including:

Written request of the organization having land contributed as capital to joint venture;

- Land assignment or land lease decision;
- Investment license;
- Joint venture contract;
- Other relevant papers.

The councils for determination of State budget capital in land use right value, presided over by the provincial/municipal Finance and Pricing Services, shall coordinate with the provincial/municipal Land Administrations in inspecting, considering and determining the land use right value to be contributed as capital to joint ventures.

Parties having land to be contributed as capital to joint ventures shall have to sign written records on determination of State budget capital in land use right value (land rent) to be contributed as capital to joint ventures with the provincial/municipal Finance and Pricing Services.

2. Basing themselves on written records on the determination of State budget capital in land use right value (land rent) to be contributed as capital to joint ventures, the provincial/municipal Finance and Pricing Services shall record the increase of State budget capital invested in the enterprises being the parties with land contributed as capital to joint ventures. Particularly for enterprises established or with capital contribution decided, by the Prime Minister, the ministers and/or the heads of the ministerial-level agencies, the Enterprise Finance Department shall record the increase of State budget capital.

3. For cases where contracts on acknowledgment of debts being the land rent have already been signed and the land rent rates are not readjusted, the provincial/municipal Finance and Pricing Services shall assume the prime responsibility and coordinate with the provincial/municipal Land Administrations and the Enterprise Finance Department (for centrally-run enterprises), on the basis of debt acknowledgment contracts, in working with Vietnamese enterprises that have land to be contributed as capital to joint ventures to convert the land rent into the State budget capital invested in the enterprises.

In cases where the land use levy or land rent has been paid for the land permitted to be contributed as capital to joint ventures for the whole land lease term, the previous contracts on acknowledgment of debts being land rent shall be canceled. The parties having land contributed as capital to joint ventures shall send their applications for such cancellation enclosed with relevant dossiers and documents to the provincial/municipal Finance and Pricing Services where the enterprises have acknowledged debts. The councils for determination of State budget capital in land use right value contributed to joint ventures, which are presided over by the provincial/municipal Finance and Pricing Services, shall inspect and check declarations of the organizations, then issue notices on cancellation of debt acknowledgment contracts and send them to the concerned agencies, if the declarations are found truthful.

IV. LAND CONSIDERED LAND FOR WHICH THE LAND USE LEVY HAS ALREADY BEEN PAID

Land assigned by the State or land transferred, for which the land use levy has already been remitted into

the State budget and charge already paid for land use right transfer has not originated from the State budget, shall be considered land for which the land use levy has already been paid, with the following specific cases:

- Assigned land for which damage compensations have been paid under Decision No 186/HDBT of May 31, 1990 of the Council of Ministers (now the Government) on compensations for damage to agricultural land and forest land when converted for other use purposes.

- Assigned land for which the land use levy has been remitted into the State budget according to the provisions of the Finance Ministry's Circular No 60-TC/CT of July 16, 1993 upon the land assignment instead of the settlement of project value.

- Land acquired through the purchase of houses together with the right to use land with houses thereon, for which the house seller, besides transferring land use right, has paid income tax according to the Ordinance on Income Tax on High Income Earners.

- Land acquired through the purchase of State-owned houses together with the transfer of land use right in compliance with the provisions of the Government's Decree No 61/CP of July 5, 1994 on residential house purchase, sale and trading.

- Assigned land for which the land use levy has been paid according to the provisions of the land legislation.

- Land with the lawful land use right transferred from other persons or agricultural land or forestry land with their use right being transferred together with the change of land use purposes permitted by competent State body(ies).

- Land assigned from the land fund used to create capital for infrastructure construction, which is land assigned by the State to economic organizations to settle value of constructed projects.

Part III

HANDLING OF VIOLATIONS, COMMENDATIONS, REWARDS AND COMPLAINTS

1. For organizations, family households and individuals that are using land and subject to the declaration for land rent payment but fail to properly make such declaration under the guidance in this Circular, the tax offices shall base themselves on

investigation documents and land use dossiers of such organizations, family households and individuals supplied by the People's Committees of communes, wards and district townships to decide on the contents specified in Part I on land rent payment and notify such organizations, family households and individuals thereof for land rent payment, and at the same time notify such to the concerned bodies.

Organizations, family households and individuals that fail to pay land rent or fines within the prescribed time limit shall, besides having to fully pay such land rent and fines as prescribed, have to pay for each day of delayed payment a fine amount equal to 0.1% of the delayed amount.

In cases where the land lessees deliberately delay or drag paying land rent and fines, the tax offices may request banks where such land lessees open deposit accounts to deduct money from such accounts to pay land rent and fines (if any) into the State Treasury. If no account is available, the tax offices shall report such to the People's Committees of the same level for administrative coercive measures to be taken according to the current regulations.

2. Organizations and individuals that abuse positions and/or powers to appropriate, embezzle or cause loss to land rent shall have to make compensations therefor to the State and, depending on the seriousness of their violations, be disciplined and/or examined for penal liability according to the provisions of law.

3. Persons who have merits in detecting acts of violation prescribed in this Circular shall be recommended and/or rewarded according to the State's general regulations.

4. Land rent-paying organizations, family households and individuals may complain about relevant matters to their provincial/municipal tax departments; pending the settlement thereof, the complainants shall have to pay in full and on time the land rent and fines (if any) already notified. Organizations permitted to contribute land use right value as capital to joint ventures may complain relevant matters to the provincial/municipal Finance and Pricing Services. In cases where they disagree with decisions of the settling bodies, they may lodge their complaints to the immediate superiors of the bodies that have issued settling decisions. The Finance Minister's decisions shall be final.

Bodies that receive complaints shall have to settle them within 30 days after the receipt thereof.

Part IV

ORGANIZATION OF IMPLEMENTATION

1. The People's Committees of the provinces and centrally-run cities shall have to direct provincial/municipal Finance and Pricing Services, Land Administrations, Tax Departments and People's Committees of lower levels and current land users being the land lessees and land rent payers in their respective localities in strictly following the guidance in this Circular.

2. The General Tax Department shall have to direct Tax Departments and Tax Sub-Departments in localities:

2.1. Within 15 days after receiving written registration declarations from organizations, family households and individuals being land lessees, to check and determine payable land rent amounts and notify them to the land lessees for payment; collect capital use levy; determine the already paid land rent amounts to be cleared against the payable capital use levy; determine the land rent arrears in order to collect capital use levy instead for the period for which the land rent has not yet been paid.

2.2. For cases of land use prior to January 1, 1999, the tax offices shall guide the declaration for land rent payment registration, and inspect and verify the data for calculating norms in written registration declarations and check the reality so as to determine the land lessees and collect land rent.

3. The Enterprise Finance Department shall have to guide the certification of origin of land use levy already remitted into the State budget and money for transfer of land use right, the allocation and management of the State budget capital being land use right value to be contributed to joint ventures by enterprises established by the Prime Minister, the ministers, the heads of the ministerial-level agencies and the heads of the agencies attached to the Government.

4. The Finance and Pricing Services of the provinces and centrally-run cities shall have to:

- Act as the heads of councils for determination of the State budget capital in land use right value to be contributed as capital to joint ventures; assume the prime responsibility and coordinate with the concerned branches in inspecting and considering the agreement on land use right value to be contributed as capital to joint ventures by organizations with land assigned or

leased by the State, and on that basis determining the land use right value to be contributed as capital to joint ventures.

- Inspect and give certification of origin of the already paid land rent, the money paid for the transfer of lawful land use right from other persons or land use levy for land assigned by the State, which have not originated from the State budget; allocate and manage the State budget capital being land use right value to be contributed as capital to joint ventures by local enterprises.

5. This Circular takes effect 15 days after its signing and replaces the Finance Minister's Circular No. 70-TC/QLCS of October 7, 1997 guiding the payment of land rent and contribution of land use right value as capital to joint ventures by domestic organizations according to the provisions of the Government's Decree No. 85/CP of December 17, 1996. All the previous guidances which are contrary to this Circular are now annulled.

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

For the Minister of Finance
Vice Minister
NGUYEN THI KIM NGAN

APPENDIX I

LAND RENT PAYERS

(Promulgated together with the Finance Ministry's Circular No. 35/2001/TT-BTC of May 25, 2001)

1. Subjects leased land by the State specified in Article 9 of Decree No. 04/2000/ND-CP, including:

a/ Family households and individuals that need to use land for production and/or business activities.

b/ Family households which use agricultural land in excess of the limit prescribed by the land legislation.

c/ Economic organizations which use land for production and/or business activities.

d/ Economic organizations which rent land for

investment in the construction of infrastructure for transfer or lease of the land use right in association with such infrastructure in industrial parks (IP), export processing zones (EPZ) or hi-tech parks (HTP).

2. Subjects assigned land by the State without collecting the land use levy, as specified in Clause 1, Article 7 of Decree No. 04/2000/ND-CP that use part of the assigned land for production, business and/or service purposes other than the assigned purposes, shall have to pay land rent for the land area used for production, business and/or service purposes, including:

a/ Organizations which are assigned forest land and land for planting headwater protection forests, forests against wind or sand storms, for wave-breaking, seaward encroachment or ecological environment protection; organizations assigned by the State to manage national parks, nature preservation forests or cultural-historical-environmental forests; but use part of such land for production, business and/or service purposes other than those assigned, shall have to pay land rent for such land area.

b/ State bodies, political organizations, socio-political organizations, people's armed force units, which use land for construction of working offices, for national defense or security purposes, for construction of economic, cultural, social, scientific and technical or diplomatic projects of branches and public-service sectors; organizations assigned to manage land where exist classified historical or cultural relics; and use part of such land for production, business and/or service purposes other than those assigned, shall have to pay land rent for such land area.

c/ Organizations that use land for public-utility purposes specified in Article 4 of the Government's Decree No. 04/2000/ND-CP of February 11, 2000, including the following:

- Land used for public purposes specified at Point 5, Clause 5, Article 1 of the Law Amending and Supplementing a Number of Articles of the Land Law, including land for construction of roads, bridges, culverts, pavements, water supply and drainage systems, rivers, lakes, dikes, dams, schools, hospitals, markets, parks, flower gardens, play grounds for children, squares, stadiums, airports, river or sea ports. If part of such land is used for production, business and/or service purposes other than those assigned, the land rent must be paid therefor.

- Land used for construction of other public-utility

works, including land for construction of hydroelectric power plants, transformer stations, hydroelectric power plant reservoirs, communication lines, electric power lines, petrol and oil pipelines, gas pipelines, meteorological and hydrological stations, observatories in service of research and public utility, water conservancy works, ports, car terminals, ferry landings, train stations, national parks, sanatoriums, quarters for fostering children in difficult plights, physical and sport training establishments, functional rehabilitation centers for disabled children, job-training centers, cultural works, monuments, memorial slabs, clubs, theaters, museums, exhibitions centers, cinemas, circuses, detoxification centers, reformatories, cemeteries, graveyards, waste treatment sites and garbage dumping sites. If part of such land is used for production, business and/or service purposes other than those assigned, the land rent must be paid therefor.

APPENDIX II

SUBJECTS NOT LIABLE TO LAND RENT

(Promulgated together with the Finance Ministry's Circular No.35/2001/TT-BTC of May 25, 2001)

1. Subjects assigned land by the State with the collection of land use levy, as specified in Article 8 of Decree No.04/2000/ND-CP, including:

- Economic organizations assigned land by the State for the construction of residential houses for sale or lease.
- Economic organizations using land for investment in the construction of infrastructure for transfer or for lease of land use right in association with such infrastructure.
- Economic organizations assigned land by the State to create capital for the construction of infrastructure for transfer or lease of land use right closely associated with such infrastructure.
- Family households and individuals assigned land by the State for the construction of residential houses.

2. Subjects assigned land without collecting the land use levy, as specified in Clauses 2 and 3, Article 7 and Clause 1, Article 7 of Decree No.04/2000/ND-CP (excluding land area used for production, business and/or service purposes), including:

- Family households and individuals directly engaged in agricultural, forestry, aquaculture or salt-making

activities according to Clause 2, Article 7 of Decree No.04/2000/ND-CP that use land for agricultural, forestry, aquaculture or salt-making purpose within the limit prescribed by the current regulations.

- Religious organizations which are using land according to Clause 3, Article 7 of Decree No.04/2000/ND-CP.

- According to Clause 1, Article 7 of Decree No.04/2000/ND-CP (except for land area used for production, business and/or service purposes), including:

+ Organizations assigned to manage forest land and land for planting headwater protection forests, forests against wind, sand storms, for wave-breaking, seaward encroachment or ecological environment protection; organizations assigned by the State to manage national parks, nature preservation forests or cultural-historical-environmental forests.

+ State enterprises currently using land assigned by the State before January 1, 1999 for agricultural, forestry, aquaculture or salt-making purpose.

+ State bodies, political organizations, socio-political organizations, people's armed force units, which use land for the construction of working offices, for national defense or security purposes, for the construction of economic, cultural, social, scientific and technical or diplomatic projects or branches and public-service sectors; organizations assigned to manage land where exist classified historical or cultural relics.

+ Organizations that use land for public purposes specified in Article 4 of the Government's Decree No.04/2000/ND-CP of February 11, 2000.

APPENDIX III

LAND RENT EXEMPTION TO EFFECT THE INVESTMENT PREFERENCES PROVIDED FOR IN THE GOVERNMENT'S DECREE No. 51/1999/ND-CP OF JULY 8, 1999 DETAILING THE IMPLEMENTATION OF THE LAW ON DOMESTIC INVESTMENT PROMOTION (AMENDED)

(Promulgated together with the Finance Ministry's Circular No.35/2001/TT-BTC of May 25, 2001)

1. Conditions for land rent exemption:

- a/ Projects investing in branches and trades specified in List A (branches and trades in the fields eligible for investment preferences), Appendix IV.

b/ Projects investing in all production and business branches and trades not banned by law and employing an annual average labor force of at least: 100 laborers in urban areas of grade 1 and grade 2; 20 laborers in geographical areas on List B (geographical areas with difficult socio-economic conditions) or List C (geographical areas with particularly difficult socio-economic conditions); 50 laborers in other geographical areas.

c/ Investment projects being executed in geographical areas with difficult socio-economic conditions specified in List B, Appendix IV.

d/ Investment projects being executed in geographical areas with particularly difficult socio-economic conditions specified in List C, Appendix IV.

2. Land rent exemption:

2.1. Exemption for 3 years for investment projects meeting one condition prescribed at Point a or b, Section I of this Appendix.

2.2. Exemption for 6 years for investment projects meeting both conditions prescribed at Points a and b, Section I of this Appendix.

2.3. Exemption for 7 years for projects investing in geographical areas specified in Section II, List B (geographical areas with difficult socio-economic conditions) in Appendix IV.

2.4. Exemption for 10 years for projects investing in geographical areas specified in Section I, List B (geographical areas with difficult socio-economic conditions) in Appendix IV.

2.5. Exemption for 11 years for projects investing in branches and trades on List A and executed in geographical areas specified in List B, Appendix IV and at the same time meeting one condition prescribed at Point a or b, Section I of this Appendix.

2.6. Exemption for 13 years for projects investing in branches and trades on List A and executed in geographical areas specified in List B, Appendix IV, and at the same time meeting both conditions prescribed at Points a and b, Section I of this Appendix.

2.7. Exemption for 11 years for projects investing in geographical areas specified in Section II, List C (geographical areas with particularly difficult socio-economic conditions), Appendix IV.

2.8. Exemption for 15 years for projects investing in geographical areas specified in Section I, List C (geographical areas with particularly difficult socio-

economic conditions), Appendix IV.

2.9. Land rent exemption for the whole project execution duration for projects investing in branches and trades on List A and executed in geographical areas specified in List C (geographical areas with particularly difficult socio-economic conditions), Appendix IV.

APPENDIX IV

LIST OF BRANCHES AND TRADES IN THE FIELDS OR GEOGRAPHICAL AREAS IN WHICH INVESTMENT IS ENCOURAGED ACCORDING TO THE PROVISIONS OF THE GOVERNMENT'S DECREE No.51/1999/ND-CP OF JULY 8, 1999 DETAILING THE IMPLEMENTATION OF THE LAW ON DOMESTIC INVESTMENT PROMOTION (AMENDED)

(Promulgated together with the Finance Ministry's Circular No.35/2001/TT-BTC of May 25, 2001)

List A

BRANCHES AND TRADES IN THE FIELDS ELIGIBLE FOR INVESTMENT PREFERENCES

Projects for investment in branches and trades in each of the following field shall be eligible for preferences:

1. Afforestation, forest tending and regeneration zoning off; planting of perennial trees on waste land, bare hills and mountains; land reclamation; salt making; and aquaculture in unexploited waters

1. Planting of protection forests (headwater, coastal and ecological environment protection forests), special-use forests, production forests, forest tending and regeneration zoning off;

2. Planting of perennial trees (industrial trees, fruit trees, medicinal herbs and other trees) on reclaimed land, bare hills and mountains.

3. Making of salt from sea water, exploitation of rock salt and production of industrial salt.

4. Aquaculture in natural waters, which have neither yet been invested and revamped nor used;

5. Reclamation and full use of unused land for agricultural production, forestry or fishery purpose.

II. Construction of infrastructure, development of mass transit; development of education, training, health care and national culture

1. Construction of technical infrastructure:

- Construction of new electric power plants, renovation and expansion of existing ones, development of electric supply networks, construction of establishments operated by solar energy, wind power or bio-gas;

- Construction of new bridges, land roads, airports, ports, train stations and car terminals, and renovation, modernization and upgrading of the existing ones; opening of new railway routes;

- Renovation and development of information and communication networks;

- Construction of water plants, water supply and drainage systems; construction of projects for environmental protection and waste treatment;

- Construction of technical infrastructure of densely populated quarters (in geographical areas on List B or List C).

2. Development of mass transit.

3. Development of education, training, health care and national culture:

- Establishment of people-founded and private schools for all educational levels and grades: pre-school education, primary education, basic secondary education and general secondary education, vocational education, tertiary education;

- Establishment of job-training institutions, raising of workers' skills; fostering and raising of managerial and business knowledge;

- Establishment of people-founded and private medical institutions in fields of medical examination and treatment, care for the aged and disabled;

- Establishment of national culture houses, national music and dance troupes; collection, preservation, development and popularization of the national culture; manufacture of national musical instruments.

4. Investment projects in forms of build-operate-transfer (BOT) contracts; build-transfer-operate (BTO) contracts or build-transfer (BT) contracts.

5. Investment in the construction of trade quarters, department stores and residential houses of various kinds in service of urban dwellers.

III. Export goods production and trading

Production of and trading in goods and/or services for export must attain a rate of 30% of the value of goods and/or services produced or traded by enterprises in a fiscal year.

IV. Offshore fishing; farm produce, forest product and aquatic product processing; technical services in direct service of agricultural production, forestry and aquaculture

1. Offshore fishing;

2. Processing of farm produce, forest products and aquatic products;

3. Technical services in direct service of agriculture: soil preparation, irrigation, water drainage, sowing, cultivation, harvesting, protection and preservation of farm produce;

4. Technical services in direct service of forestry: soil preparation, supply of seeds and saplings, watering and protection of forests;

5. Technical services in direct service of fishery: storehouses for preservation of aquatic products, rescue of offshore fishing ships and boats;

6. Assorted services for plant and animal protection, multiplication and hybridization of new strains; preservation of farm produce, forest products and aquatic products.

V. Scientific and technological research and development, scientific and technological services; legal, investment, business, enterprise administration, intellectual property protection and technology transfer consultancy

1. Technological research and development;

2. Building and operation of research institutions: laboratories, experimental stations and farms for purpose of applying new technologies to the production;

3. Application and development of high technologies, creation and processing of materials from domestic raw materials:

- Information technology: creation of computer software for use in various economic fields;

- Biological technology applied on an industrial scale to the production of breeding plants and animals, medicinal drugs for human being, domestic animals and plants, foods and animal feeds; erogenous agents in reproduction; bio-fertilizers up to the modern economic and technical standards;

- Technologies for producing new materials with

special properties;

- Technologies for recycling solid, liquid and gaseous wastes;

- Production technologies which economically consume fuels, raw materials, materials, energy or minimize waste volume per product unit; technologies for creating products which, in the use course, consume less energy, fuels, raw materials and materials than other products of the same category.

- Clean technologies, technologies using or turning out equipment and instruments operated by wind power, solar energy, geo-thermal energy, tidal energy or biological energy;

- Technologies for manufacturing electronic, semi-conducting or laser products.

4. Legal, investment, business, enterprise administration, intellectual property protection and technology transfer consultancy:

- Investment management and technology transfer consultancy; job-training, technical training and managerial skill training.

- Supply of market information, scientific-technical and technological information;

- Intellectual property transfer and technology transfer;

- Marketing and trade promotion.

VI. Investment in building of production chains, expansion, technological renewal; ecological and environmental improvement, urban sanitation; relocation of production establishments from urban centers; diversification of production lines and products

1. Investment in the procurement of construction equipment in service of the construction of projects; investment in the construction of trade quarters, department stores, residential houses of various types to meet the demand of urban dwellers.

2. Investment in building of new production workshops, installation of new production chains, installation of supplementary machinery to the existing production chains or new machinery and equipment in replacement of those in the existing chains; application of new technologies to the production;

3. Investment in ecological and environmental improvement; or improvement of urban sanitation;

4. Investment in relocation of production establishments from urban centers;

5. Investment in diversification of production lines and products.

VII. Other branches and trades that must be given priority for development

1. Concentrated cattle or poultry farming on an industrial scale; processing feeds for cattle and aquatic animals;

2. Mechanical engineering for manufacture and repair of agricultural machinery, production of high-class textiles, leather and plastic products, study kits and teaching aids, children toys and products from natural rubber;

3. Manufacture, assembly and repair of machinery and equipment for production and processing of farm produce, forest products and aquatic products, measuring devices and laboratory equipment, building and mining equipment and facilities; building of river and sea-going ships; manufacture of train locomotives and wagons; power transmission line equipment and transformers; manufacture of electronic components and computer software;

4. Production of raw materials, fuels and materials; production of veterinary drugs; production of plant and animal breeds; oil and gas exploration, exploitation and processing; coal exploitation and processing; steel metallurgy and milling; production of non-ferrous metals and building materials; production of fertilizers and base chemicals;

5. Traditional crafts: carving, mother-of-pearl inlaying, pumice lacquer painting, stone engraving, production of fine-art articles of rattan and bamboo of various species, carpet making, production of silk, terracotta, porcelain and embroider articles; bronze and brass casting and hammering.

Investment in the construction of and dealing in infrastructure of industrial parks, export processing zones and hi-tech parks; production and service activities in industrial parks, export processing zones and hi-tech parks.

List B

REGIONS MEETING WITH SOCIO-ECONOMIC DIFFICULTIES

I. Districts of high-mountain provinces:

1. Bac Kan province: Bac Kan provincial town

2. Cao Bang province: Cao Bang provincial town
3. Ha Giang province: Ha Giang provincial town, Bac Quang district
4. Lai Chau province: Dien Bien Phu town, Lai Chau provincial town, Dien Bien district
5. Lao Cai province: Cam Duong town, Lao Cai provincial town, Bao Thang district.
6. Son La province: Son La provincial town, Mai Son and Yen Chau districts.

II. Districts of mountainous provinces and delta areas:

1. Bac Giang province: Luc Ngan, Luc Nam and Yen The districts.
2. Hoa Binh province: Kim Boi, Ky Son, Lac Son, Luong Son, Lac Thuy, Tan Lac and Yen Thuy districts.
3. Lang Son province: Bac Son, Cao Loc, Chi Lang, Huu Lung, Loc Binh, Trang Dinh, Van Lang and Van Quang districts.
4. Phu Tho province: Districts Doan Hung, Ha Hoa, Song Thao, Thanh Ba and Tam Thanh districts.
5. Quang Ninh province: Hoanh Bo, Hai Ninh, Quang Ha, Tien Yen and Van Don districts.
6. Tuyen Quang province: Ham Yen, Son Duong and Yen Son districts.
7. Thai Nguyen province: Dong Hy, Dai Tu, Dinh Hoa and Phu Luong districts.
8. Yen Bai province: Tran Yen, Van Yen, Van Chan and Yen Binh districts.
9. Binh Phuoc province: Dong Phu, Loc Ninh, Phuoc Long and Binh Long districts.
10. Dak Lak province: Buon Don, Cu Jut, Cu M'gar, Dak R'Lap, Dak Mil, Ea H'leo, Ea Kar, Ea Sup, Krong Pac, Krong Buk, Krong Bong, Krong Ana, Krong Nang, Lak and M'Drak districts.
11. Gia Lai province: An Khe, Ayun Pa, Chu Se, Chu Prong, Chu Pah and Ia Grai districts.
12. Kon Tum province: Kon Tum provincial town, Dak Ha and Ngoc Hoi districts.
13. Lam Dong province: Bao Lam, Cat Tien, Di Linh, Da Teh, Don Duong, Duc Trong, Da Huoi and Lam Ha districts.
14. Binh Thuan province: Bac Binh, Duc Linh, Ham Thuan Bac and Tanh Linh districts.
15. Binh Dinh province: Hoai An district.
16. Hai Duong province: Chi Linh district.

17. Ha Tinh province: Huong Khe and Huong Son districts.

18. Ninh Binh province: Tam Diep town, Nho Quan district.

19. Nghe An province: Anh Son, Nghia Dan, Tan Ky and Thanh Chuong districts.

20. Ninh Thuan province: Ninh Hai district.

21. Phu Yen province: Dong Xuan and Song Hinh districts.

23. Quang Tri province: Dak Rong district.

24. Quang Nam province: Hiep Duc and Tien Phuoc districts.

25. Quang Ngai province: Minh Long district.

26. Thanh Hoa province: Cam Thuy, Nhu Thanh, Ngoc Lac and Thanh Thanh districts.

27. Thua Thien-Hue province: Nam Dong district.

28. An Giang province: An Phu, Tri Ton and Tinh Bien districts.

29. Bac Lieu province: Bac Lieu provincial town, Vinh Loi district.

30. Ca Mau province: Thoi Binh and Tran Van Thoi districts.

31. Dong Nai province: Dinh Quan, Tan Phu, Xuan Loc and Long Khanh districts.

32. Kien Giang province: Chau Thanh and Hon Dat districts.

33. Khanh Hoa province: Van Ninh and Cam Ranh districts.

34. Soc Trang province: Soc Trang provincial town, Long Phu and My Xuyen districts.

35. Tra Vinh province: Cau Ngang, Cau Ke and Tieu Can districts.

List C

REGIONS MEETING WITH PARTICULAR SOCIO-ECONOMIC DIFFICULTIES

I. Districts of high mountain-and island provinces:

1. Bac Kan province: Ba Be, Bach Thong, Cho Moi, Cho Don, Ngan Son and Na Ri districts.
2. Cao Bang province: Bao Lac, Ha Lang, Ha Quang, Hoa An, Nguyen Binh, Quang Hoa, Thong Nong, Tra Linh, Thanh An and Trung Khanh districts.

3. Ha Giang province: Bac Me, Dong Van, Hoang Su Phi, Meo Vac, Quan Ba, Vi Xuyen, Xin Man and Yen Minh districts.

4. Lai Chau province: Muong Lay, Muong Te, Phong Tho, Tua Chua, Tuan Giao, Sin He and Dien Bien Dong districts.

5. Lao Cai province: Bac Ha, Bat Sai, Muong Khuang, Than Uyen, Van Ban, Sa Pa and Bao Yen districts.

6. Son La province: Bac Yen, Moc Chau, Muong La, Quynh Nhai, Thuan Chau, Song Ma and Phu Yen districts.

7. Binh Thuan province: Phu Quy district.

8. Ba Ria - Vung Tau province: Con Dao district.

9. Da Nang city: Hoang Sa island district.

10. Hai Phong city: Bach Long Vi and Cat Hai districts.

11. Khanh Hoa province: Truong Sa district.

12. Kien Giang province: Kien Hai and Phu Quoc districts.

13. Quang Ninh province: Co To district.

14. Quang Ngai province: Ly Son district.

II. Districts of mountain provinces and delta ethnic minority regions:

1. Bac Giang province: Son Dong district.

2. Hoa Binh province: Da Bac and Mai Chau districts.

3. Lang Son province: Binh Gia and Dinh Lap districts.

4. Phu Tho province: Thanh Son and Yen Lap districts.

5. Quang Ninh province: Ba Che and Binh Lieu districts.

6. Tuyen Quang province: Chiem Hoa and Na Hang districts.

7. Thai Nguyen province: Vo Nhai district.

8. Yen Bai province: Luc Yen, Mu Cang Chai and Trám Tau districts.

9. Dak Lak province: Dak Nong and Krong No districts.

10. Gia Lai province: Duc Co, K Bang, Krong Pa, Kon C'a-ro and Mang Yang districts.

11. Kon Tum province: Dak To, Dak Glei, Kon Plong and Sa Thay districts.

12. Lam Dong province: Lac Duong district.

13. Kien Giang province: An Bien, Go Quao and Vinh Thuan districts.

14. Soc Trang province: My Tu, Thanh Tri and Vinh Chau districts.

15. Tra Vinh province: Chau Thanh and Tra Cu districts.

16. Binh Dinh province: An Lao, Vinh Thanh and Van Canh districts.

17. Khanh Hoa province: Khanh Vinh and Khanh Son districts.

18. Ninh Thuan province: Ninh Son district.

19. Ba Ria - Vung Tau province: Tan Thanh district.

20. Bac Lieu province: Hong Dan district.

21. Binh Phuoc province: Bu Dang district.

22. Ca Mau province: U Minh district.

23. Thanh Hoa province: Quan Hoa, Ba Thuoac, Lang Chanh, Thuong Xuan, Quan Son, Muong Lat and Nhu Xuan districts.

24. Nghe An province: Ky Son, Tuong Dong, Con Cuong, Que Phong, Quy Hop and Quy Chau districts.

25. Quang Binh province: Minh Hoa and Tuyen Hoa districts.

26. Quang Tri province: Huong Hoa district.

27. Thua Thien - Hue province: A Luoi district.

28. Quang Nam province: Hien, Giang, Phuoc Son and Tra My districts.

29. Quang Ngai province: Ba To, Tra Bong, Son Tuy and Son Ha districts.

30. Phu Yen province: Son Hoa district.