

THE MINISTRY OF FINANCE

CIRCULAR No. 29/2006/TT-BTC OF APRIL 4, 2006, GUIDING THE IMPLEMENTATION OF THE GOVERNMENT'S DECREE No. 13/2006/ND-CP OF JANUARY 24, 2006, ON THE VALUATION OF LAND-USE RIGHTS FOR INCLUSION IN THE VALUE OF ASSETS OF ORGANIZATIONS ALLOCATED LAND BY THE STATE WITHOUT COLLECTION OF LAND USE LEVY

Pursuant to the November 26, 2003 Land Law;

Pursuant to the Government's Decree No. 14/1998/

ND-CP of March 6, 1998, on the management of state property;

Pursuant to the Government's Decree No. 77/2003/ND-CP of July 1, 2003, defining the functions, tasks, powers and organizational structure of the Ministry of Finance;

Pursuant to the Government's Decree No. 13/2006/ND-CP of January 24, 2006, on the valuation of land-use rights for inclusion in the value of assets of organizations allocated land by the State without collection of land use levy;

The Finance Ministry hereby guides the valuation of land-use rights for inclusion in the value of assets of organizations allocated land by the State without collection of land use levy as follows:

I. GENERAL PROVISIONS

1. Regarding objects and scope of application provided for in Article 1 of the Government's Decree No. 13/2006/ND-CP of January 24, 2006, on the valuation of land-use rights for inclusion in the value of assets of organizations allocated land by the State without collection of land use levy, several cases are guided as follows:

1.1. Regarding the scope of application: This Circular guides a number of contents on the valuation of land-use rights for inclusion in the value of assets of organizations specified in Article 1 of the Government's Decree No. 13/2006/ND-CP of January 24, 2006, on the valuation of land-use rights for inclusion in the value of assets of organizations allocated land by the State without collection of land use levy (hereinafter collectively referred to as Decree No. 13/2006/ND-CP).

1.2. Regarding the objects defined in Clause 6, Article 1 of Decree No. 13/2006/ND-CP: Land allocated by the State with collection of land use levy to organizations which, however, are exempt from 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, and the guidance in the Finance Ministry's Circular No. 117/2004/TT-BTC of December 7, 2004, which is subject to the valuation of land-use rights, includes land allocated to organizations for execution of:

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

b/ Investment projects in geographical areas meeting with socio-economic difficulties or exceptional socio-economic difficulties under the Government's regulations;

c/ Projects on construction of students' dormitories with state budget capital;

d/ Projects on construction of multi-storied condominiums for industrial-park workers;

e/ Projects on construction of public works for business purposes (socialization) in educational, healthcare, cultural or physical training and sport domains.

2. Bases for the valuation of land-use rights, specified in Article 2 of Decree No. 13/2006/ND-CP, are guided as follows:

2.1. Clause 1 provides for the land areas subject to valuation of land-use rights, which are land areas currently in use, allocated under decisions of competent state agencies or received from land-use right transfer; a number of specific contents thereof are guided as follows:

a/ Where the inventory has been conducted, they are the actually inventoried land areas which have been reported as land inventory results under the Prime Minister's Directive No. 28/2004/CT-TTg of July 15, 2004.

b/ Where land-use right certificates have been granted, the land areas stated in the certificates are

those subject to the valuation of land-use rights.

2.2. Clause 2 provides for the land prices for the valuation of land-use rights, which are prices of the allocated land; the prices of the allocated land for the valuation of land-use rights are land prices set by provincial-level People's Committees according to the Government's regulations at the time of valuation of land-use rights.

II. SPECIFIC PROVISIONS

1. Land prices used for the valuation of land-use rights provided for in Article 4 of Decree No. 13/2006/ND-CP are the prices of land currently in use; the land currently in use is determined according to the provisions of Article 13 of the 2003 Land Law.

2. The adjustment to land-use right value is specified in Article 6 of Decree No. 13/2006/ND-CP; Clauses 1 and 2 of this Article are guided as follows:

2.1. Point a of Clause 1 is guided as follows: Organizations must adjust the land-use right value in their asset value when there are changes in the used land areas as compared with the land areas with the land-use rights having been valued through land inventory under the provisions of the Land Law; all cases of disparity between land areas written in books and actually inventoried ones must be well-reasoned and reported to superior managing agencies and finance bodies of the same level.

2.2. Clause 2 is guided as follows: Organizations must adjust the land-use right value in their asset value when competent state agencies permit the change of land use purposes, land prices for the valuation of land-use rights in this case shall be those for new use purposes.

Where land-using organizations must adjust the land-use right value according to the provisions of Article 6 of Decree No. 13/2006/ND-CP, they must report thereon to provincial/municipal Finance Services of the localities where they are

headquartered; provincial/municipal Finance Services shall assume the prime responsibility for, and coordinate with concerned branches in, adjusting land-use right value, and send adjustment results under the provisions of Clause 2, Article 9 of Decree No. 13/2006/ND-CP.

3. The accounting of land-use right value into asset value is specified in Article 7 of Decree No. 13/2006/ND-CP; Clause 3 of this Article is guided as follows:

The land-use right value determined under the Government's Decree No. 13/2006/ND-CP shall be accounted into fixed asset value as a separate item in the accounting books of organizations both in land areas and land-use right value according to current provisions of law on accounting.

The land-use right value determined under the provisions of Decree No. 13/2006/ND-CP and the guidance in this Circular must not be used for the transfer of land-use rights, the calculation of land compensations, or the valuation of land-use rights upon equitization of state enterprises, or for other transactions.

4. Recovery and transfer of land-use rights shall comply with the provisions of Article 8 of Decree No. 13/2006/ND-CP; Clause 3 of this Article is guided as follows:

4.1. The transfer of land-use rights shall be made effected by mode of auction; where the transfer is made under decisions of competent state agencies (mandated sale), the transfer prices must be close to the actual prices of land-use right transfer in localities at the time of transfer; the valuation of land-use rights for land compensations, the valuation of land-use rights upon equitization of state enterprises or for conducting other civil transactions shall comply with current provisions of law on compensation and support for resettlement, equitization of state enterprises, civil transactions, etc.

4.2. The proceeds from the sale of assets, including

the transfer of land-use rights (after subtracting reasonable expenses for the transfer of land-use rights and un-retrieved expenses invested on land with non-state budget money) must be wholly remitted into the state budget according to the provisions on management of state property.

4.3. Where organizations must invest in construction of new working offices due to their relocation or due to rearrangement of working offices, they may use proceeds from the transfer of land-use rights for execution of investment projects approved by competent state agencies according to the provisions on relocation of working offices or production and business establishments under plannings due to environmental pollution or due to rearrangement of working offices of administrative agencies, non-business units and state enterprises.

5. Order of valuation of land-use rights, specified in Article 9 of Decree No. 13/2006/ND-CP, is guided as follows:

5.1. Clause 1 is guided as follows:

Land-using organizations defined in Article 1 of Decree No. 13/2006/ND-CP shall send land-use dossiers and reports to provincial/municipal Finance Services of the localities where exists the land in use; such a dossier comprises:

- An official letter requesting the valuation of land-use rights for inclusion in the value of assets of the concerned organization;

- (Notarized) copies of the papers specified in Clause 1, Article 9 of Decree No. 13/2006/ND-CP. Where organizations have no papers evidencing their land-use rights, they must have written explanations thereon and obtain the certification by People's Committees of rural/urban districts or provincial towns or cities of the land-use duration and the dispute-free land being in use.

5.2. Clause 2 is guided as follows: Documents on the valuation of land-use rights to be sent to relevant

agencies shall be made according to a set form.

6. The deadline for completion of valuation of land-use rights provided for in Article 10 of Decree No. 13/2006/ND-CP is specifically guided as follows:

6.1. Clause 1 is guided as follows: The first-time valuation of land-use rights shall be made after the effective dates of Decree No. 13/2006/ND-CP and this Circular and completed before December 31, 2007.

6.2. Clause 2 is guided as follows: The land-use right value adjustment shall be made within 30 days after state agencies issue decisions on the change of land-use purposes; after the completion of the general inventory and revaluation of assets; after the change in the land area in use under the provisions of Article 6 of Decree No. 13/2006/ND-CP; or under the guidance of the Finance Ministry.

7. Management of land-use right value of organizations which are allocated land by the State without collection of land use levy or allocated land with collection of land use levy but are exempt from land use levy shall comply with the provisions of Article 11 of Decree No. 13/2006/ND-CP.

III. ORGANIZATION OF IMPLEMENTATION

1. Ministries, ministerial-level agencies, Government-attached agencies, central bodies of mass organizations, and state corporations established under the Prime Minister's decisions shall direct and guide agencies, units and state companies under their respective management to send land-use reports to provincial/municipal Finance Services (of the localities where organizations are using land) under the guidance of Section 5, Part II of this Circular; annually, to report to provincial/municipal Finance Services on changes in land areas in use or land use purposes for the latter to adjust the land-use right value; account and manage land with the land-use rights having been valued according to the regime

on management of state property; inspect land management and use by organizations under their respective management; and handle according to their competence violations in land management according to the regime on management of state property.

By December 31 every year, organizations using land subject to valuation of land-use rights as specified at Point 6.2, Section 6, Part II of this Circular shall send reports on assets, made according to set forms, to provincial/municipal Finance Services (of the localities where organizations are using land), superior managing agencies and finance bodies of the same level according to the asset-reporting regime.

2. Presidents of provincial/municipal People's Committees shall have to:

a/ Direct provincial/municipal Finance Services to coordinate with concerned agencies in providing guidance on the valuation of land-use rights for inclusion in the value of assets under Decree No. 13/2006/ND-CP for organizations which are allocated land without collection of land use levy in provinces or cities, and send sum-up reports, made according to set forms, on implementation thereof to the Finance Ministry.

b/ Inspect land management and use by organizations in the localities, handle according to their competence, or report to competent authorities for handling, violations in land management and use as follows:

- For locally-managed organizations, the violations shall be handled according to the provisions of both law on land and law on management of state property.

- For centrally-managed organizations, the powers defined in Clauses 1 and 2, Article 36 of the Government's Decree 181/2004/ND-CP of October 29,

2004, on the enforcement of the Land Law, shall be exercised after obtaining opinions of ministries, ministerial-level agencies, Government-attached agencies, central bodies of mass organizations, state corporations established under the Prime Minister's decisions, and the Finance Ministry.

3. This Circular takes effect 15 days after its publication in "CONG BAO." Ministries, branches, localities and state corporations should promptly report any problems arising in the course of implementation to the Finance Ministry for further study and guidance.

For the Minister of Finance

Vice Minister

HUYNH THI NHAN