

THE MINISTRY OF FINANCE

CIRCULAR No. 70/2006/TT-BTC OF AUGUST 2, 2006, GUIDING AMENDMENTS AND SUPPLEMENTS TO THE FINANCE MINISTRY'S CIRCULAR No. 117/2004/TT-BTC OF DECEMBER 7, 2004, GUIDING THE IMPLEMENTATION OF THE GOVERNMENT'S DECREE No. 198/2004/ND-CP OF DECEMBER 3, 2004, ON COLLECTION OF LAND USE LEVIES

Pursuant to the November 26, 2003 Land Law;

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. 181/2004/ND-CP of October 29, 2004, on the implementation of the Land Law;

Pursuant to the Government's Decree No. 198/2004/ND-CP of December 3, 2004, on collection of land use levies (hereinafter referred to as Decree No. 198/2004/ND-CP);

Pursuant to the Government's Decree No. 17/2006/ND-CP of January 27, 2006, amending and supplementing a number of articles of decrees guiding the implementation of the Land Law and Decree No. 187/2004/ND-CP on conversion of state companies into joint-stock companies (hereinafter referred to as Decree No. 17/2006/ND-CP);

The Ministry of Finance hereby guides amendments and supplements to Circular No. 117/2004/TT-BTC of December 7, 2004, guiding the implementation of the Government's Decree No. 198/2004/ND-CP of December 3, 2004, on collection of land use levies (hereinafter referred to as Circular No. 117/2004/TT-BTC) as follows:

1. To add the following Point 3 to Section IV, Part A:

"3. The land price used for calculation of payable land use levies shall be determined according to Clause 1, Article 5 of Decree No. 17/2006/ND-CP. The land price which is not close to the actual market price of land use right transfer under normal conditions shall be re-determined as follows:

In collaboration with concerned units, provincial/municipal Finance Services shall assume the prime responsibility for determining specific land prices and proposing them to provincial/municipal People's Committees (hereinafter referred to as provincial-level People's Committees) for decision; in case an organization having the function of price appraisal or land price consultation is hired to determine the price, provincial/municipal Finance Services shall have to appraise such price and propose it to provincial-level People's Committees for decision to ensure that the price used for calculation of payable land use levies of land lots shall be close to the actual market price of land use right transfer under normal conditions.

Specific land prices for calculation of payable land use levies shall be determined according to methods of determining land prices stipulated in the Government's Decree No. 188/2004/ND-CP of November 16, 2004, on methods of determining prices and price brackets of land of different categories and the Circular guiding the implementation of this Decree."

2. To amend and supplement Point 3, Section III, Part B as follows:

"3. Point 3 provides for the case where land is leased by the State since the effective date the Government's Decree No. 142/2005/ND-CP of November 14, 2005, on collection of land rents and water surface rents, and for which land users have advanced money to pay land compensations and supports; the amount of land compensations and supports shall be cleared against the payable land use

levies when such land users change from land lease to land assignment with land use levy payment; the to-be-cleared amount shall be land compensations and supports which have not been cleared against the land rents for the land area changed from lease to assignment, but must not exceed the payable land use levies."

3. To add the following Point 3 to Section I, Part D:

"3. Domestic organizations which are assigned land with land use levy payment by the State to execute investment projects shall pay land use levies in accordance with the land assignment schedule according to regulations. Organizations which are assigned land shall prepare land assignment schedules and submit them to competent state agencies for approval. Tax offices shall base themselves on land assignment schedules to collect land use levies; the land price for calculation of payable land use levies shall be determined according to Point 1 of this Circular at the time of land assignment according to the schedules; in case the time of land assignment does not conform with the schedule in the land assignment decision, the land price at the actual time of land assignment shall be used."

4. To amend and supplement Point 2, Section III, Part D as follows:

"2. Writing of outstanding land use levies in land use right certificates and collection of owed land use levies:

a/ Where land users were granted land use right certificates prior to the effective date of Decree No. 198/2004/ND-CP, have used land for residential purpose since October 15, 1993, are liable to pay land use levies but still owe such levies which are written in their land use right certificates, such land use levies shall be collected according to the owed amounts. In case the owed land use levies are not indicated in

land use right certificates, land use levies shall be calculated and collected according to regulations on collection of land use levies at the time of granting land use right certificates.

b/ If households and individuals that are allowed to build dwelling houses on garden and pond land on the same land lot having dwelling houses or on farm land already planned for residential purpose and have to pay land use levies according to the provisions of Article 6 of Decree No. 198/2004/ND-CP, and households and individuals that are using land with land use right certificates and have to pay land use levies according to the provisions of Article 8 of Decree No. 198/2004/ND-CP, cannot pay land use levies due to financial difficulties, they may have the owed land use levies written in their land use right certificates. Subjects that may owe land use levies: poor households according to Government criteria and low-income households which are unable to pay land use levies, shall be determined on a case-by-case basis in accordance with local conditions by provincial-level People's Committees after consulting standing bodies of provincial-level People's Councils.

To have the owed land use levies written in the land use right certificates, households and individuals unable to pay land use levies shall have to submit for certification applications stating the reasons for their inability to pay land use levies to the People's Committee of the commune, ward or township where they change the land use purpose and are granted the land use right certificate. The People's Committee of the commune, ward or township shall base itself on regulations of the provincial-level People's Committee and the actual conditions of each specific case to certify and propose the writing of land use levies. On the basis of valid dossiers and applications of households or individuals certified by the commune, ward or township People's Committee, the district-level People's Committee shall decide on the owed land use levies and grant the land use right certificates to

households and individuals according to current land laws.

c/ The land price for calculation or collection of owed land use levies shall be that promulgated by provincial-level People's Committees according to Government regulations and applicable at the time of granting land use right certificates.

d/ The payment of owed land use levies shall comply with Clause 4, Article 5 of Decree No. 17/2006/ND-CP."

5. To amend and supplement Point 3, Section III, Part D as follows:

"3. Domestic organizations which were assigned land according to approved investment projects on construction of new housing, residential, or urban areas, or infrastructure for transfer or lease prior to the effective date of Decree No. 198/2004/ND-CP and permitted by provincial-level People's Committees to delay their land use levy payment according to the provisions of Clause 5, Article 12 of the Government's Decree No. 38/2000/ND-CP of August 23, 2000, shall pay land use levies into the state budget according to the payment delay schedule specified in provincial-level People's Committees' decision; past the deadline for the payment delay schedule, if the land use levies have not been fully paid into the state budget, the unpaid land use levies shall be recalculated according to the land price decided by provincial-level People's Committees for collection of land use levies under the provisions of Point 1 of this Circular at the time of payment of land use levies and fines shall be imposed thereon according to the provisions of Article 18, Decree No. 198/2004/ND-CP."

Land users being assigned land prior to the effective date of Decree No. 198/2004/ND-CP for execution of projects other than those entitled to the above delayed payment of land use levies who had been requested by tax offices to pay land use levies, but have not paid or fully paid the land use levies

according to regulations, shall have to pay the land use levies or outstanding land use levy amounts according to the land price decided by provincial-level People's Committees according to the provisions of Point 1 of this Circular at the time of payment of land use levies and pay fines thereon according to the provisions of Article 18 of Decree No. 198/2004/ND-CP."

6. Implementation effect:

This Circular shall take effect 15 days after its publication in "CONG BAO." The provisions of the *Finance Ministry's Circular No. 117/2004/TT-BTC* of December 7, 2004, which are not amended and supplemented in this Circular, shall remain effective.

In the course of implementation of this Circular, provincial/municipal People's Committees should promptly report any arising problem to the Ministry of Finance for consideration and settlement.

For the Finance Minister
Vice Minister
DO HOANG ANH TUAN