

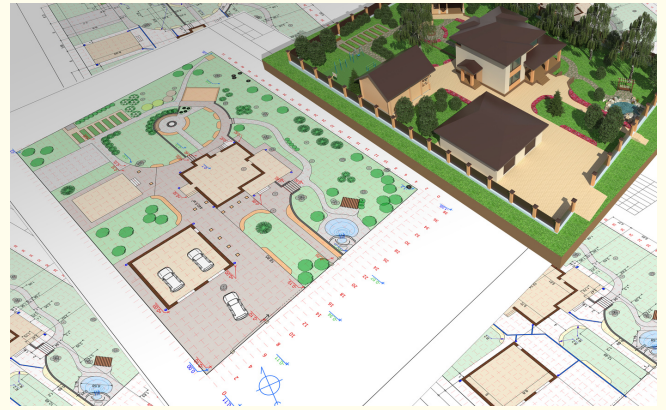
SOME NEW REGULATIONS ON LAND USE LEVY, LAND RENT

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On July 30, 2024, the Government promulgated Decree 103/2024/ND-CP on Land Use Levy and Land Rent (**Decree 103**). This Decree aims to provide details for the Law on Land 2024 regulations related to the calculation, collection, payment, and management of land use levy and land rent. At the same time, the decree is intended to resolve the issues arising from the practical implementation of the previous Law on Land 2013's provisions on collection of land use levy, land rent, and water surface rent. Decree 103 takes effect from August 1, 2024 with some notable contents as follows:

First, supplementing the policy on land use levy exemption or reduction. This policy performs as one of the bases for calculating land use levy (the details are specified in Section 2 Chapter II Decree 103) with some new points as compared with the previous regulations in Decree 45/2014/ND-CP on the collection of land use levy, specifically:

- Decree 103 supplements some typical rules on land use levy exemption or reduction, such as:
 - (i) In the cases where a governmental authority discovers that a land user receives exemptions or reductions in land use levy but fails to meet the regulatory conditions for such exemptions or reductions (if any), does not use the land for the intended purpose as stated in the land allocation decision but is not subject to land recovery under the Law on Land, or if the land user requests not to apply incentives because they no longer meet the conditions for land use levy exemption or reduction, the land user must repay the previously exempted or reduced land use levy amount to the state budget.
 - (ii) In the cases where the land user must return the previously exempted or reduced land use levy amount according to the provisions in section (i) abovementioned, the compensation, support, and resettlement costs that have been advanced (if any) can be deducted (in case of land use levy exemption) or can continue to be deducted (in case of land use levy reduction) from the land use levy



that must be repaid according to clause 2 Article 94 of the Law on Land 2024 and clause 2, clause 3 Article 16 of Decree 103. If the compensation, support, and resettlement expenses have been included in the project's investment costs, they can not be deducted from the land use levy.

- Decree 103 provides additional cases eligible for land use levy exemption, for example:
 - (i) Implementation of land and housing policies for ill and injured veterans without the ability to work, or for families of martyrs without any primary income earner;
 - (ii) Residential land for people subject to relocate when the Government expropriates land due to potential threats to human life;
 - (iii) The land area of a cemetery infrastructure investment project used for the transfer of the land use right attached to infrastructure, to build a facility to store ashes that the investors arrange for the cremation of social policy beneficiaries under provisions of the law on construction, management, and use of cemeteries and crematoria.
- Decree 103 supplements many individuals who are eligible for land use levy reduction, typically cadres, civil servants, government employees, teachers, medical staff, etc. currently working at border communes, islands, or island districts without commune-level administrative units belonging to areas with difficult or extremely difficult socio-economic conditions.

Second, amending and supplementing the policy for land rent exemption or reduction. The policy for land rent exemption or reduction is one of the bases for calculating land rent (the relevant details are stipulated in Section 2 Chapter III Decree 103) and has some new points compared to the previous provisions in Decree 46/2014/ND-CP on collection of land rent, water surface rent, specifically:

- Decree 103 supplements some rules on land rent exemption or reduction, such as:
 - (i)** No application of land rent exemption or reduction under the laws on investment incentives to investment projects in manufacturing, commerce, and service sectors that are subject to special excise duty under the Law on Special Consumption Tax, except for projects that manufacture automobiles, aircraft, and cruise ships;
 - (ii)** Rules for handling cases where the one-time payment granted for the entire duration of a government land lease has been exempted or reduced according to the law, but then the land use right is transferred or used for capital contributions, or the investment project is transferred in attachment with the transfer of land use right, etc.
- Decree 103 eliminates the subjects exempted from land rent for the entire lease term as previously prescribed, for example:
 - (i)** Investment projects in sectors with special investment incentives that are permitted to invest in areas with extreme socio-economic disadvantages;
 - (ii)** Land for implementing protective forest planting and sea encroachment forest planting projects;
 - (iii)** Land for building scientific research institutes owned by science and technology firms;
 - (iv)** Land for building shared infrastructure in industrial parks, industrial clusters, and export processing zones.
- Decree 103 supplements and stipulates the specific cases eligible for annual land rent reduction, typically:
 - (i)** 80% reduction of annual land rent in the entire land lease term for the land used to build other auxiliary facilities directly supporting train operations, passenger pick-up and drop-off, and loading and unloading cargos for railway; for the land used to build facilities for aviation and non-aviation services according to regulations;
 - (ii)** 50% reduction of land rent in cases where land is used to implement an investment project under public-private partnership in a sector or area subject to the List of sectors and occupations eligible for investment incentives; business sectors and occupations eligible for special investment incentives; areas with difficult socio-economic conditions and areas with extremely difficult socio-economic conditions under provisions of the law on investments, except for cases where land is used to implement transportation infrastructure projects under public-private partnership.

COMMENTS AND RECOMMENDATIONS:

It can be seen that the provisions enacted in Decree 103 are clearer and more specific as compared to previous policies, which makes it easier for land users and government agencies to follow and implement the new regulations on land use levy, and land rent in the Law on Land 2024. Particularly, Decree 103 has provisions for reforming administrative procedures (reducing a few procedures in the exemption of land use levy or land rent). Aside from the abovementioned contents, businesses should note the transitional contents while simultaneously updating and researching other provisions of Decree 103 to potentially utilize them in business operations, ensuring full rights and benefits under the law.