

On Tax on the Land Use Right in HCMC

by Ass. Prof. Dr. NGUYỄN VĂN
TRÌNH & NGUYỄN MINH ĐỊNH

1. Legal basis of the fee for the land use right

After the Land Law 1999, and the revised one in 2003, many documents have been issued to bring the law into effect: Decree 17/1999/NĐ-CP dated March 29, 1999 providing procedures for granting the land use right; Decree 87/CP dated Aug. 17, 1994 setting the price list needed for taxing the transfer of the land use right; Decree 38/2000/NĐ-CP making regulations about the land use right fee a system; and Decree 22/1998/NĐ-CP dated April 24, 1998 about compensations for land taken back by the State.

The HCMC authority has also made many decisions on this matter: Decision 447/QĐ-UB dated July 25, 1991 on dispute over land; Decision 230/QĐ-UB dated April 23, 1989 allowing sale and transfer of houses; Decision 239/QĐ-UB dated October 15, 1991 on fee for using the farming land for other purposes; Decisions 393/QĐ-UB dated March 16, 1993 and 05/QĐ-UB dated Jan. 4, 1995 setting the price lists for tax purposes; and Decision 06/QĐ-UB and Directive 07/CT-UB on the compensations for loss of crops when the land is used for development projects.

This plan helps the HCMC government control the use of the land stock and receipt from the land use right. To calculate the receipt from the land use right and compensation for land confiscated, the land authority issued the price list according to Decision 05/QĐ-UB dated Jan. 4, 1995 (or the price list 05 for short). This list was based on the price list

Table 1: Plan to use the land stock in HCMC in 2003-05 (hectare)

Kinds of land	2003	2004	2005
Land for special use	27,736.19	32,396.61	29,749.89
Urban land	14,596.05	15,997.27	14,626.23
Rural housing land	4,782.76	3,563.09	4,522.17
Farming land	88,972.10	93,190.49	90,631.79
Forest land	33,355.72	33,325.21	33,325.20
Unused land	40,059.27	39,966.11	39,966.11
Total	209,502.00	218,438.78	212,821.39

Source: HCMC Service of Natural Resources and Environment



set by Decree 87/ NĐ-CP dated Aug. 17, 1994 by the PM.

Effects caused by market forces, however, the price of land traded on the market is more and more different from the listed price, which made it difficult for the tax agency to collect the fee of the land use right leading to losses to the budget income. The market price was sometimes ten times higher than the listed price. Generally, the price list 05 set in 1995 is very obsolete now and we need a replacement.

In late 2004, the HCMC government worked out a new land price list included in Decision 316/2004/QĐ-UB dated Dec. 24, 2004 based on Decree 188/2004/ NĐ-CP issued by the central government on Nov. 16, 2004. The prices in the list are only the price floor used by the HCMC government when granting and leasing the land through auction. Generally, prices included in this list are

much higher than ones in the price list 05, especially the prices of urban land. Many experts, however, are of the opinion that the listed price is some 30% lower than the market one.

2. Receipts from the land use right in HCMC in the past

- Land value tax: Receipt from this tax in HCMC tended to fall in recent years because of the fast urbanization, falls in the agricultural output, and cuts in the tax rate introduced by the Government. In the years 1994-99, the receipt from the land value tax was VND86,529 million, or VND17,305 million a year on average. This figure fell to VND12,900 million in 2000; VND10,600 million in 2001; VND7,000 million in 2002 and 2,100 million in 2003.

- Property tax: Receipt from this tax has decreased recently because

the task of granting certificates of the land use right and building ownership was carried out too slowly with the result that the public are reluctant to apply for them. According to the HCMC Statistics Bureau, in the years 1994-99 the receipt from this tax was VND73,400 million; and it fell to 67,400 million in 2000; 58,100 million in 2001; 57,600 million in 2002 and 56,400 million in 2003.

- Fees of the land use and land rental: Receipt from the fees and rental tended to rise in the past few years when many projects to build industrial parks and residential areas were carried out and procedures for renting and allocating land were improved. According to the HCMC Statistics Bureau, the average receipt from the fees and rental in 1994-99 reached some VND349,000 million a year. And it was 484,500 million in 2000; 847,500 million in 2001; 1,261,200 million in 2002 and 1,890,300 million in 2003.

- Proceeds from the sale of state-owned property: After the HCMC government decided to sell state-owned residential and factory buildings, the proceeds accounted for a high proportion of the receipts from the land use in HCMC. In 2003 in particular, the proceeds fell by 42% compared with 2002, the procedure was reviewed and improved, and all state-owned buildings were put in auction. The proceeds reached VND428,960 million a year on average in 1994-99; 466,900 in 2000; 460,100 million in 2001; 593,300 mil-

lion in 2002 and 346,300 million in 2003.

- Other receipts: In the past few years, procedures for trading in property were so complicated that many people are reluctant to complete them when selling, buying and building new homes. And as a result, they violated many regulations and were fined for them, which made the receipts rise remarkably. According to the HCMC Statistics Bureau, these receipts reached VND869,249 million a year on average in 1994-99; 1,942,100 million in 2000; 2,603,500 million in 2001; 2,753,400 in 2002 and 3,447,900 in 2003.

land value tax and rental are very important to the budget income of authorities of commune and ward levels. They also help regulate flows of income and control the transfer of land and buildings.

- Taxation is done in a transparent manner. Taxpayers make declarations. After inspection, the tax agencies inform the taxpayers of their tax payments based on the price list and tax rate publicized beforehand. And taxpayers could review the tax assessment made by the tax agency.

- Land is classified according to its value and quality, which makes the taxation equal and reasonable,

Table 2: Income from property in HCMC (VND million)

Receipts	1994-1999	2000	2001	2002	2003
Land value tax	86,529	12,900	10,600	7,000	2,100
Property tax	367,004	67,400	58,100	57,600	56,400
Fees of the land use and land rental	1,747,881	484,500	847,500	1,261,200	1,890,300
Proceeds from sale of state-owned property	2,144,833	466,900	460,100	593,300	346,300
Others	2,046,105	1,942,100	2,603,500	2,753,400	3,447,900
Total	4,346,247	1,031,700	1,376,300	1,919,100	2,295,100

Source: HCMC Statistics Bureau

3. Remarks

a. Achievements:

- The receipts from land and buildings increased steadily and became an important source of the budget income. Receipts from the

and encourages the taxpayers to make the best use of their land.

b. Shortcomings:

- The land value and property taxes couldn't include all land and land users as objects of tax laws. At present, the unused land all over the country reaches some seven million hectares, and a large area isn't classified as farming land. Methods of assessing tax are complicated and not suitable to current conditions.

There is no distinction between tax on the land use right and tax on income from the land. At present, only companies that trade in the land use right pay the corporation tax while individuals who do the same business without establishing a company could avoid this tax.

- The tax on the transfer of the land use right, in fact, is the corporation tax imposed on companies or individuals trading in the land use right. This tax could make the market price rise high.

- Exemption and reduction in the fee of the land use fail to encourage the public to observe the law because current regulations pay no attention to private persons who have paid the fee before exemption and reduction regulations came into effect. ■

