

**Deloitte.**

# TAX & LEGAL NEWSLETTER

For enterprises in the Real Estate sector

Quarter 4/2024



## INTRODUCTION

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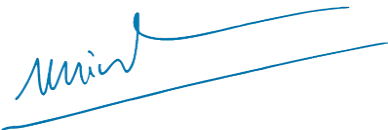
**Dear Valued Clients and Business Partners,**

In a constantly evolving landscape of tax policies and regulations, Deloitte Vietnam, as a leading Real Estate advisor in the market, understands the challenges business face in navigating new regulations. Tax payers often lack access to concise, in-depth guidance from reputable consulting firms with extensive expertise to apply these regulations effectively to their business operations.

Understanding these needs, Deloitte Vietnam is proud to introduce our **Tax and Legal Newsletter for enterprises in the Real Estate sector**. This quarterly Tax and Legal Newsletter compiles and updates by Deloitte Vietnam with the latest legal documents and tax guidance from tax authorities. Our valued Clients and business Partners will receive timely updates on legal regulations, enhancing tax compliance and boosting operational efficiency on the path to sustainable business growth.

Deloitte Vietnam has been honored for many consecutive years as one of the Top 10 best Real Estate service providers. We strive to offer comprehensive Tax and Legal consulting services, promoting compliance and sustainable development, while supporting clients in effective tax management to achieve their business goals.

Deloitte Vietnam is always honored to accompany our esteemed clients and partners!



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## Highlighted Legal Documents and Official Letters

### Legal documents

- Decree guiding laws in the field of real estate;
- Decree No. 115/2024/ND-CP regulating a number of articles and measures to implement Law on Bidding on selection of investors to implement investment projects using land;
- Report No. 631/TTr-CP, the National Assembly's resolution on piloting the implementation of commercial housing projects through agreements on land use rights or land use rights;
- The draft Decree stipulates the reduction of land rents in 2024 to promote production and business.

### Highlighted Official Letters

#### • Land rental and Land use fees

- Official Letter No. 4161/TCT-CS dated 19 September 2024 issued by the General Department of Taxation
- Official Letter No. 4212/TCT-CS dated 23 September 2024 issued by the General Department of Taxation
- Official Letter No. 11704/BTC-QLCS dated 30 October 2024 issued by the Ministry of Finance
- Official Letter No. 4211/TCT-CS dated 23 September 2024 issued by the General Department of Taxation
- Official Letter No. 5243/TCT-CS dated 15 November 2024 issued by the General Department of Taxation
- Official Letter No. 4637/TCT-CS dated 17 October 2024 issued by the General Department of Taxation

#### • Land prices

- Decision No. 79/2024/QĐ-UBND dated 21 October 2024 issued by the People's Committee of Ho Chi Minh City
- Official Letter No. 10640/CTTPHCM-QLD dated 28 October 2024 issued by the Tax Department of Ho Chi Minh City
- Official Letter No. 3845/UBND-KTTH dated 19 November 2024 issued by the People's Committee of Hanoi

#### • Notes on the reduction of land rental

- Official Letter No. 4258/TCT-CS dated 24 September 2024 issued by the General Department of Taxation
- Official Letter No. 4308/TCT-CS dated 26 September 2024 issued by the General Department of Taxation
- Official Letter No. 2674/TCT-CS dated 24 June 2024 issued by the General Department of Taxation
- Official Letter No. 5195/TCT-CS dated 13 November 2024 issued by the General Department of Taxation

#### • Notes when determining land rent and land use fees

- Official Letter No. 4778/TCT-CS dated 24 October 2024 issued by the General Department of Taxation
- Official Letter No. 5314/TCT-CS dated 19 November 2024 issued by the General Department of Taxation
- Official Letter No. 4940/TCT-CS dated 31 October 2024 issued by the General Department of Taxation
- Official Letter No. 4516/TCT-CS dated 09 October 2024 issued by the General Department of Taxation

#### • Tax administration

- Official Letter No. 4784/TCT-CS dated 24 October 2024 issued by the General Department of Taxation
- Official Letter No. 3776/TCT-CS dated 27 August 2024 issued by the General Department of Taxation



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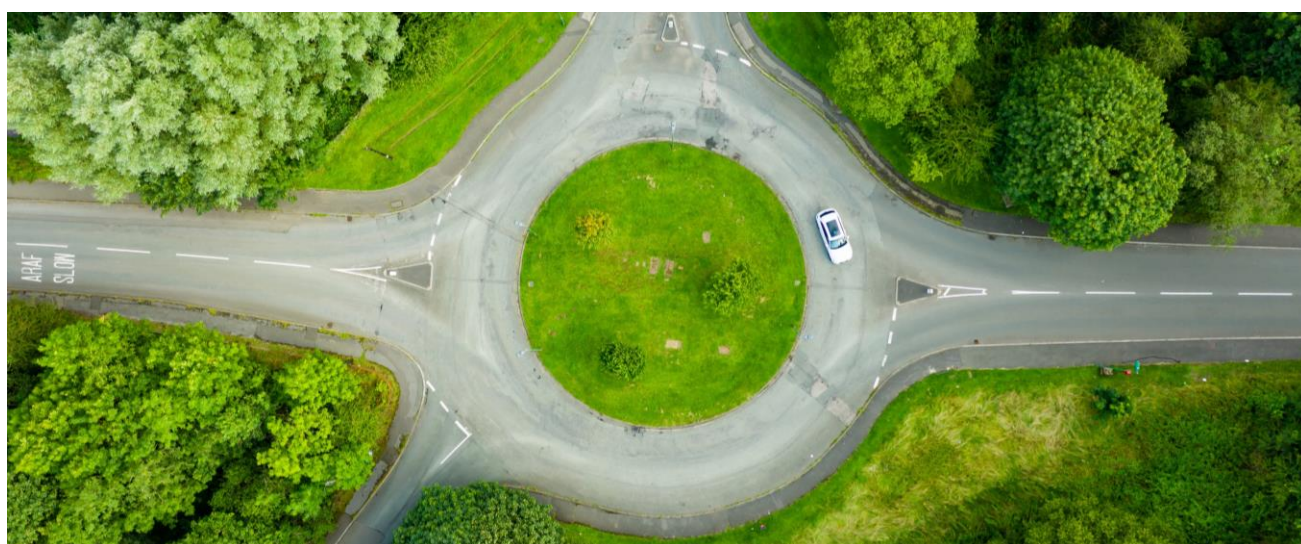


## Decree guiding laws in the field of real estate

### Legal documents

Pursuant to Land Laws, Real Estate Business Law and Housing Law taking effect in 2024, the Minister of Natural Resources and Environment and the Ministry of Construction have developed and issued guiding Decrees, effective from 01 August 2024, to facilitate the implementation and enforcement of the Law.

Land Law 2024	Law on Real Estate Business 2023	Law on Housing 2023
Decree No. 88/2024/ND-CP dated 15 July 2024, Regulations on compensation, support and resettlement when the State acquires land (" <b>Decree 88</b> ")	Decree No. 94/2024/ND-CP dated 24 July 2024 regulating the establishment and management of information systems and databases on housing and real estate markets (" <b>Decree 94</b> ")	Decree No. 95/2024/ND-CP dated 24 July 2024 of the Government detailing the implementation of several articles of Law on Housing (" <b>Decree 95</b> ")
Decree No. 102/2024/ND-CP dated 30 July 2024 of the Government detailing the implementation of a number of articles of Law on Real Estate Business (" <b>Decree 102</b> ")	Decree No. 96/2024/ND-CP dated 24 July 2024 of the Government detailing the implementation of a number of articles Law on Real Estate Business (" <b>Decree 96</b> ")	Decree No. 100/2024/ND-CP dated 26 July 2024 of the Government guiding Law on Housing on development and management of social housing (" <b>Decree 100</b> ")
Decree No. 103/2024/ND-CP dated 30 July 2024 of the Government regulating land use fees and land rents (" <b>Decree 103</b> ")		



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## Notable points regarding the amended and supplemented laws Legal documents

### I/ Decree 88 guiding on compensation, support and resettlement when the State acquires land

**Compensation by land or housing:** Regulations now allow for compensation either by land with a different purpose of use or by housing when land is recovered, rather than only by land with a similar purpose of use.

#### Land price when compensating:

- Compensation by land with a different purpose of use than that of the land being recovered for households, individuals, and people of Vietnamese origin residing abroad: use the land price list at the time of approval of the compensation plan.
- Compensation by land lease with one-time payment for the entire lease term: the land price will be the specific price decided by the People's Committee of the competent level.

**Land price for economic organizations:** Economic organizations with recovered residential land will calculate the land price according to the decision of the People's Committee of the competent level at the time of approval of the compensation plan.

#### Handling the difference in compensation value:

- If the compensation is greater than the land use fee or land rent payable, the person whose land is recovered will receive the difference.
- If the compensation is smaller, the person whose land is recovered will have to pay the difference.

**Conversion rate and compensation conditions:** The PPC will prescribe the conversion rate for land with other uses or housing and compensation conditions based on the land fund, housing fund and actual situation in the locality.

### Deloitte's Recommendations

- Compensation in the form of land with other uses or housing increases flexibility and fairness, especially in cases where the recovered land is no longer used for its intended purpose. Individuals whose land is recovered will receive more reasonable compensation with adjustments according to the actual value of the land and housing, and they can receive or pay the difference when the compensation value does not match the value of the new land or housing.
- Economic organizations will have a mechanism to receive fairer compensation with the actual value of the recovered land. However, determining and applying specific land prices according to the People's Committee's decisions can create additional pressure in adhering to regulations and negotiating compensation.
- The regulations on land conversion rates and compensation conditions will require businesses and investors to closely monitor local regulations to protect their legitimate rights.

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## Notable points regarding the amended and supplemented laws Legal documents

As introduced above, in line with the promulgation of decrees guiding the implementation and enforcement of 03 new laws

### I/ Decree 102 guiding certain aspects of Land Law

#### Acquisition of LURs in Access Restricted Areas:

Decree 102 provides a classification of access restricted areas, which include (i) border communes, wards, and townships; (ii) coastal communes, wards, and townships; (iii) islands; and (iv) other areas that affect to national defense and security in accordance with the Investment Law and Housing Law (hereinafter referred to as “**Access Restricted Areas**”). In these areas, the allocation and/or lease of land to foreign-invested entities (“**FIEs**”) and Vietnamese people of redescent residing overseas (“**overseas Vietnamese**”) shall require the opinions of the Ministry of National Defense (“**MOD**”) and the Ministry of Public Security (“**MPS**”). The collection of these opinions shall be conducted in accordance with the Investment Law.

Additionally, the transfer of the Certificate of land use rights and ownership of assets attached to land (“**LURC**”) may occur under the following circumstances:

- (i) FIEs and/or overseas Vietnamese in industrial zones, industrial clusters, and high-tech zones; and
- (ii) FIEs receive the transfer of investment capital being the value of LURCs to implement the investment projects in access-restricted areas.

The FIEs and overseas Vietnamese must comply with the following statutory process:

- (i) The requestor must submit a written proposal to the Provincial People's Committee (“**PPC**”) where the land is located, seeking permission to transfer or contribute capital in access-restricted areas;
- (ii) The PPC must send a written request to collect opinions from the MOD and MPS within 5 working days of receiving the proposal from the requestor; and
- (iii) MOD and MPS shall provide their written opinions to the PPC within 20 days of receiving the PPC's request.

#### Deloitte's Recommendations

According to the above regulations, there may be additional procedures required to obtain opinions from the Ministry of National Defense and the MPS on whether the project is situated in a access-restricted area. Accordingly, companies and investors should pay attention to this procedure during the process of completing the legal aspects of their projects.

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## Notable points regarding the amended and supplemented laws Legal documents

### I/ Decree 102 guiding a number of contents of Land Law (cont.)

#### Auction of land use rights:

The new decree outlines the conditions for organizations and individuals participating in LURCs auction activities. Particularly:

No.	Organisation	Individual
1	Be subject to land allocation or lease by Land Law	In cases where the auction serves to implement an investment project, an individual must commit to establishing an economic organisation that meets the conditions of the organisation participating in auction activities.
2	Satisfy the conditions for the land allocation or lease for investment projects; possess the capability and experience in project development	
3	A corporate group is considered an economic group or a parent company with subsidiaries participating in the auction must agree to designate one company from the group to participate in the auction	
4	<b>Pay a deposit of 20% of the total value of the plot or area based on the starting price</b>	
5	Not belong to any group prohibited from participating in the auction	
6	Satisfy the conditions set forth by the Housing Law and the Real Estate Business Law in cases of auctioning land use rights for housing projects or other real estate business projects	
7	Other conditions according to the Auction Law	

#### In the event of winning the auction:

- (i) The competent Tax Authority must, within 05 working days from the date of receiving the decision recognizing the auction results, send a notice for the payment of land use fees and land rent to the winning bidder.
- (ii) After the winner has paid the full amount of land use fees and land rent, the competent land management authority shall:
  - ✓ submit to the competent People's Committee a decision on land allocation, land lease and approve the LURC;
  - ✓ forward the application to the Land Registration Office or its branch to update the land database and cadastral records; and
  - ✓ execute a land lease contract in cases where land is leased.

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## Notable points regarding the amended and supplemented laws Legal documents

### II/ Decree 96 guiding Real Estate Business Law

#### a Ratio of outstanding credit and corporate bonds to equity of real estate business enterprises

According to Decree 96, enterprises engaging in the real estate business sector (“**real estate enterprises**”), are responsible for ensuring the following requirements of ratio of outstanding credit and corporate bonds to equity:

- (i) *Satisfaction of the financial safety ratios; in compliance with the regulations of the law on credit and corporate bonds;*
- (ii) *In the case of borrowing from credit institutions and/or issuing corporate bonds to implement real estate projects approved by competent state authorities as the investor, the total outstanding loans from credit institutions, outstanding corporate bonds, and required charter capital must not exceed 100% of the total investment capital of that project; and*
- (iii) *The total ratio of outstanding loans from credit institutions and outstanding corporate bonds for the project must not exceed (A) 04 times the charter capital for each real estate project with land usage scale under 20 hectares or (B) 5.67 times the charter capital for each real estate project with land usage scale of 20 hectares or more.*

#### b Small-scale real estate business (exclusive of non-business purposes and below small scale)

The new Decree 96 provides detailed conditions for determining cases where small-scale real estate enterprises are not required to comply with the Real Estate Business Law, including the following cases:

- (i) *Organisations selling residential properties, construction works, or floor space within construction works not intended for business purposes; or*
- (ii) *Organisations selling, leasing, or offering lease-with-purchase options for residential properties, construction works, or floor space within construction works that involve (A) only one transaction in a year or (B) contract not exceeding a value of VND 300 billion per contract with more than 10 transactions in a year.*

However, there is a lack of mechanism that will be used to review or assess fulfilment of these conditions, and which it is unclear which authority will take this responsibility. Therefore, the implementation of we expect the application of this regulation may encounter practical difficulties.

#### c Publication of real estate business contract

Real estate enterprises are required to publicly disclose their sample contracts used in real estate business transactions in accordance with the Housing Law, real estate market information system, the Real Estate Business Law and publish them on their electronic information page.

#### d Deadline for signing real estate project transfer agreement

The Decree 96 imposes a strict deadline of **60 days** from the date of the decision approving the transfer of a project (or part of a project) by the competent authority for the parties to enter into real estate project transfer agreement. Failure to do so without an extension granted by the authority, will result in the expiration of the decision approving the project transfer. Accordingly, the parties will need to restart the process for project transfer.

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## Notable points regarding the amended and supplemented laws Legal documents

### III/ Decree 95 guiding Housing Law



#### a. Conditions and procedures for the obligation to reserve land in commercial housing construction investment projects for social housing construction:

The new Decree specifically outlines the conditions and procedures applicable to the obligation of reserving land for social housing construction within commercial housing investment projects. Notably, for urban levels I, II, and III, project investors have 03 options to fulfill this obligation:

- (i) *reserve 20% of the total residential land area (excluding existing residential land and resettlement land) within the project scope, where infrastructure systems have been developed, for the construction of social housing;*
- (ii) *(ii) pay an amount equivalent to the value of the land that has been developed with infrastructure systems for social housing; and*
- (iii) *allocate social housing land that has been developed with infrastructure systems at a location outside the commercial housing project (but within the same urban area as the project).*

For options (ii) and (iii), project investors must meet conditions such as ensuring the replacement land being consistent with the planning and land use plan (for option ii) and the payment amount must equal the land use/lease value calculated at the time the infrastructure was developed. Additionally, the project investors are required to submit the corresponding documentation to determine the appropriate implementation method.



#### b. New guidance on mini condominium:

Following the new Housing Law, Decree 95 now clearly distinguish the conditions and procedures application for mini condominium (residential housing having multiple floors and multiple units) designed for sale, lease or lease-purchase. Accordingly:

- (i) *In case of mini condominium has less than 20 units and for lease purpose, then it shall be treated as individual housing;*
- (ii) *Otherwise, the mini condominium will be subject to conditions and procedures applicable to commercial residential housing development projects.*



#### c. Appraisal of investment policies for housing construction projects- projects of foreign investors, economic organizations with foreign investment capital must seek opinions from the Ministry of National Defense and the Ministry of Public Security

According to Article 15 of Decree 95 of the Government detailing the 2023 Housing Law, a provision on approval of investment policies for housing construction projects has been added. Accordingly, the appraisal agency must consult with the housing management agency at the same level in accordance with the provisions of the law on investment, and simultaneously consult with the Ministry of National Defense and the MPS to determine whether the project is located in an area requiring national defense and security. This result will serve a basis for approving the investment policy and deciding whether to allow foreign organizations and individuals to own houses.

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## Notable points regarding the amended and supplemented laws Legal documents

### Deloitte's view

- The promulgation of new decrees regulating Vietnam's real estate sector marks a significant step forward in the legal framework regulating real estate transactions, investment and management. These decrees aim to enhance transparency, streamline processes and ensure compliance with modern standards in real estate operations.
- The main provisions include revised conditions for real estate enterprises, updated procedures for the transfer of land use rights, advanced requirements for real estate transactions, clearly stated conditions and procedures for social housing requirements, and avoiding inconsistent implementation in the different localities. The decrees also address the management of real estate platforms, specifying their roles and responsibilities in verifying the legitimacy of real estate, facilitating transactions, and providing essential services to customers.
- The updated legal framework brings both opportunities and challenges for stakeholders in Vietnam's real estate sector. The reforms are designed to promote a stronger and more dynamic market by promoting responsible investment and ensuring consumer protection. However, the successful implementation of these decrees will require active cooperation between Government agencies, real estate businesses and investors to adapt to the new regulations.

### Deloitte's Recommendations

- **Enhancing Clarity and Compliance:** stakeholders, including real estate investors and developers, should proactively prepare and adapt to the specific conditions and procedures outlined in the new decrees. Joining training sessions or workshops by industry expert to continuously update new regulations and practices, enhance compliance and facilitate a smoother transition from the previous regulations.
- **Consulting with Local Authorities:** investors are encouraged to engage proactively with local authorities to understand the implementation at the provincial level. This will help mitigate risks related to inconsistent application and interpretation of the regulations.
- **Monitoring and Feedback:** establishing a monitoring system to evaluate the impact of the new decrees on project execution and community development can provide valuable insights. Feedback from stakeholders should be collected and presented to relevant authorities to inform potential adjustments or improvements in the regulations.
- **Consulting with experts:** consulting with experts, especially Deloitte's Tax and Legal advisory team, to fully understand the implications of new provisions in real estate sector and how to best leverage available incentives.

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## Decree No. 115/2024/ND-CP detailing a number of articles and measures to implement the law on bidding for selection of investors to implement investment projects using land

### Legal documents

Decree No. 115/2024/ND-CP detailing a number of articles and measures to implement the Law on Bidding on selection for the selection of investors to implement investment projects using land.

#### a. Scope of application

Decree No. 115/2024/ND-CP applies to the following two groups of land-related projects:

- ✓ **Group 1:** Projects under Article 79.27 of the Land Law 2024, which are decided by the provincial-level People's Council to allocate or lease land through bidding ("Group 1 Projects"). Group 1 projects include:
  - (i) *Urban area projects with mixed functions, synchronous technical infrastructure system, social infrastructure associated with housing according to construction regulations (including new construction, renovation or upgrading of urban areas);*
  - (ii) *Rural residential projects.*
- ✓ **Group 2:** Other projects under Article 79 of the Land Law 2024 that are not classified as Group 1 projects but still require a bidding process to select investors in accordance with specialized laws ("Group 2 projects"). These include, but not limited to, projects on construction of power works that must be bid in accordance with the law on electricity if there are 02 or more investors interested in and registering for project implementation.

#### b. Investor selection process and procedures

The bidding process for land use projects includes the following main steps:

- (i) *Announcement of investment projects using land*
- (ii) *Preparation for bidding to select investors;*
- (iii) *Organizing bidding process to select investors;*
- (iv) *Evaluation of bidding dossiers;*
- (v) *Submitting, appraising, approving and publicizing investor selection results;*
- (vi) *Negotiating, finalizing and signing contracts.*

#### c. Establishment of economic organizations to implement investment projects using land of bid-winning investors

The winning bidder directly implements the project or establishes an economic organization to implement the investment project using land. Foreign investors who win the bid must establish an economic organization to be allocated or leased land for project implementation in accordance with the Land Law.

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## Decree No. 115/2024/ND-CP detailing a number of articles and measures to implement the law on bidding for selection of investors to implement investment projects using land

### Legal documents

#### Deloitte's view

- Decree No. 115/2024/ND-CP marks a step forward in perfecting the legal mechanism for bidding and selecting investors to implement projects using land. Compared to Decree No. 25/2020/ND-CP, the new Decree has clarified the scope of projects subject to bidding, including urban area projects, rural residential areas and projects under specialized laws. In particular, 10 specific groups of projects have been regulated to address ambiguities of the previous law.
- A highlight of the Decree is the simplification of the procedural process, cutting time and costs. The integration of bidding procedures with planning and investment policies, along with thorough decentralization for localities, helps to improve the initiative and flexibility in project implementation. In addition, the removal of the requirement to collect opinions from the Ministry of Planning and Investment in some cases is more favorable for localities.
- With these improvements, Decree No. 115/2024/ND-CP is expected to promote transparency and competition in the real estate market and attract investment more effectively in the future.

#### Deloitte's Recommendations

- **Understand the regulations and scope of application:** carefully study the project groups subject to bidding, especially the new regulations on specialized laws, to select opportunities that are suitable for the strategies and capacities of the enterprise.
- **Prepare dossiers and improve capacity:** develop bidding dossiers that fully meet technical, financial and legal requirements; create effective bidding participation plans to capitalize on simplified procedures.
- **Strengthen cooperation with localities:** work closely with provincial People's Committees to gather information on planning, project priorities, and bidding requirements, ensuring synchronization in implementation.
- **Professional investment and risk management:** build a team that understands the specialized field; thoroughly review bidding conditions and contracts to minimize legal and financial risks.
- **Monitoring progress and participating in opinions:** closely supervise planning, investment approval procedures and contribute feedback to the authorities to ensure feasibility and optimize benefits from bidding projects.

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## Report No. 631/TTr-CP, the National Assembly's resolution on piloting the implementation of commercial housing projects through agreements on land use rights or ownership of land use rights

### Legal documents

The Draft Resolution includes the following key contents:

#### a. Scope of regulation and subjects of application

This Resolution provides the pilot implementation of commercial housing projects through agreements on land use rights or ownership of land use rights nationwide in the following cases:

- (i) Real estate business organizations that receive land use rights;
- (ii) Real estate business organizations that possess land use rights;
- (iii) Real estate business organizations that have land use rights and receive land use rights;
- (iv) Real estate business organizations established by land-using organizations to implement commercial housing projects in areas of establishments that must be relocated due to environmental pollution or according to construction and urban planning.

The Resolution applies to state authorities, real estate business organizations, and land users, ensuring the principles of transparency, fairness, and synchronization with land law, and at the same time stipulating the rights and obligations of the parties to avoid legal disputes during the implementation process.

#### b. Conditions for implementation of commercial housing projects through agreements on land use rights or ownership of land use rights

The Draft Resolution allows real estate business organizations to implement commercial housing projects by either receiving land use rights or currently possessing land use rights, including:

- (i) Agricultural land;
- (ii) Non-agricultural land is not residential land;
- (iii) Residential land and other land in the same land plot, in case of agreement on land use right receipt.

The project must align with the local housing development planning and plan and must be approved by the provincial-level People's Committee for the transfer of land use rights for the implementation of commercial housing projects when receiving a transfer of land use rights.

In addition, real estate business organizations implementing projects must meet the conditions prescribed by the law on land, housing, real estate business, investment and other relevant laws.

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## Report No. 631/TTr-CP, the National Assembly's resolution on piloting the implementation of commercial housing projects through agreements on land use rights or ownership of land use rights

### Legal documents

#### c. Criteria for selecting pilot projects

This Resolution establishes criteria for the pilot implementation of projects that meet the following conditions:

- (i) *The project must be located in urban areas or urban development planning, not exceeding 30% of the additional residential land area according to the provincial planning for the period of 2021 – 2030;*
- (ii) *The project must not fall under the projects specified in Clause 4, Article 67 of the Land Law;*
- (iii) *In case of receiving land use rights, the land area for project implementation must not be on the list of works and projects subject to land recovery approved by the provincial People's Council as prescribed in Clause 5, Article 72 of the Land Law.*

#### Deloitte's view

- This resolution represents an important step forward in improving real estate policy and land management in Vietnam, helping to remove legal barriers and land resources, thereby promoting the development of commercial housing.
- However, in order for the policy to be highly effective and avoid risks, it is necessary to have strict control and supervision measures to ensure that the land use is in accordance with regulations and synchronized with the overall plan.



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## Draft Decree stipulates reduction of land rents in 2024 to promote production and business

### Legal documents

On 26 September 2024, the Ministry of Finance issued a Draft Decree on reducing land rents in 2024 to promote production and business. According to this draft, enterprises, organizations, households and individuals who are renting land from the state in the form of annual rent payment can receive a reduction of 15% or 30% of land rent in 2024.

The reduction will apply to the payable land rent amount for 2024, not on outstanding land rent from previous years or any late payment interest (if applicable).

#### 1 Proposal for subjects eligible for land rent reduction in 2024

According to the Draft Decree, the subjects eligible for land rent reduction in 2024 include:

- Organizations, units, enterprises, households and individuals that are being directly leased land by the State under decisions or contracts or certificates of land use rights and ownership of houses and other land-attached assets of competent state agencies.
- Cases where the land tenant is not eligible for land rent exemption or reduction after the expiration of the land rent exemption or reduction period, and the case where the land tenant is receiving land rent reduction according to the provisions of the Land Law 2024, documents detailing the Land Law and other relevant laws.

#### 2 Proposal to reduce land rent by up to 30% in 2024

For the reduction of land rent in 2024, the Ministry of Finance proposes to implement 02 options:

- **Option 01:** Reduce 15% of the payable land rent in 2024 for land tenants.
- **Option 02:** Reduce 30% of the payable land rent in 2024 for land tenants.

The above-mentioned land rent reduction is calculated on the payable land rent in 2024 in accordance with law. No reduction shall be made on the outstanding land rent of the years before 2024 and late payment interest (if any).

In case the land lessee is receiving land rent reduction, according to regulations or/and deduction of compensation and ground clearance in accordance with the law on land rent, the land rent reduction shall be calculated on the payable land rent amount (if any) after it has been reduced or/and deducted as prescribed.

#### 3 Tentative order and procedures for land rent reduction in 2024

According to the Draft Decree, land tenants are required to submit one completed set of dossier of request for land rent reduction (electronically or by other methods) to the Tax Authority or other agencies in accordance with the law on land and the law on tax administration from the effective date of this Decree. Based on the land rent reduction dossier, the competent agency shall determine the land rent amount to be reduced and issue a decision on land rent reduction **within 30 days** from the date of receipt of a complete and valid dossier, in accordance with the law on land rent collection and the law on tax administration.

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## Draft Decree stipulates reduction of land rents in 2024 to promote production and business

### Legal documents

#### Deloitte's view

- Decisions to reduce land rents such as Decision No. 22/2020/QĐ-TTg, Decision No. 27/2021/QĐ-TTg, Decision No. 01/2023/QĐ-TTg, and Decision No. 25/2023/QĐ-TTg have provided timely support to those affected by the Covid-19 pandemic. This assistance helps reduce financial pressure, especially for small and medium-sized enterprises, business households and individuals who are using land leased by the state.
- The policy of reducing land rents aids businesses maintain cash flow, minimizing the financial burden in the current economic context. This also allows businesses to concentrate resources on restoring production and business operations.
- The decisions to reduce land rents from 2020-2023 have demonstrated the Government's flexibility and responsiveness in crisis, situations and contribute positively to economic recovery and development. However, it is necessary to continue to evaluate the effectiveness of implementation and balance resources to ensure sustainable development.

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## Land rent, land use fees Guidance Official Letter

With the promulgation of the Land and Real Estate Laws, along with the guiding Decrees, there has been a significant shift in how tax authorities address the order, procedures and methods for determining land-related financial obligations. These changes not only enhance the efficiency of tax administration but also support businesses in properly fulfilling their legal obligations.

Deloitte summarizes some prominent changes in the calculation of land use levy and land rent as follows:

### Changes in the calculation order of land use levy and land rent

- According to the General Department of Taxation, the Land Law No. 31/2024/QH15 and Decree No. 103/2024/ND-CP have numerous changes related to the determination of financial obligations from land, including how to calculate revenue, exemptions, reductions, and the process for settling financial obligation dossiers from land. To avoid errors, the General Department of Taxation has instructed the provincial Tax Departments **to carefully study and review the settlement dossiers** in accordance with the provisions of the land policies before the Land Law 2024 to ensure compliance with the legal provisions in each period. In case of detecting errors, prompt remedial measures should be taken to complete the settled dossiers in accordance with regulations.
- In addition, the sequence for calculating land use levy and land rent collection specified in Articles 21 and 22 of Decree No. 103/2024/ND-CP has changed. **The district-level People's Committee now determines the amount of compensation and support funds deducted from land use levy and the payable land rent**, replacing the previous responsibility of the Department of Finance; and **the consideration of exemption from land use levy and land rent is not under the responsibility of the Tax Authority**, the Tax Authority only considers the dossier and issues a decision on reduction of land use levy and land rent (if any).

*(Official Letter No. 4161/TCT-CS dated 19 September 2024 issued by the General Department of Taxation)*

### Adjustment of land rental unit price from after 01 August 2024 must be calculated according to new regulations

- The General Department of Taxation notes that according to the provisions of Clause 1, Article 11 of Decree No. 46/2014/ND-CP, Clause 9, Article 3 of Decree No. 123/2017/ND-CP and Article 5 of Circular No. 207/2014/TT-BTC, **the unit rent of land used for agricultural, forestry and aquaculture production purposes is stable for 05 years** from the time of switching to land lease.
- For the period from 01 August 2024, according to the new provisions in Article 32, Clause 11, Article 51 of Decree No. 103/2024/ND-CP, in case of renting land with annual rent payment but the time of adjustment of the land rent unit price before the effective date of this Decree but has not yet been adjusted, the land rent shall be calculated according to the provisions of Article 30 of Decree No. 103/2024/ND-CP to apply to next cycle. The land rent is stable for 05 years, at the end of the stability cycle, the adjustment shall be made according to the provisions of Article 30 of Decree No. 103/2024/ND-CP.

*(Official Letter No. 4212/TCT-CS dated 23 September 2024 issued by the General Department of Taxation)*

### The Ministry of Finance requests provinces to review and amend documents on land use levies and rents

- The Ministry of Finance proposes the People's Committees of provinces to organize the review of legal documents promulgated by localities related to land use levies and land rents to amend, supplement, replace, abolish or promulgate new ones to ensure compliance with Decree No. 103/2024/ND-CP.

*(Official Letter No. 11704/BTC-QLCS dated 30 October 2024 issued by the Ministry of Finance)*

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## Land rent, land use fees Guidance Official Letter

### Exemption from land use levy and land rent from 01 August 2024

- According to the provisions of Clause 3, Article 157 of the 2024 Land Law, land users exempt from land use levies and land rents are not required to carry out procedures for exemption.
- In case the land user has submitted the dossier in accordance with the regulations at the competent state agency and is still in the period of land rent exemption or reduction as prescribed by law before 01 August 2024 but has not yet had a sufficient decision on land lease of the investment project, so the Tax Authority has not yet had a basis for deciding on land rent exemption, the Tax Authority shall return the dossier to the land management agency to carry out land-related procedures (not required to carry out land rent exemption procedures) according to the provisions of Clause 5, Article 51 of Decree No. 103/2024/ND-CP.

*(Official Letter No. 4211/TCT-CS dated 23 September 2024 issued by the General Department of Taxation)*

### Land leased before 01 August 2024 is also not subject to land rent exemption procedures

- The General Department of Taxation also notes that, according to the provisions of Clause 3, Article 157 of the 2024 Land Law, land users who are exempt from land use levies and land rents do not have to carry out procedures for requesting exemption from land use levies and land rents.
- In case the land user has submitted the dossier in accordance with regulations and is still in the period of land rent exemption as prescribed by law before 01 August 2024 but has not yet issued a decision on land rent exemption, the Tax Authority will return the dossier to the land management agency to carry out land procedures (exemption from rent exemption procedures land) according to the provisions of Clause 5, Article 51 of Decree No. 103/2024/ND-CP.

*(Official Letter No. 5243/TCT-CS dated 15 November 2024 issued by the General Department of Taxation)*

### Deloitte's view

- ✓ **From the Tax Authority's standpoint:** by focusing on reviewing the dossier and issuing a decision to reduce land use levy and land rent (if any), the tax authorities would simplify its role in processing procedures. This can shorten the processing time, but also creates greater pressure on businesses to prepare complete and compliant documents.
- ✓ **From the business's standpoint:** changes in the agency in charge and the process can change the calculation of project investment costs. Real estate enterprises need to actively coordinate with the district-level People's Committee to ensure that compensation and support are calculated accurately and in a timely manner.

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## Land rent, land use fees Guidance Official Letter

### Deduction of compensation and land clearance cost post-merger

On 17 October 2024, the General Department of Taxation issued Official Letter No. 4637/TCT-CS to address issues identified by the Tax Department of Gia Lai province about the continuance of deducting the advanced compensation, support and resettlement costs (collectively referred to as "compensation costs") after a company merger.

In this regard, the General Department of Taxation requests the Gia Lai Tax Department pursuant to the legal provisions on land and enterprises to settle, specifically:

- ✓ **Under the provisions of the land law:** There is no provision in the land law that allows the post-merger company to continue to deduct the advance compensation costs if these costs have not been fully deducted from the land rent.
- ✓ **Under the law on enterprises:** Law on Enterprises 2020 stipulates that the consolidated company is entitled to inherit all the rights, obligations and legitimate interests of the consolidated companies, including unfulfilled obligations, debts, labor contracts and other property obligations of the consolidated companies.

If the Gia Lai Tax Department requires further clarification regarding the aforementioned corporate law provisions, the General Department of Taxation recommends consulting the Ministry of Planning and Investment, the agency responsible for drafting the Law on Enterprises 2020.

*(Official Letter No. 4637/TCT-CS dated 17 October 2024 issued by the General Department of Taxation)*

### Deloitte's view

- This Official Letter of the General Department of Taxation provides guiding views on the handling of compensation and site clearance costs after merger of enterprises, creating a precedent for handling enterprises in the process of merger and acquisition, especially for enterprises that have advanced large costs for site clearance.
- However, the General Department of Taxation also made a recommendation to consult the Ministry of Planning and Investment as a specialized management agency to clarify regulations, demonstrating interdisciplinary coordination in solving legal problems.
- In general, official letters not only address specific cases but also establish precedents and guidelines for the application of the law for Tax authorities and businesses.

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## Land price Guidance Official Letter

Tax authorities and units in the process of studying the decree's guiding documents. Accordingly, in some localities, the land price list is updated according to the new regulations, and some notes when calculating taxes and fees according to the new land price list are as follows:

### Ho Chi Minh City

#### New land price list in Ho Chi Minh City, applied from 31 October 2024

On 21 October 2024, the People's Committee of Ho Chi Minh City issued a Decision on amending and supplementing Decision No. 02/2020/QD-UBND dated 16 January 2020 of the People's Committee of Ho Chi Minh City on the promulgation of the Regulation on Land Price List in Ho Chi Minh City for the period of 2020-2024.

This Decision adjusts the current Land Price List in Ho Chi Minh City to apply for the period from 31 October 2024 to the end of 31 December 2025. The changes involve agricultural land, residential land, commercial land, service land, production and business land, etc. in Ho Chi Minh City.

The Decision annuls Article 3 of Decision No. 02/2020/QD-UBND dated 16 January 2020.

Other contents not amended and supplemented in this Decision shall continue to apply according to the Regulation on Land Price List of Ho Chi Minh City issued together with Decision No. 02/2020/QD-UBND.

*(Decision No. 79/2024/QD-UBND dated 21 October 2024 issued by the People's Committee of Ho Chi Minh City)*

#### Some notes of the Ho Chi Minh City Tax Department on calculating taxes and fees pursuant to the new land price list

A number of new points on determining land financial obligations, taxes and fees based on the new Land Price List in Ho Chi Minh City following the Decision No. 79/2024/QD-UBND.

For households and individuals, from 01 August 2024, when determining land financial obligations, there will no longer be a distinction between land prices within or outside the limit; the value of the land area greater than 30 billion is not considered, there is no longer a case of applying specific land prices. However, the land price determined according to the new price list distinguishes the type of land, in which the price of residential land is applied according to Table 8 of Appendix 2; commercial and service land prices applied according to Table 9, Appendix 3; the price of non-agricultural production and business land other than commercial and service land shall be applied according to Table 10 of Appendix 4.

In addition, the land use term for fixed-term land is adjusted from 50 years to 70 years according to the provisions of Clause 5, Article 2 of Decision No. 79/2024/QD-UBND.

Regarding the policy of collecting land use levies and land rents, from 01 August 2024, it will have to comply with the new regulations in Decree No. 103/2024/ND-CP. In particular, the calculation of land use levy when changing the land use purpose for households and individuals applies according to Article 8 of Decree No. 103/2024/ND-CP; the calculation of land use levy when recognizing land use rights shall comply with Articles 9, 10, 11 and 12 of Decree No. 103/2024/ND-CP. In addition, the percentage of land use levy collection will also vary from case to case depending on the time of starting land use, the type of land actually being used, whether there is a violation of the land use law.

*(Official Letter No. 10640/CTTPHCM-QLD dated 28 October 2024 of the Ho Chi Minh City Tax Department on the implementation of Decision No. 79/2024/QD-UBND dated 21 October 2024 of the People's Committee of Ho Chi Minh City)*

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## Land price Guidance Official Letter

### Hanoi

#### Guidance on determining land prices for tax calculation while awaiting the new land price table

According to the announcement by the Hanoi People's Committee, in order to promptly settle the dossier of financial and tax obligations on land pending the issuance of the Decision on adjustment of the land price list according to the provisions of Clause 1, Article 257 of the Land Law 2024, the principle of determining land prices for financial obligations and tax calculations is governed by Clause 1, Article 159 of the Land Law 2024. This dictates that the Land price in the Land Price List promulgated together with Decision No. 30/2019/QD-UBND dated December 31st, 2019, Decision No. 20/2023/QD-UBND dated 07 September 2023 amending and supplementing Decision No. 30/2019/QD-UBND multiplied by (x) by the land price adjustment coefficient specified in Decision No. 45/2024/QD-UBND (if it is land rent) or Decision No. 46/2024/QD-UBND (if it is land use levy and personal income tax) dated 18 July 2024 of the City People's Committee.

In case the transfer price stated in the real estate or land use right transfer contract or tax declaration dossier is higher than the land price according to the above-mentioned determination principles, the taxable income shall be determined according to the transfer price stated in the contract or tax declaration dossier.

*(Official Letter No. 3845/UBND-KTTH dated 19 November 2024 issued by the People's Committee of Hanoi)*

#### Deloitte's view

- The new land price bracket according to the provisions of the Land Law is currently in the process of being applied by specialized management agencies such as the People's Committee and tax authorities. Businesses must pay close attention to how these agencies will apply these land price brackets and their roadmap. This can affect the financial obligations related to the land of the enterprise, especially when the enterprise is involved in real estate transfer, leasing, or development activities.
- Businesses should also closely monitor announcements from local authorities where they own real estate. Each locality can apply different land price brackets and related regulations. This helps businesses proactively grasp changes in land prices, adjust financial plans, taxes and real estate development strategies accordingly.

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## Consideration and approval of land rent reduction Guidance Official Letter

In addition to 03 new laws on real estate, in 2023, the Prime Minister has issued Decision No. 25/2023/QĐ-TTg, which regulates the exemption and reduction of land rents for 2023. However, in the process of implementing the land rent reduction policy, Deloitte observed that several typical cases were not approved for land rent reduction, stemming from specific reasons as follows:

<p><b>Refusal to process applications for land rent reduction submitted after 31 March 2024</b></p>	<p><b>Land rent reduction is not applicable if the land is not leased directly from the State</b></p>
<p>The General Department of Taxation noted that Decision No. 25/2023/QĐ-TTg has stipulated the deadline for submitting dossiers for land rent reduction in 2023 no later than 31 March 2024; does not apply according to the time limit for general tax declaration and payment as prescribed in Circular No. 80/2021/TT-BTC.</p> <ul style="list-style-type: none"> <li>○ Cases that are considered for a 30% reduction in land rent in 2023 according to the provisions of Decision No. 25/2023/QĐ-TTg but submit applications after 31 March 2024 will not be considered for land rent reduction.</li> </ul> <p><i>(Official Letter No. 4258/TCT-CS dated 24 September 2024 issued by the General Department of Taxation)</i></p>	<p>In Clause 01, Article 02, Decision No. 25/2023/QĐ-TTg dated 03 October 2023 of the Prime Minister stipulates that the subjects of application are organizations, units, enterprises, households and individuals who are directly leased land by the state.</p> <ul style="list-style-type: none"> <li>○ In case by the deadline for submitting the dossier for land rent reduction as prescribed in Decision No. 25/2023/QĐ-TTg, the name of the land lessee is not the same as the name on the Decision or the Contract or the Land Use Right Certificate, it is not subject to application of the Decision.</li> </ul> <p><i>(Official Letter No. 4308/TCT-CS dated 26 September 2024 issued by the General Department of Taxation)</i></p>
<p><b>The period of suspension of operations will only be considered for land rent exemption if proper certification is provided</b></p>	<p><b>Land rent reduced for 2023 excludes late payment fees</b></p>
<p>According to the provisions of Clause 6, Article 18 of Decree No. 46/2014/ND-CP and Clause 5, Article 12 of Circular No. 77/2014/TT-BTC, enterprises are only entitled to land rent exemption incentives after completing procedures for land rent exemption, the period of delay in carrying out procedures is not exempt from land rent.</p> <p>In case the enterprise has a period of suspension of operation but does not have a written certification of the suspension of operation from a competent state agency, it is also not exempt from land rent for the period of suspension of operation.</p> <p><i>(Official Letter No. 2674/TCT-CS dated 24 June 2024 issued by the General Department of Taxation)</i></p>	<p>In case the Company is subject to the application specified in Article 2 of Decision No. 25/2023/QĐ-TTg and has made a dossier of request for land rent reduction on time, it will be entitled to a 30% reduction in the payable land rent in 2023.</p> <p>It should be noted that the land rent is reduced by 30% according to Decision No. 25/2023/QĐ-TTg only calculated on the payable land rent amount of 2023, not calculated on the outstanding land rent of the years before 2023 and late payment interest (if any).</p> <p><i>(Official Letter No. 5195/TCT-CS dated 13 November 2024 issued by the General Department of Taxation)</i></p>

### Deloitte's view

The land rental reduction policy under Decision 25/2023/QĐ-TTg provides a mechanism to help businesses alleviate financial burdens related to land use. However, tax payers are encouraged to ensure full compliance with all legal regulations and procedures to correctly apply the tax reduction mechanism, avoid risks arising from improper implementation, and maintain the long-term interests and reputation.

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## Notes on determining land rent and land use fees Guidance Official Letter

In the context of increasingly tightening regulations on land-related financial obligations, Deloitte identifies a number of specific cases that may lead to additional financial obligations when implementing projects, specifically as follows:

Additional payments are required for land with delayed progress or land not put into use	Projects requesting an extension of progress must pay additional land use fees
<p>In case the land is allocated by the State but the land is not put into use or the land use schedule is behind the schedule stated in the investment project, in addition to the payable land use levy amount as prescribed, the land user must pay an additional amount corresponding to the land use levy calculated equal to the annual land rent for the period behind schedule, failing to put the land into use as prescribed in Clause 01, Article 02 of Decree No. 135/2016/ND-CP of the Government.</p> <p>The time of not putting land into use is clearly specified in Clause 02, Article 01 of Circular No. 332/2016/TT-BTC dated 26 December 2016 of the Ministry of Finance.</p> <p><i>(Official Letter No. 4778/TCT-CS dated 24 October 2024 issued by the General Department of Taxation)</i></p>	<p>The General Department of Taxation notes that in case the land use period is extended by 24 months as prescribed at Point i, Clause 01, Article 64 of the 2013 Land Law, in addition to the payable land use levy amount as prescribed, the investor must also pay to the State an amount corresponding to the land use levy for the time of delay in project implementation during the this room.</p> <p>Articles 02 and 03 of Decree No. 135/2016/ND-CP and Article 01 of Circular No. 333/2016/TT-BTC have specific regulations on how to determine the additional land use levy amount to be paid during the extended period.</p> <p><i>(Official Letter No. 5314/TCT-CS dated 19 November 2024 issued by the General Department of Taxation)</i></p>

### Deloitte's view

**From the view of managing land obligations:** These official letters clearly show the move to strengthen management of cases of violation of land use schedules, encourage the use of land for the right purposes and on schedule as committed in investment projects of state management agencies.

**From the view of businesses:**

- The viewpoint put forward requires land users to be more proactive in fulfilling their obligations and ensuring compliance with relevant legal regulations, avoiding potential financial and legal consequences.
- Failure to comply with regulations on exemption and reduction of land rent not only affects cash flow but can also increase operating costs and arise legal problems.

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## Notes on determining land rent and land use fees Guidance Official Letter

Determining land use fees when donating or gifting social housing	Settlement of land rent temporarily exempted during the basic construction period
<p>According to the General Department of Taxation, the law on housing only stipulates that the buyer or lessee-purchaser of social housing may resell this house according to the market mechanism to those in need after a period of 05 years, from the time the house purchase and lease purchase money has been fully paid and the certificate has been granted but must pay land use levy and pay income tax as prescribed.</p> <p>Therefore, regarding problems related to whether the buyer donated to social housing has to fulfill the obligation to pay land use levy or not, the Tax Department needs to report to the PPC in writing to the Ministry of Construction (the unit in charge of formulating the Housing Law) for specific guidance.</p> <p><i>(Official Letter No. 4940/TCT-CS dated 31 October 2024 issued by the General Department of Taxation)</i></p>	<p>In case the economic organization in case the project is leased land by the State, has submitted a dossier of application for land rent exemption during the capital construction period as prescribed and the Tax Authority has issued a notice of temporary exemption of land rent during the capital construction period as prescribed by law before 01 July 2014, when the capital construction activities are completed, the land lessee shall complete the procedures as prescribed to settle the exempted land rent amount, but the maximum exemption period shall not exceed the temporarily exempted period as prescribed in Clause 07, Article 08 of the Circular No. 333/2016/TT-BTC of the Ministry of Finance.</p> <p>From 01 August 2024, the Government's Decree No. 103/2024/ND-CP takes effect), the transitional handling shall be carried out according to the provisions of Article 51 of the Government's Decree No. 103/2024/ND-CP.</p> <p><i>(Official Letter No. 4516/TCT-CS dated 09 October 2024 issued by the General Department of Taxation)</i></p>

### Deloitte's view

- Cases of temporary exemption or reduction from land-related financial obligations in certain cases under the provisions of the Land Law may give rise to future financial obligations if the conditions for exemption or reduction change or are terminated. This may include the repayment of the part of the obligation that has been waived or the performance of additional obligations as prescribed.
- Enterprises must closely monitor relevant legal regulations, carefully assess potential financial risks, and develop appropriate financial management plans to ensure compliance with the law and minimize potential risks.

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## Tax Administration Guidance Official Letter

### Requirements for individuals engaging in real estate brokerage services

Individuals providing real estate brokerage services who have been granted real estate brokerage practice certificates in accordance with the law on real estate business and are not employees of real estate trading floor service enterprises or real estate brokerage service enterprises shall register for tax and be registered for tax by the Taxes shall be granted tax identification numbers before the commencement of production and business activities or the incurrance of obligations to the state budget. The percentage of Value-Added Tax (“VAT”) calculation revenue is 5% and Personal Income Tax (“PIT”) is 2%.

- In case an e-commerce platform service provider of real estate transactions declares and pays tax on behalf of an individual on the basis of authorization in accordance with the provisions of civil law, the organization shall declare and pay tax according to the guidance at point b, Clause 02, Article 08 of Circular No. 40/2021/TT-BTC.
- Enterprises providing e-commerce floor services are responsible for providing to tax authorities fully, accurately and on time as prescribed information of traders, organizations and individuals that have carried out part or all of the process of buying and selling goods and services on the e-commerce trading floor according to the provisions of Article 01 of Decree No. 91/2022/ND-CP of the Government.

*(Official Letter No. 4784/TCT-CS dated 24 October 2024 issued by the General Department of Taxation)*

#### Deloitte's view

- Official Letter No. 4784/TCT-CS stipulates that individuals doing real estate brokerage business must have a practice certificate, register for tax and bear the VAT rate of 5% and PIT of 2%, in order to enhance transparency and tax management. At the same time, real estate e-commerce trading floor enterprises must declare and pay taxes on behalf of individuals when authorized and provide transaction information to tax authorities.
- This regulation contributes to the professionalization of the real estate brokerage industry but also increases the responsibility and cost of compliance for individuals and businesses.

### Handling of tax payments for real estate transfer outside the province paid incorrectly at the main office

- In case the company has real estate transfer activities in another province where it is headquartered, the declaration, tax calculation, allocation and payment of VAT shall comply with the provisions of point b, Clause 02, point b, Clause 03, Article 13 of Circular No. 80/2021/TT-BTC; the declaration, calculation and finalization of Corporate Income Tax (“CIT”) for real estate transfer activities shall comply with the provisions of point b, Clause 2, point b, Clause 3, Article 17 of Circular No. 80/2021/TT-BTC.
- In case the Company has declared and paid VAT and CIT at its head office (instead of paying it in the province where the real estate transfer activities take place), the handling of the overpaid tax amount shall comply with the provisions of Article 60 of the Law on Tax Administration, Article 13, Article 25, Article 41 and Article 42 of Circular No. 80/2021/TT-BTC.

*(Official Letter No. 3776/TCT-CS dated 27/08/2024 issued by the General Department of Taxation)*

#### Deloitte's view

- Official Letter No. 3776/TCT-CS provides guidance the tax treatment for real estate transfers outside the province, requiring enterprises to declare and calculate VAT and CIT in accordance with the provisions of Circular No. 80/2021/TT-BTC. If tax is paid incorrectly at the head office, enterprises need to make adjustments according to the Law on Tax Administration and relevant provisions.
- The regulation helps establish a mechanism for handling budget balances between different localities managed by different tax authorities when overpayment obligations arise with the allocation of tax liabilities of real estate activities.

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