

Law of the Real Estate Tax (No. 162) for the year 1959 and its amendments

Article ONE:

What is meant by the following terms:

1 - Tax: The real estate tax under this law.

2 - Real estate includes:

a - The house including its yards and gardens;

b - The facilities that are ready to be used whatever their kind and uses including attached lands, gardens and yards;

c - Lands used in any way, except those rented for agricultural uses, irrespective of location.

d - The stationery ships [or houseboats] or whatever under this category that are used for residence or for machine assembly or storing goods or any other purpose.

3 - Vacant real estate: Real estate that is not occupied and that is not used for other purposes.

4 - Residence: The house that is occupied by its owner.

5 - State real estate: Real estate or properties that are owned by the state.

6 - Real estate owner: The owner or the occupier or the manager of contributed property.

7 - Subject: Each person who is subject to tax under this law.

8 - Real estate revenue: The actual or estimated rental value according to the rules of this law.

9 - Subject income: The total annual income from the real estate and properties that one owns in Iraq except the residence.

10 - Estimation year: The twelve months starting 1st of January of each year.

11 - The village: A grouping of buildings totaling fifty permanent houses or more (except huts) and also each location that has management formations or municipal offices even if the number of permanent houses in that location total less than fifty.

12 - Minister: Minister of Finance.

13 - Financial Authority: The employee, or group of employees, that are given the authority by the Minister according to this law.

14 - Physical or Legal person. [Arabic version does not include a definition.]

Tax assessment and rates

Article TWO:

Taking into account the exemptions mentioned in this law:

1 - A basic tax is assessed and collected that is 10% of the annual revenue for all real estate *including the subject's living share from the real estate (other than income from sales of real estate).*¹

2 - The annual revenue is discounted by 10% for each real estate for expenses and maintenance before assessing the tax on that real estate.²

¹Added by paragraph (1) of Section 6 of CPA Order 49 dated of February 19, 2004.

²Item (2) of Article 2 of the Law is deleted by virtue of paragraph (1) of Section 6 of CPA Order. Item (3) of article of the Law is renumbered to item (2). The previous text was read as follows:

An additional tax is assessed and collected on the amount of revenue from the subject's real estate including the subject's living share from the real estate that exceeds 750,000 ID according to the following percentages:

5% what exceeds 750,000 ID to 1,250,000 ID

10% what exceeds 1,250,000 ID to 1,750,000 ID

15% what exceeds 1,750,000 ID to 2,250,000 ID

20% what exceeds 2,250,000 ID.

Exemptions

Article THREE:

A total exemption is applied for the following:

1 - a- State real estate.

b - Real estate that belong to the public institutions and departments if not rented.

2 - Real estate of Amanat Baghdad, municipalities and subdivisions that are financed by he central government.

3 - Real estate prepared to store corps, agricultural machines, cattle and farmer's residence who owns the real property located inside the farm itself, the village or the center of the quarter in which the land is located.

4 - Unrented real estate that is dedicated to legally approved mosques, churches and the detached real estate used for the residence of the people who serve those religious institutions.

5 - Real estate owned by legally approved religious groups and charitable foundations and used by them as schools, hospitals, medication centers, orphanages, or senior residences or similar activities.

6 - Real estate tax exempted permanently or temporarily due to special laws, treaties or agreements between the government and foreign governments or international commissions.

7 - Real estate owned by foreign states and used as a residence for their political representatives or as their formal offices provided that the Minister approves the exemption based on reciprocity.

8 - Real estate owned by ministries or religious organizations the revenue or any other rights of which belong to it.

9 - Real estate whose revenue is dedicated to legally approved formal or semi-formal foundations, charities or scientific foundations provided that the real estate is occupied by those foundations.

10 - Real estate owned by legally approved political parties, committees, unions, societies of public concern, and athletic clubs provided that the real estate is used for purposes that directly meet the activities of those foundations.

11 - Real estate dedicated to economic activity provided that the owner of that activity is subject to the income tax on that activity.

Article FOUR:

1- The residence or flat occupied by the owner for up to one year is exempted from this real estate tax.

2 - a- One residence or flat is exempted from tax when it is occupied by the owner's parents (or parent) or his married son (or sons) provided that neither the parents or the son and his wife own a residence or flat independently.

b - A widower son, a divorced daughter, a widow sister, and a divorced sister, if they have children, are treated the same as a married son for purposes of applying the rules of (a) of this item.

3 - Recently constructed residences and flats are exempted from the basic and additional tax for a period of (5) five years starting from the date of completion of construction, which is assigned by the estimation tribunals.

4 - The residences constructed by state foundations and general companies, societies or legal persons for the purpose of housing their employees or giving them ownership through rent-to-own either if they were registered in the real estate registration foundations by the employee's names or by the names of those employers or persons on the condition that there should be a sale contract between the two sides marked in the concerned real estate registration foundations.

5 - a- If the real estate is continuously empty for (3) three months or more, then it is exempted from this tax for a period of not more than (6) six months. The real estate owner must report that his real estate is empty and it is considered as such from the first day of the month that follows the date of report. The Financial Authority must be informed when the real estate becomes occupied.

b - If it is proved that the real estate which was claimed empty was not empty or if the real estate that was empty becomes occupied and the owner did not inform the Financial Authority, the Financial Authority may assess not more than double the annual basic tax in addition to the tax assessed at the first case [claimed empty but not empty] and what is not more than the amount of the annual basic tax for the period from the date of real estate occupancy and the date of the notification of the Financial Authority for the second case [property becomes occupied].

c - The Minister or his procurator may extend the period mentioned in (a) of this item another (6) six months if he finds that there are reasons preventing its occupancy.

6 - The annual revenue of religious organizations are exempt from the additional tax.

Basis of subjection

Article FIVE:

1 - The estimation of tax is done by the estimation tribunals that are formed by a command from the Minister or his procurator. The date of the start of general estimation should be declared and this estimation is applicable for five years. The estimations made according to revoked properties tax law, modifications of the estimation after objection or new estimations under Articles 7 and 8 of this law apply until the general estimation is made.

2 - If any real estate is not estimated due to some reason during the general estimation and if afterward it is determined that the tax should have been assessed on it, the tax will be collected starting from the date of executing the general estimation.

3 - If it is shown that real estate was constructed after the general estimation and therefore not estimated, the Financial Authority is to ask the specialized tribunals to estimate its annual revenue and to collect the tax according to the rules of this law.

Article SIX:

1 - Annual rent is considered at the time of assessment as revenue for the rented real estate. If the real estate is not rented or if the estimation tribunal determines that the claimed annual rent was not accurate then the tribunal will estimate the revenue considering the following:

a - Privileges of the real estate as to the location, area, construction materials, the present situation, the garden, the attachments and whatever makes the land better than others;

b - The use of the real estate; and

c - The annual rent for a similar real estate in the same quarter.

2 - Revenue of real estate belonging to formal and semi-formal foundations and governmental interests and real estate under their management is estimated according to the reports presented by those foundations or interests. Those reports will detail the kinds of real estate, their locations and their rents and costs. The reports will also disclose which are managed by the **formal** foundations.

Article SEVEN:

The tax subject has to inform the Financial Authority about:

a - Any real estate that had been given exemption according to Articles 3 or 4 of this law when the property is no longer used for the exempt purpose, within one month from the date of the change in usage;

b - About any change in amount of rent within a month from the date of that change;

c - Any violation of the rules of item (a) of this article is punished by paying an amount equal to the basic tax for the period, for which a return was not filed and double that amount when the same violation is repeated.

Article EIGHT:

The Financial Authority will command re-estimation in the following cases:

1 - When the tax subject makes an appeal claiming that the revenue from his real estate has been reduced due to damage or some other cause or that the real estate is used for a purpose that makes it eligible for an exemption under this law. The appeal should not include more than one real estate.

2 - When the subject makes an appeal, more than one year from the last estimation, claiming that his rental real estate revenue has been reduced 15% or more.

3 - When it appears to the Financial Authority that the annual revenue of the rented real estate has increased 15% or more since one year from the last estimation.

4 - The new estimations according to the rules of items 2 and 3 of this article cannot be applied more than once in one year.

Article NINE:

In the cases mentioned in Articles 7 and 8 of this law, the Financial Authority will pass the appeal to the estimation tribunal to start re-estimation of the annual real estate revenue starting:

- 1 - By the tax subject, from the first day of the month following the date of appeal; or

- 2 - The date of change, which is discovered by the Financial Authority, on the condition that the re-estimation may not be made more than (3) three years from the date of the estimation tribunal decision.

Tax Subject

Article TEN:

1 - The tax is assessed on either the real estate owner or on the long-term licensee [five years]; and the occupier, in the case that the owner or long-term licensee cannot be located. While when the real estate was mortgaged on the condition of residence and housing, the mortgage maker is subject to pay the tax. [Licensee must pay the tax during the period of the lease if the lessee built property on the real estate.]

2 - The subject's revenues are totaled on all his real estate and the tax on that total revenue is assessed on him at the location of his residence, his work location, or at the governorate where the majority of his real estate is located.

Article ELEVEN:

When real estate is held in common between two or more individuals the following is applicable:

1 - The partner that occupies the real estate is the tax subject.

2 - If the real estate occupier is not one of the partners, the tax is to be paid by the partner who has the right to ask the other partners to pay what he paid on their behalf for their share. If the Financial Authority cannot find any of the partners, the tax is to be collected from the real estate occupier. If the real estate is empty, then the Financial Authority may rent it for a period that ensures the collection of the assessed tax.

3 - Notification of one of the partners is considered as a notification for all of them and also the formal considerations that made by one of them are considered on behalf of all of them.

Estimation Tribunals

Article TWELVE:

The annual real estate revenue is considered by estimation tribunals to be held in the centers of governorates, towns, and sectors as follows:

1 - The Minister, or his procurator, orders tribunals that he thinks appropriate and each one will contain the following:

a - In the center of governorates and cities:

- Financial employee - chief

- Two employees (one of whom is the tribunal secretary) - two members.

b - In the center of towns:

Town manager or police station commander - chief

Two employees (one of whom is the tribunal secretary) - two members.

2 - The staff is completed in estimation tribunal meeting with the presence of all the members. Decisions are made by either all or the majority of the members.

3 - The Minister, or his procurator, may add, as a member, an expert, or experts, to any of the estimation tribunals.

Article THIRTEEN:

1 - The decisions of the tribunals made under the rules of this law are made by consensus or by majority of the members. If there is a tie because of the addition of an expert then the side with the chief will be the controlling side. The tribunal may ask for any papers involved with the case. The tribunal or any individual among its members has the right to enter, escorted by the subject, or two known people in the quarter or village, at the proper time of day, any real estate that is located in their territory for discovery of the condition of the property. The occupiers must be notified. The tribunal may ask the occupiers to submit information regarding the real estate.

2 - The chief of estimation tribunal writes a report after completing the assessment informing the Financial Authority in the center of the governorate or quarter about the results. The financial authority maintains an estimation list in order to notify the tax subject.

Article FOURTEEN:

1 - The subject and Financial Authority are to be notified in writing of the results of the estimation. They have the right to object to the estimation within thirty days from the date of notification. If the subject's residence cannot be located, the occupier of the estimated real estate is informed and a copy of the estimation is adhered on the outer front of the real estate on the entrance.

2 - Payment of all or part of the tax is considered notification of the estimation and the procedures of Financial Authority concerning the real estate.

Estimation re-consideration

Article FIFTEEN:

The subject and the Financial Authority have the right to ask for re-consideration of the estimation made by the estimation tribunal before the review tribunals in the centers of the concerned town. The Minister or his procurator will form review tribunals in the following form:

1 - In the centers of cities or governorates:

- Financial employee - chief.
- Employee - member.
- Two real estate experts - two members.

The objections happen in the cities where special estimation tribunals are formed.

2 - In the other quarters:

- The mayor or a financial employee - chief.
- A financial employee - member.
- Two real estate experts - two members.

Article SIXTEEN:

1 - A member of the estimation tribunal may not be a member of the review tribunal.

2 - The quorum of a review tribunal is met with the presence of the chief and two members (one of whom must be a governmental employee).

3 - The decisions of review tribunals is made by majority. If there is a tie then the winning side is the side that includes the chief.

Article SEVENTEEN:

1 - The objection requests are passed to the review tribunals by the Financial Authority during a period of not more than thirty days from the date of notification of the estimation.

2 - The request should include the date of notification, the relevant papers, the estimation, and the reasons for the objection.

3 - Each request must concern only one real estate.

4 - When the Financial Authority objects to the estimation a copy of the objection is sent to the subject. The subject is given ten days to submit a written statement to the review tribunal so the review tribunal may judge the objection. The estimation tribunal gives a receipt of the request presented to it as soon as it is received, the request is then sent to the review tribunal after writing the objected estimation value and the date of notification and other explanations.

5 - The Financial Authority supplies the review tribunals with all contents concerned with the estimated real estate such as the value of the objected estimation, the date of notification, and other explanations.

Article EIGHTEEN:

When considering the objections, the review tribunal should hear the opinions of experts in real estate matters, review the necessary papers, and check the real estate. The review panel is to deny the objection or make a change in estimation. It must inform the subject and the Financial Authority of its decision. The estimation of the review tribunal is applied from the date of the objected estimation if the decision was in the amount of the estimation value.

The authority of review tribunal includes looking into modifying the date of building completion or whether the real estate is included within the exemption mentioned for residence houses.

The decision of review tribunal is to be written immediately and signed by the present members.

Article NINETEEN:

The chiefs and members of estimation and review tribunals and the members of the real estate tax center that are employees and others are given wages assigned by directions issued by the Minister.

Real Estate Tax Center

Article TWENTY:

1 - a- The Minister of Finance forms in a statement issued in the formal newspaper the real estate tax center in the following manner:

First: a first-level judge nominated by the Minister of justice - chief.

Second: an architectural or civil engineer not less than a second degree in employees' system-member.

Third: A financial employee not less than the degree of a manager - member.

b -The Minister of Finance is permitted to assign a replacement when original member is absent.

2 - The quorum of the center is not met unless all members are present and the decisions are either by consensus or by majority.

3 - The subject must object at the real estate tax center to the decision of the review tribunal or the procedures of the Financial Authority concerning the application of the rules of this law within 30 days from the date of notification of the decision of the review tribunal or the procedures of the Financial Authority.

4 - The subject will lose the right to object at the real estate tax center to the decision of the review tribunal or the procedures of Financial Authority at the end of the financial year if not adequate excuse unless the objection period is not closed.

5 - The Financial Authority must object in the real estate tax center to the decision of the review tribunal within 30 days from the date of notification.

6 - The center may cancel, confirm or modify the decision or the objected procedure. In making its decision it is authorized to examine the real estate and to call the subject and the representative of the Financial Authority when necessary. The center's decision is final.

7 - Decisions of the center may not be appealed to the courts.

8 - The subject objecting to the center must pay a fee to the general tax commission equivalent to (2500) two thousands and five hundreds ID.

Collection

Article TWENTY-ONE:

The Financial Authority must notify the subject in writing to pay the tax stating the amount and date of application. The payment by the subject is to be paid to the branch of the Tax Commission shown in the payment notification taking into consideration:

1 - The basic tax is to be collected in two equal parts; the first is due the first day of January of the financial year and the second is due the first day of July of the financial year. *The subject has the right to pay this tax at the location of his residence, his work location or in the governorate where the majority of his real estate is located. All revenue shall be combined. A memo setting forth the calculation and form should be submitted with the payment.*³

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Article TWENTY-TWO:

1 - a- If the basic tax is not paid during the financial year, 10% of that amount is to be added for each year or part of the year that exceeds half a year.

b - The Minister, or his procurator, may exempt the subject from paying all or part of the addition, or refund it if it was paid, if he is convinced that the subject failed to make the payment on time due to a legitimate excuse.⁵

2 - The Financial Authority may agree to let the subject pay the tax in monthly installments. If the subject is late in paying one of the installments then all parts are considered payable without the need of warning.

Article TWENTY-THREE:

The tax⁶ is collected according to the Law of Governmental Secured Debt Collection and are considered a secured debt on the subject real estate.

³Amended by paragraph (3) of Section 6 of CPA Order 49. Order 49 deleted the following sentence: "The subject is allowed to pay the basic tax in one part when receiving the payment notification and it's collected in the specialized foundations in that territory."

⁴Item (2) of Article 21 of the Law is deleted by paragraph (4) of Section 6 of CPA Order 49. Previous text was read as follows:

"The additional tax is collected in the first half of the financial year following the assessed tax year. The subject has the right to pay this tax at the location of his residence, his work location or in the governorate where the majority of his real estate is located. All revenue of the subject shall be combined. A memo setting forth the calculation and form should be submitted with the payment."

⁵Item 1(b) of Article 22 of the Law is deleted and item 1(c) is renumbered item 1(b) in accordance with paragraph (5) of Section 6 of CPA Order 49. Previous text was read as follows:

"If the additional tax was not paid during the assessed period according to item (2) of Article twenty-one of this law, 10% of that amount is to be added for each year or part of the year that exceeds half a year."

⁶The phrase "and the additional amounts are" is deleted by paragraph (6) of Section 6 of CPA Order 49.

Article TWENTY-FOUR:

All governmental foundations not to process any procedure for the real estate without verifying that the estimated tax on the subject was paid all either deserved or occurred but not deserved due its proportioning.

Article TWENTY-FIVE:

The Minister, or his procurator, should ask the renter, individual, formal or semi formal foundation, to discount the tax on the real estate from the rent amount that should be paid to the owner in an amount not less than the percentage of the basic tax and pay it to the specialized financial foundations if the authority estimates that the rent amount assessed by the estimation or review tribunal is less than the contracted amount>

Article TWENTY-SIX:

The subject objection will not be heard according to Articles 8 and 14 unless after payment of one-half of the tax assessed and if the amount was not paid within thirty days from the date of objection the decision of the estimation tribunal is considered final. This article will not apply if the objection is because of the emptiness of real estate.

Article TWENTY- SEVEN:

The objecting before the real estate tax center does not delay the required payment of assessed tax. The subject has the right to re-collect the tax paid if the assessment is reduced; while if the assessment is increased the subject must pay the additional tax according to the rules of this law.

Refunds

Article TWENTY-EIGHT:

The Financial Authority must refund to the subject the tax paid if more than the amount that should have been assessed provided that the subject makes a request for refund within five years starting from the end of the financial year that the extra amount was paid in. If the subject owed tax on other real estate, the amount of the refund will be reduced by that amount.

The Recording Books

Article TWENTY-NINE:

1 - According to directions issued by the Financial Authority, special recording books will be opened in the Financial Authority for each real estate and will contain its descriptions and all important information and procedures done on it.

2 - According to directions issued by the Financial Authority, a special file is opened in the Financial Authority for each subject, which will include information needed about the real estate he owns and the estimations for.

3 - Every subject who is taxed under this law whose income from his real estate exceeds 750,000 ID must submit an annual report to the Financial Authority which must contain information as directed by the Financial Authority during the first six months, from the first of January to the end of June of the year following the year the income was earned.

4 - The Financial Authority must check the accuracy of the reports and records submitted by the subject. If incorrect information is given, the Financial Authority will impose an additional amount of 10% of the tax. The subject may object to this in the real estate tax center.

Article THIRTY:

If found guilty before the courts for the following offenses, the subject will be punished with a fine in the amount of one hundred ID or arrested for a period not to exceed six months, or both punishments:

1 - Refused to submit or delayed the submission of information or showing the papers asked of him by the tribunals or the center within the required period without a legitimate excuse.

2 - Forbid the member of tribunals or the authorized individuals from entering the real estate for surveillance according to Article 13 of this law.

3 - Knowingly supplied the tribunals and the Financial Authority with incorrect information.

4 - Refused to submit or delayed the submission of the annual report mentioned in item 3 of Article 29 without a legitimate excuse.

Miscellaneous Rules

Article THIRTY-ONE:

The Financial Authority must sign the notices, forms and warranties issued according to the rules of this law and the signature is assumed right if it is either stamped or written unless there is evidence to the contrary. The notice, forms, and warranties are to be either delivered to the subject in person or to one of his employees in his work location or to one of his family members who lives with him according to the formal notification basics or it may be send by registered mail to the residence, work location or his other known residence.

Article THIRTY-TWO:

1 - Anyone who submits to the Financial Authority accurate information, oral or written, that someone subject to the tax has hid or is trying to hide that he has real estate revenue and if that information leads to an assessment of tax, a financial reward assigned by the Minister, or his procurator, will be paid. The reward may not exceed twenty percent of the assessed tax resulting from the supplied information. The information and the name of the informer will be kept secret.

2 - The Minister is to suggest in the project of the general state annual budget law, modification of standard of calculation of the tax mentioned in Article 2 of this law each time the economical and social situations require it.

Article THIRTY-THREE: [canceled]

The land tax is seen in the municipalities after the collection of 50% of collection cost and it is shared in the manner agreed between the Ministers of Finance and Interior.

Article THIRTY-FOUR:

Rules and directions are to be made for the execution of the povisions of this law.

Article THIRTY-FIVE:

The Tax Law no.17 for the year 1940 and its modifications is canceled and stay applicable for the cases occurred during the period of application and the real estate tax phrase is included by the phrase provinces tax mentioned in parties law.

Article THIRTY-SIX:

This law is applicable starting from the first of April of the year 1961.

Article THIRTY-SEVEN:

The Ministers must apply this law.

Written in Baghdad at Thursday the twenty-five of July 2001 A.C.

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The information on this web site is provided as a convenience only and should not be relied on as authoritative. For the authoritative text of the law and its amendments, see the Official Gazette published by the Ministry of Justice.