

Vietnam | 25 June 2020



Alert on Decree No. 68/2020/ND-CP revising Clause 3, Article 8, Decree No. 20/2017/ND-CP regarding the deductible interest expenses cap

Dear our Valued Client,

On 24 June 2020, the Government enacted Decree No. 68/2020/ND-CP ("Decree 68") to amend to Clause 3, Article 8, Decree No. 20/2017/ND-CP ("Decree 20") relating to deductible net interest expenses in determination of corporate taxable income. Accordingly, Deloitte would like to summarise as below:

1. **The total interest expenses** (after deduction of interest income from bank deposits and lending) incurred in the tax period to be deductible for **Corporate Income Tax ("CIT") purposes** is not exceeding **30%** of EBITDA - Total net profit from business activities plus interest expenses (after deduction of interest income from bank deposits and lending) and depreciation expenses within the period.
2. Non-deductible interest expenses are **carried forward to the following tax periods** to determine deductible interest expenses in case the interest expenses (after deduction of interest income from bank deposits and

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lending) in the following tax period are **lower than** the interest expense cap as stipulated at point (1) above. The term for carrying forward interest expenses is **five (05) consecutive years** commencing from the year after incurring the non-deductible interest expenses.

3. **Regarding the tax periods 2017 and 2018**, taxpayers who are subject to the application of Clause 3, Article 8, Decree 20 are allowed to apply the amendment as stipulated in Point a, Clause 3, Article 8, Decree 20 which are amended by Article 1, Decree 68, specifically:
 - a. Taxpayers are allowed to **amend** and supplement CIT finalization returns for years 2017, 2018 in relation to the interest expenses and respective CIT liability payable (if any) and **submit to the local Tax authorities before 01 January 2021**.
 - b. The **overpaid CIT liability** (including the corresponding late payment interest, if any) shall be **offset** against the CIT liability over the maximum period of **five (05) years, starting from 2020**.
 - c. In case of **tax audits/inspections have been conducted** by competent authority, taxpayers **request respective local tax authorities for adjusting** tax liability and corresponding late payment interest to offset against CIT liability as stated in Point b above. In case of being subject to administrative penalty or in the appeal process, the administrative penalty is not adjusted.
4. An amended Declaration Form 01 - Information on related party relationship and related party transactions in accordance with the Decree 68 shall replace the Form 01 under Decree 20.
5. The **Decree 68 is not applicable** to loans of taxpayers being credit institutions, insurance organizations, loans for official development assistance, preferential loan of government, loans for national targeted program, loans for social welfare policies of the state.

The Decree 68 takes effect from the signing date and applied from tax period 2019 onwards.

Deloitte is pleased to assist the Company in **recalculating the CIT liabilities and refilling CIT finalization returns for years 2017, 2018 and 2019** in accordance with Decree 68.

Deloitte will share with you further studies and analysis on the impact of the Decree 68 on taxpayers in coming time shortly.

Should you have any questions or need any assistance, please contact our Tax specialists.

With warm regards,
Deloitte Vietnam

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