

# Technical Update

## Tax and Legal

June 2020

### Decree 68 increasing the deductible interest expense cap to 30%

The Government issued Decree 68/2020/ND-CP on 24 June 2020, amending the interest expense deductibility rules contained in Decree 20/2017/ND-CP. Decree 68 takes effect from 24 June 2020 and applies from the tax year 2019.

Important changes under Decree 68 are summarized as follows:

- The interest expense deductibility cap has been increased from 20% to 30% of total net operating profit before interest, tax, depreciation and amortization (NOPBITDA). The interest expense subject to the cap calculation is the net amount, i.e. interest expense after offsetting against interest income (from deposits and loans).
- From the tax year 2019, net interest expense exceeding the deductible cap (of the current tax year) is eligible for a five (05) year carry forward period starting from the following tax year. It is not clear, however, how this pool of un-deducted interest will be applied and claimed as an interest expense in future tax years. Note that this provision will not be applied retroactively for the tax years 2017 and 2018.
- Taxpayers subject to the interest expense deductibility cap as stipulated under Decree 20 are allowed to amend 2017 and 2018 CIT finalizations following the new deductibility cap under Decree 68. Such CIT finalization revision must be submitted to their relevant Provincial Tax Authorities before 1 January 2021.
- Where an amended tax return for 2017, 2018 or 2019 tax year results in an overpayment of CIT and late payment interest, the refund in cash is not available to the taxpayer, instead, such overpayment will be offset against the 2020 CIT liability. Any remaining overpayment will be offset against future CIT due for a maximum five (05) year period commencing from 2020.
- Where a taxpayer was already subject to a tax inspection or tax audit for the tax year 2017 or

2018 and required to pay additional CIT for the identified errors, the taxpayer may request for re-assessment of the relevant CIT liabilities and late payment interest (if any). The above-mentioned rule on offsetting the overpayment shall be applied except for the tax penalties, which remain as originally imposed.

We note for completeness that the question of whether or not the capitalised interest is subject to this interest cap has not been addressed in Decree 68 and remains unclear.

If you require further consultation, please contact your local KPMG team for assistance.



# Contact us

## KPMG Tax and Advisory Limited | KPMG Legal Limited

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