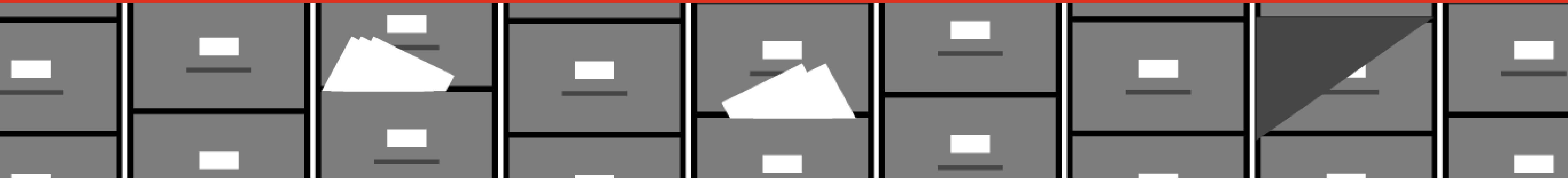
PwC Vietnam NewsBrief

Amended decree 68/2020/NĐ/CP on transfer pricing – favourable and retrospective changes to the cap on interest deductibility



At a glance...

25 June 2020

On 24 June 2020, the Government released an amendment to Decree 20 relaxing the interest deductibility cap rules. These new rules took effect from the signing date. However, the more generous cap can be applied retrospectively, which will result in significant tax savings for many companies with debt financing.

Some key changes

Increase of the cap

- The cap on tax deductibility of interest increases from 20% to 30% of EBITDA.

Application of the cap

- The cap applies to net interest expense (i.e. interest income is offset against interest expense before comparing with the cap).

Carry forward of non-deductible interest

- Non-deductible interest can be carried forward to following tax years and deducted if the net interest expense/EBITDA ratio is below 30% in those years.
- The time limit for such carry forward rule is five years.

Additional cases now not subject to the cap

- Certain types of financing are now excluded from the cap, including official development assistance ("ODA") loans, various preferential loans made by the government, and loans made for implementing national programs and state social benefit policies.

Retrospective application and opportunities for tax savings

- The new Decree takes effect from the signing date and applies from the tax year 2019.
- However, interestingly, the changes to the cap apply retrospectively to 2017 and 2018, and so tax savings may be available to companies with debt financing.
    - For eligible companies, revised CIT returns to apply the amended cap need to be submitted to the tax authorities by 1 January 2021. Resulting tax overpayments arising from such amendments can be offset against CIT due in subsequent years.
    - If these prior years have already been tax audited, companies can still benefit from this retrospective application of the more generous cap.

Contact us

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