

1. CORPORATE INCOME TAX

❖ **Threshold on deductible interest expense of enterprises with related party transactions for CIT calculation**

Official Letter No. 2835/TCT-TTKT dated on 14 July 2020 issued by the General Department of Taxation guiding on the implementation of Decree No. 68/2020/ND-CP ("Decree 68") regarding the application of the threshold on deductible interest expense of enterprises with related party transactions for corporate income tax ("CIT") calculation purpose. Detail as following:

1. For the tax year 2019

- Already declared CIT Finalization for the tax year 2019 ended before 31 March 2020, taxpayer shall revise and amend the CIT Finalization dossier following the regulation under Decree 68
- Not yet declared CIT Finalization for the tax year 2019, taxpayers shall implement under Decree 68's guidance

2. Retrospective application for the tax years 2017, 2018

Retrospection of the threshold of interest expense for the tax year 2017, 2018 which are stipulated at Clause 3 Article 8 Degree 20, should only be applied to Point a Clause 3 Article 8 Degree 20 supplemented by Article 1 Degree 68 as details:

- Raise the threshold on interest expense from 20% to 30%
- Apply for the **net interest expense** method (interest expense – income from deposit interest, income from loan interest)
- The specifications of non-deductible expense carried-forward and supplement of exemption cases are not retrospective.

❖ **To deduct 30% of CIT payable in 2020 for various taxpayers**

On 19 June 2020, Resolution No. 116/2020/QH14 granted by Vietnam National Assembly stipulated on the reduction of the CIT payable for income earned in 2020 to

enterprises, cooperatives, public service units and other entities.

Accordingly, the National Assembly decided to reduce 30% of CIT payable in 2020 for enterprises with total revenue in 2020 under 200 billion VND.

This Resolution is applied to taxpayers that produced or provided goods and service to be generated taxable income under the provisions of the Law on Corporate Income Tax, including:

- Enterprises are established under Vietnamese laws;
- Organizations are established under the Law on Cooperatives;
- Public service units are established under Vietnamese laws;
- Other entities established under Vietnamese laws are performing business activities generating income.

The Resolution No. 116/2020/QH14 is taking effect on 03 August 2020, and applying from the tax year 2020.

This Resolution by Vietnam National Assembly is considered as one of the practical policies to support the business community, to resolve difficulties and promote production and business, provide incentive to the economy to cope with the epidemic Covid-19's consequences.

❖ **New regulations on determination of software production activities to be eligible for Corporate Income Tax (CIT) incentives**

On 03 July 2020, Ministry of Information and Communications issued Circular No.13/2020/TT-BTTTT ("Circular 13") guidance on new regulations on determination of software production activities to be eligible for Corporate Income Tax ("CIT") incentives. The Circular takes effect from 19 August 2020 and replaces Circular No. 16/2014/TT-BTTTT ("Circular 16") dated 18 November 2014. In comparison with the previous Circular, Circular 13 has some noteworthy points as below:

- The previous Circular requires Enterprises to carry out one of the three steps of Analysis and Design, Programming and Coding, Testing in order to be considered as

software production. Whereas under Circular 13, the enterprises must **carry out at least one of the two steps of Requirement Identification, Analysis and design**. Therefore, the steps of Programming and Coding, Testing are not considered as one of the main stage of software production under Circular 13;

- Enterprises are required to prepare and maintain supporting documents as stipulated in this Circular for each step;
- Enterprises are responsible for updating information about the software products, the steps in software production process and the tax incentive to Ministry of Information and Communications (Department of Information Technology);

The investment projects are determined as software production before the effective date of Circular 13 are still considered to be eligible for software production activities until the expiration of the investment project.

❖ **Expenses for quarantine compliance of foreign professionals working in Vietnam**

On 06 July 2020, Tax Department of Bac Ninh issued the Official Letter No.2220/CT-TTHT to guidance on the deductible expenses when determining taxable income for CIT and PIT declare related to the expenses for quarantine due to Covid 19, as below:

During the outbreak of Covid-19 in Vietnam, in compliance with the instructions from the Government, every foreign professor entered to Vietnam for work had to perform quarantine in assigned facilities (Hotels). If the Company has the certificate to prove that the foreign professionals had completed the quarantine period as requested, had paid the quarantine fee according to the regulations and had been issued invoices then those expenses are considered as deductible expenses when determining CIT and not include in taxable income for calculating PIT.

2. OTHER

❖ **Tax Administration Law No.38/2019/QH14 takes effect from 01 July 2020**

On 13 June 2019, the National Assembly granted a new Tax Administration Law with some notable adjustment as follows:

Adjusting the deadline for submitting tax declarations/dossiers.

- For the quarterly tax declaration, the deadline is the last day of the first month of the subsequent quarter in which the tax

obligation is incurred (the current regulation is the 30th day of the first month of the next quarter)

- For the yearly tax declaration:

No later than the last day of the 3rd month from the end of the calendar year or the fiscal year for the annual tax finalization dossier (the current regulation is the 90th day from the end of the fiscal year or calendar year);

No later than the last day of the 4th month from the end of the calendar year for annual personal income tax finalization under individual's tax code (extending a month from current regulations)

Supplement rights of taxpayers

- To know the deadline for resolving tax refunds, non-refundable tax amounts and legal basis for non-refundable tax.
- To view and print all electronic documents of taxpayers sent to the electronic information portal of tax administration agencies according to the provisions of this Law and the law on electronic transactions.
- To use electronic vouchers in transactions with tax administration agencies and other related agencies and organizations.
- Not subject to sanction for tax violations nor charge late payment in case the taxpayers comply with guiding documents and handling decisions issued by tax agencies and competent state agencies related to the tax obligations of taxpayers.

New regulations on tax administration for e-commerce activities.

For an e-commerce business, digital based business and other services performed by overseas suppliers without a permanent establishment in Vietnam, the overseas suppliers have the obligation to directly or authorize to implement the tax registration, tax declaration and payment in Vietnam according to the regulations of the Minister of Finance.

Clarifying and managing more closely for related-party transactions

- The price of related-party transaction is adjusted according to the independent transactions to declare and determine the tax payable on the principle of not to reduce the taxable income;
- Taxpayers which are small businesses and having low tax risks shall be exempted and applied a simplified mechanism in

declaration and determination of related-party transaction prices.

The new tax administration law takes effect from 01 July 2020. The regulation on invoices and electronic documents of the Law takes effect from 01 July 2022.

Ký hiệu viết tắt	
MOF Ministry of Finance	CIT Corporate Income Tax
GDT General Department of Taxation	PIT Personal Income Tax
OL Official Letter	VAT Value Added Tax

Contact:

KHAI MINH CONSULTING COMPANY LIMITED

Unit 704, 7F, Citilight Tower, 45 Vo Thi Sau Street

Dakao Ward, District 1, Ho Chi Minh City, Vietnam

Tel: 84 28 3820 5731 / 2

Fax: 84 28 3820 0906

(English)

Tran Mai Tuong Vy

tran.mai.tuong.vy@kmc.vn

Nguyen Van Mui

nguyen.van.mui@kmc.vn

(Japanese)

Le Quoc Duy

le.quoc.duy@kmc.vn

Nguyen Thi Thao Uyen

nguyen.thi.thao.uyen@kmc.vn

This newsletter aims to update and summarize general regulations associated with tax, accounting, investment and labor in Vietnam. You should refer to expertise before making decision.