



Monthly Newsletter

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Assess the deductibility of interest expense according to Decree no. 20/2017/NĐ-CP

On the 5th of October, 2018, General Department of Taxation issued Official letter No. 3790/TCT-DNL as a response to Crowe Vietnam Co., Ltd (which operates in audit and advisory services) as to assessing deductibility of interest expense for corporate income tax purpose (CIT) according to Decree no. 20/2017/NĐ-CP dated 24/02/2017 ("Decree no. 20"):

- Total deductible interest expense at Clause 3 Article 8 Decree no. 20 is calculated using total interest expense incurred in that period, regardless of being incurred from related parties or third parties.
- As to queries concerning when Decree no. 20 comes into force, or assess deductibility of interest expense in case Earnings before Interest, Taxes, Depreciation and Amortization (EBITDA) is nil or low, etc.: those are outside of General Department of Taxation's jurisdiction. Hence, the General Department of Taxation has made records of those requests and shall submit those to Minister of Finance and Prime Minister of Vietnam for further consideration and general guidance.

Principles to assess deductibility of interest expense incurred by companies which entered into transactions with related parties

On the 24th of January 2018, Hanoi Tax Department issued Official Letter no. 3966/CT-TTHT as guidance on interest expense according to Decree 20/2017/NĐ-CP applied to companies which entered into transactions with related parties.

- Interest expense is a summary of total interest expenses incurred in a tax period, regardless of being incurred from related parties or third parties.
- Interest expense eligible for capitalisation to investment project is excluded from total interest expenses incurred in a tax period for CIT purpose according to Clause 3, Article 8, Decree no. 20/2017/NĐ-CP.
- In case the company earns interest income on term deposits, borrowings; such interest income is not allowed to be offset with interest expenses incurred in that period upon assessing deductibility of interest expense for CIT purpose according to Clause 3, Article 8, Decree no. 20/2017/NĐ-CP.

Decree no. 121/2018/NĐ-CP as amendment to Decree no. 49/2013/NĐ-CP as guidance to salary regulations

On the 13th of September 2018, the Government issued Decree no. 121/2018/NĐ-CP as an amendment to Decree no. 49/2013/NĐ-CP as guidance on salary regulations:

- A company is required to establish labour productivity norms which are served as the basis to make wage payment based on products. The norms must be in compliance with regulations at Article 8, Chapter III, Decree no. 49/2013/NĐ-CP.
- Companies which employ less than 10 labour are exempted from submitting salary structure, labour productivity norms to relevant authorities at the operating location.

The decree comes into forces on the 1st of November 2018.

Social Insurance guidance for foreign workers

On the 15th of October 2018, the Government issued Decree no. 143/2018/NĐ-CP as detailed guidance on Social Insurance for foreign workers as per Social Insurance Law, Law on Occupational Safety and Hygiene. Below are some notable points:

1. Foreign workers at Vietnam are required to join Social Insurance regime if:

- They are granted with work permit or practising certificate or license issued by Vietnam authority; and
- They enter into labour contract of which term is at least 1 year or indefinite with Vietnamese employer.

2. Statutory rate:

a. From the 1st of January 2022, foreign workers who are required to join Social Insurance Scheme shall monthly contribute 8% of salary for SI purpose to pension and death benefit fund.

b. The employer shall monthly make a contribution based on salary for SI purpose as below:

- 3% to sickness and maternity fund;
- 3% to sickness and maternity fund;
- 14% to pension and death benefit fund since the 1st of January 2022.

3. Monthly salary for SI purpose:

As per stipulated at Clause 2 & 3, Article 89 of Social Insurance Law, and Clause 2 and 3, Article 17 of Decree no. 115/2015/NĐ-CP.

This decree comes into force since the 1st of December 2018.

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