



TAX & CUSTOMS ALERT

Responses and actions of the Government to support enterprises affected by the Covid-19 pandemic

13 April 2020

SOCIO-ECONOMIC SITUATION

The complicated and unpredictable developments of the Covid-19 pandemic these days have significantly affected the global as well as Vietnam economy. According to the Report on socio-economic situation in Quarter I/2020 of the Ministry of Planning and Investment, Vietnam's GDP growth rate in Quarter I/2020 is estimated at only 3.82%, which is the lowest growth rate over the last 10 years. This is also a challenging and difficult period for organizations and enterprises as having to face such issues as liquidity, working capital shortage, debt structuring, seeking effective management solutions, cost reduction, etc. to ensure the sustainability of production and business activities.

In the context of the Covid-19 pandemic, the Government first ever issued Directive No. 11/CT-TTg on 04 March 2020 (“Directive No. 11”) to direct Ministries and agencies to urgently research, assess and propose solutions to support enterprises in dealing with the pandemic, especially tax solutions. Accordingly, a number of tax and insurance support solutions have recently been proposed by the Ministries and agencies for the Government to consider and promulgate so as to mitigate difficulties for enterprises.

In this Alert, Deloitte would like to update some support solutions by the Government, and other proposals from Ministries and agencies for your understanding, which cover:

- (i) Government’s support package for the disadvantaged and/or unemployed people, and businesses affected by Covid-19;
- (ii) reduction of administrative procedures and costs for enterprises;
- (iii) extension of payment deadline for taxes and land rental fees;
- (iv) request credit institutions, foreign banks' branches to reschedule repayment, exempt, and reduce interest rates, fees, so as to retain debt categories to support customers affected by Covid-19;
- (v) draft amendment of Decree No. 20/2017/ND-CP on deductible interest expenses for Corporate Income Tax (“CIT”) purpose.

SUPPORT SOLUTIONS OF THE GOVERNMENT

The Government’s support package for the disadvantaged and/or unemployed people, and businesses affected by Covid-19

On 10 April 2020, the Government released the Resolution No. 42/NQ-CP on Support package worth VND 62 trillion, for people in difficulties because of Covid-19. The Support package is expected to benefit approximately 20 million people in 07 disadvantaged groups, specifically:

| No. | Subject | Form and level of support |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | Contracted employees being forced to suspend the employment, or take unpaid leave from 01 month or more; as due to Covid-19 impacts, the employers are in financial difficulties to source for salaries payment | VND1,800,000/person/month (The support period is based on the actual time of employment suspension or unpaid leave The support is paid on a monthly basis according to the actual situation of the pandemic, starting from 01 April 2020 and not exceeding 3 month) |
| 2 | Employers having financial difficulties and having paid at least 50% of the salary for period from April and June 2020, to the employees being labor-suspended, in accordance with Clause 3, Article 98 of the Labor Code | Employers are allowed to borrow from the Social Policy Bank with 0% interest rate, and for maximum loan term of 12 months without collaterals. The loan amount is up to 50% of the regional minimum salary for each employee, |

| No. | Subject | Form and level of support |
|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | according to the actual pay period but not exceeding 3 months, to pay the remaining salary, which will be directly disbursed to the employees being labor-suspended on a monthly basis. |
| 3 | Business households with annual taxable revenue lower than VND 100 million, which are temporarily ceased business from 01 April 2020 | VND1,000,000/household/month (pay on a monthly-basis upon actual situation of the pandemic but not exceeding 3 months, applicable from April to June 2020) |
| 4 | Employees being forced to terminate labor contract but not eligible for unemployment benefits; Employees not entering into labor contracts lose their jobs | VND1,000,000/person/month (pay on a monthly-basis upon actual situation of the pandemic but not exceeding 3 months, applicable from April to June 2020) |
| 5 | People with services to the revolution who are currently entitled to monthly subsidy; Social protection beneficiaries who are currently entitled to monthly social subsidy | Additional subsidy of VND 500,000/person/month (one-time payment, applicable in 3 months from April to June 2020) |
| 6 | Nationally qualified poor and near-poor households in the list up to 31 December 2019 | VND250,000/person/month (one-time payment, applicable in 3 months from April to June 2020) |
| 7 | Employers affected by the Covid-19 who have to stop participating in social insurance fund for at least 50% or more of workforce, as compared to the time before the competent authority announcing the pandemic (including employees being suspended from working, or temporarily postponing employment contracts, or under unpaid leave) | Employers are allowed to suspend contribution to the retirement and survivorship fund for maximum 12 months (applicable to both employer and employee contribution) |

The Resolution allows employees to send applications for unemployment benefits via post, while notice of monthly job search is carried out by indirect method (via email, fax, via post, etc.) from 01 April 2020 until the declaration of the pandemic end, without having to ask for the confirmation of communal People's Committee on the disease outbreak in the area.

Reduction of administrative procedures and costs for businesses

Under Directive No. 11, the Government requested the Ministry of Finance to direct Tax and Customs authorities to:

- Consider not conducting regular audit and inspections in 2020 for enterprises without signs of violation; while ensure enterprises not to take advantage of this policy to violate the law.
- Accelerate the implementation and simplify administrative procedures such as customs clearance, tax refund and tax payment extension, etc. for the taxpayers affected by the Covid-19 pandemic.

Accordingly, in March 2020, the General Department of Taxation issued a document directing local Tax departments on the tax audit and inspection in the context of the Covid-19 pandemic with the main contents as follows:

- Focus on the preparation before the inspection: Requesting taxpayers to provide information in accordance with regulations via email to shorten working periods at taxpayers' locations; carrying out in-depth analysis to identify the focused contents to be inspected/audited;
- Concentrating on inspection and examination in advance for enterprises with high risks. For enterprises affected by the Covid-19 pandemic, the Tax authorities should suspend tax inspection/audit and continue performing risk analysis to report to the superior to amend the inspection/audit plan;
- Not to conduct unplanned tax inspection/audit cases unless specially assigned by upper authorities;
- Requiring the officials to comply with the process of tax inspection and audit, fully carry out the electronic inspection/audit journals.

The General Department of Customs (“GDC”) also consider to revise the post-customs audits (PCAs) within its network. Upon having request from various enterprises, the GDC has deferred the current PCAs, as planned in Quarter I, to Quarter II or III to allow enterprises having more time to deal with the difficulties and complete necessary requirements from the PCA teams. For specialized PCAs, the GDC is working on and will consult with the Ministry of Finance to update the plan for them, where necessary.

Extension of the payment deadline for taxes and land rental fees

On 08 April 2020, the Government issued Decree No. 41/2020/ND-CP on extending the deadline for paying taxes and land rental fee to those affected by Covid-19 pandemic, following the direction of the Prime Minister in Directive No. 11. The Decree takes effect from the signing date.

Notable contents of the Decree include:

1. Applicable scope and taxpayers

- (i) Enterprises, organizations, business individuals and households manufacturing/doing business in certain economic sectors as follow:

Manufacturing sectors:

- Agriculture, forestry and fishery;
- Manufacturing and processing food; Weaving; Producing costumes; Manufacture of leather and related products; Manufacture of wood and of products of wood and cork, except furniture; manufacture of products of straw and plaiting materials; Manufacture of paper and paper products; Producing rubber and plastics products; Manufacture of other non-metallic mineral products; Manufacture of metals; Machining; treatment and coating of metals; Manufacture of computer, electronic and optical products; Manufacture of motor vehicles and other motor vehicles; Manufacture of furniture;
- Construction;

Business sectors:

- Transportation and warehousing (logistics); Accommodation and catering services; Education and training; Health and social assistance activities; Real estate activities;
- Manpower supplies; Activities of travel agents, tour operators and support services related to tourism promotion and organization;
- Creative, arts and entertainment activities; Activities of libraries, archives, museums and other cultural activities; Sport activities, recreational activities; Cinema activities;

- (ii) Manufacturing of supporting industrial products prioritized for development under the Government's Decree No. 111/2015/ND-CP dated 03 November 3 2015; key mechanical products under the Prime Minister's Decision No. 319/QD-TTg dated 15 March 2018 approving the Strategy for development of Vietnam's mechanical engineering industry up to 2025, with a vision to 2035;
- (iii) Small and micro enterprises as defined under the Law on Supporting Small and Medium Enterprises No. 04/2017/QH14 and Decree No. 39/2018/ND-CP dated 11 March 2018 of the Government, detailing a number of articles in the Law on Supporting Small and Medium Enterprises;
- (iv) Credit institutions, branch of foreign banks conducting solutions to support clients which are enterprises, organizations and individuals affected by Covid-19 under regulations of the State Bank of Vietnam ("SBV"). The SBV is mandated to announce the list of such qualified credit institutions and branches of foreign banks.

2. Extension of payment deadline of taxes and land rental fees

(i) For enterprises, organizations:

- 05-month extension of Value Added Tax ("VAT") payment deadline applicable for tax filing period from March to June 2020 (for monthly declaration cases) and from Quarter I to Quarter II of 2020 (for quarterly declaration cases);
- 05-month extension of CIT payment deadline for outstanding CIT payable per 2019 finalization (paid amount could be offset with payable amount of other taxes) and provisional CIT of Quarter I and Quarter II of 2020.

(ii) For business individuals, individual groups and households: VAT and Personal Income Tax ("PIT") payment deadlines are extended for tax payable amount of 2020 up to 31 December 2020.

(iii) Extension for land rental fees payable in the first period of 2020 of 05 months from the due date of payment deadline under prevailing regulations but not later than 31 October 2020.

3. Extension procedures

- Taxpayers subject to the extension must send a written standard form on Request for extension of payment deadline for taxes and land rental fees to their direct managing Tax authority together with the submission of monthly/quarterly VAT declarations by the 30 July 2020 (using electronic or other method selected by taxpayers);
- Tax authorities are not obliged to confirm the eligibility of the taxpayers for extension upon receiving such extension request from taxpayers. In case the Tax authorities find-out and conclude that the request and application of taxpayer for tax payment extension are ineligible, they can issue a written notice to reject the extension, and the taxpayers must pay the due amount in full, including related late payment interests during the incorrectly extended period.
- Of note, during the extension period, no late payment of taxes or land rental fees is charged to the qualified taxpayers on the extended tax, rental fee amounts.

Credit institutions, foreign banks' branches to reschedule repayment, to exempt, and reduce interest rates, fees, so as to retain debt categories to support customers affected by Covid-19

On 13 March, 2020, the State Bank of Vietnam issued Circular No. 01/2020/TT-NHNN ("Circular No. 01") requesting Credit institutions, foreign banks' branches to reschedule repayment, to exempt, and reduce interest rates, fees, so as to retain debt categories to support customers affected by Covid-19.

Notable contents of the Circular No. 01 are as follow:

- **Rescheduling repayment:** Credit institutions, foreign banks' branches shall decide on rescheduling payment term for loan balance as prescribed under Article 4, Circular No. 01; based on clients' proposal and the assessment of the credit institutions, foreign banks' branches on the clients' ability to fully repay principals and/or interests after the re-scheduled payment term, appropriately to the level of impact of Covid-19 pandemic as regulated.
- **Exemption and reduction of interests and fees:** Credit institutions, foreign banks' branches shall decide on the exemption and reduction of interests and fees, according to internal regulations for outstanding loan balances arising from credit activities (except for corporate bond investment activities), for which the obligation to repay the loan principal and/or interest is due within the period from 23 January 2020 to the day after 03 months from the date on which the Prime Minister announces that Covid-19 pandemic has been ended. This applies to customers who are unable to repay the loan principal and/or interest in due course, as result from decreasing revenue and income impacted from Covid-19 pandemic.
- **Maintaining debt categories:** Credit institutions, foreign banks' branches are allowed to maintain the classified debts categories in accordance with the regulations of the State Bank of Vietnam at the latest time before 23 January 2020 for the outstanding loan balance with rescheduled payment term, loan balance exempted or reduced in accordance with Circular No. 01 (including the loan balance which have been rescheduled, exempted, reduced interest and adjusted debt categories according to the regulations of the State Bank of Vietnam from 23 January 2020 to the following day after 15 (fifteen) days from the effective date of Circular No. 01).

In the spirit of Circular No. 01, many commercial banks have exempted or reduced interest rates and fees for clients who are unable to repay the loan principal and/or interest in due time as a result of the decrease in revenue and income by the impacts from Covid-19 pandemic. Accordingly, enterprises should consider contacting the lending bank to request the exemption and reduction of interest and fee policies as prescribed by the SBV.

Draft amendment on deductible interest expenses cap for CIT purpose under Decree No. 20/2017/ND-CP

The Ministry of Finance has submitted to the Government a Draft Decree to revise Clause 3, Article 8 of Decree No. 20/2017/ND-CP on deductible interest expenses cap for CIT purpose. The Draft amendment is aimed to remove difficulties for enterprises during implementation of this regulation in practice, simultaneously reduce capital challenges for enterprises in the current pandemic period.

Notable contents of the Draft Decree include:

- The threshold for net deductible interest expenses for CIT purpose is 30% of Earnings before Interest, Taxes, Depreciation and Amortization (EBITDA) of the tax period.

- Total net interest expenses equal total interest expenses minus total interest income from bank deposit and lending of the tax period (noted that net interest expenses used in the calculation of cap interest expenses and EBITDA).
- The net non-deductible interest expenses may be carried forward continuously to the following tax period to calculate net deductible interest expense in case net interest expense of the following tax period is less than 30% EBITDA. The net non-deductible interest expenses may be carried forward continuously to the following tax periods up to 05 years.
- This Decree is not applicable to taxpayers' loans who are credit institutions, insurance business, official development assistance, concessional loans granted by the Government, loans for implementing National Target Program, investment loans for Social Welfare program/project.
- The Decree is expected to take effect from the date of signing and applicable for the 2019 CIT finalization tax period (financial year 2019).

Aside from the above provisions that generally have been approved by the Government, the Government is considering supplementing the below provision in the Draft Decree:

- Retroactively applying these amended provisions of the Draft Decree for tax periods 2017 and 2018.

DELOITTE VIETNAM'S COMMENTS

We understand that this is a period full of challenges and difficulties for every organization, enterprise and the whole economy. In these days, more than ever, we aim and give the top priority to the health and safety of every employee, customer, partner and the whole community. Alongside, we understand that each enterprise has been offering a series of positive solutions and efforts to build and maintain its sustainability of business activities.

According to Deloitte's assessment, the above solutions are at urgency, depending on the situation of the pandemic in the coming time. Therefore, the Government and the Ministries and agencies may study and propose additional measures to suit the actual circumstance. We also recommend your enterprise to take the initiatives in researching and evaluating your qualification of the conditions for preferential treatment from the Government's support solutions to timely prepare for the application of the policies in the near future when the regulations are officially issued and take effects.

Deloitte will regularly follow up and update to Valued Enterprises about the Government's support solutions at the soonest.

Together with Deloitte Southeast Asia, Deloitte Vietnam has established an advisory group to assist enterprises in coping with the Covid-19 pandemic, to address urgent issues such as: analysis on liquidity, shortage of working capital, debt structuring; or support seeking effective management solutions, reducing costs, reviewing and managing risks related to contractual terms, ensuring continuous operation due to effects of Covid-19.

If you have any questions, please contact us directly for advice and assistance.

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