

## ALERT ON TAX INCENTIVES OFFERED TO SUPPORTING INDUSTRY SECTOR

Decree 57/2021/ND-CP on tax incentives for projects implemented before 2015 to manufacture products in supporting industry

June 2021



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## General information

### Newly issued regulation:

On 04 June 2021, the Government issued the Decree No. 57/2021/ND-CP (“Decree 57”) which amends, supplements Decree 218/2013/ND-CP on Corporate Income Tax (“CIT”) incentives for projects manufacturing supporting industry (“SI”) products, which have been implemented before 01 January 2015, and granted with the Certification for project manufacturing SI products. The Decree takes effect from the signing date (04 June 2021).

By this Alert, Deloitte Vietnam would like to update enterprises with the following:

1. The eligible subjects of incentive policy under the Decree 57 and principle of incentive period determination
2. Deloitte Vietnam’s viewpoints
3. Deloitte Vietnam’s solution offerings.



### The context of issuance of Decree 57

- The CIT incentive policy for projects manufacturing SI products was introduced under the Law 71/2014/QH13 effective from 01 January 2015, then Decree 111/2015/ND-CP on development of supporting industry. However, during the implementation, there have been challenges in applying the policy, causing lack of consistency and fairness among enterprises.
- Accordingly, Decree 57 was issued as the result of efforts from the Government, Ministries, Government agencies and the business community, which contributes to the removal of bottlenecks and obstacles in CIT incentives regulations that enterprises have petitioned for many years since the promulgation of Law No. 71/2014/QH13. The Government, Ministries and Departments listened to and actively acknowledged the recommendations of the business community, associations and diplomatic agencies, then developed appropriate plans to amend and supplement policies to thoroughly remove obstacles, difficulties of enterprises.
- During the process of petition and development of Decree 57, since 2017 Deloitte Vietnam has provided various in-depth insights in public media related to tax incentives for SI enterprises, as well as accompanied and closely connected the business community and the Government to promptly convey the challenges and advice to the Ministries and Government agencies.

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## Eligible subjects and principle of incentive determination

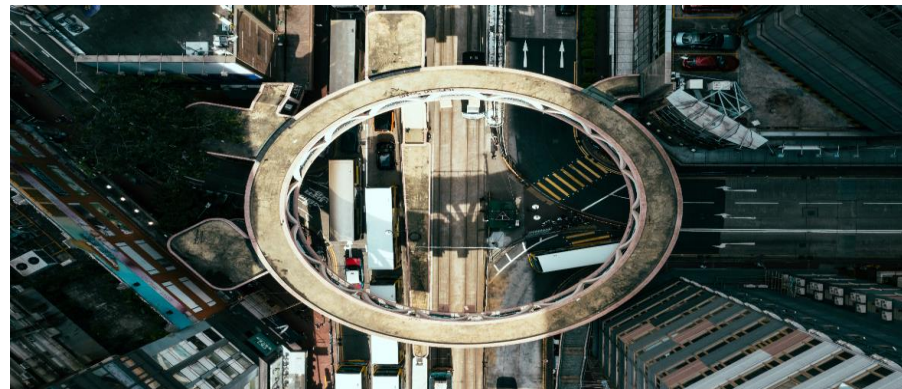
### Eligible subjects of incentive policy under Decree 57

The beneficiaries of the Decree include enterprises who have investment projects (newly invested and/or expanded) which manufactured SI products before 2015 and being granted with the Certification of SI incentives (“SI Certification”). The application belongs to one 01 of the 03 cases below:

*Case 1 – SI project implemented before 01 Jan 2015 which was not yet entitled to CIT incentives;*

*Case 2 – SI project implemented before 01 Jan 2015 which has fully enjoyed CIT incentives under other conditions (other than SI incentive);*

*Case 3 – SI project implemented before 01 Jan 2015 which has been enjoying CIT incentives under other conditions (other than SI incentive).*



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### Principle of incentive period determination

- Enterprises who belong to one of these cases could be allowed to **retroactively apply the highest CIT incentive level** for incomes generated from projects manufacturing SI products for the **remaining period from the tax period of SI Certification issuance.**
- The determination of remaining incentive period follows the principle of “numerical deduction”, in particular: tax exemption, reduction, preferential tax rate period under SI incentive condition minus tax exemption, reduction, preferential tax rate period under other conditions (if any).

*Remaining incentive period = Incentive period under SI incentive condition (tax exemption, reduction, and preferential tax rate if any) - Incentive period under other incentive conditions (tax exemption, reduction, and preferential tax rate if any)*

- Decree 57 also provides 03 specific examples on the determination of remaining incentive period for the 03 cases as aforementioned.

### Treatment for overpaid tax liabilities in previous years

After applying the incentive transition principle under the Decree, in case enterprises have **overpaid CIT and late tax payment (if any)** due to the re-declaration decreasing CIT liabilities and late tax payment (if any) which were **already declared or audited by tax authorities**, enterprises have the **right to request the tax authorities to make adjustments and handle the overpaid CIT liabilities and late tax payment** under the regulation of Article 60, Law on Tax Administration.

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## Deloitte Vietnam's viewpoints

### The meaning of Decree 57 for enterprises

The issuance of Decree 57 at this stage is very meaningful to enterprises operating in SI sector. The tax savings from application of the Decree's policy would not only fund businesses with more financial resources for their regular business activities which have been in difficult situation given the impact of Covid-19 pandemic, but also strengthen businesses with strong belief in the Government, in its efforts to reform mechanisms and policies, and create a favorable business environment.

### What should enterprises do to utilize the incentive policy?

Enterprises operating in SI manufacturing sector, especially enterprises who have SI projects implemented before 01 Jan 2015, should either actively research or seek a professional tax consultant to assist in assessing the ability to meet the conditions prescribed by the Decree in order to promptly implement the necessary procedures to apply the incentives.

#### Recommendations for enterprises operating in SI sector:

- Assess the qualification of the projects for incentive criteria in SI sector, as well as regulations of Decree 57 to plan, develop strategy to apply for the incentive in order to optimize CIT incentives.
- Implement the necessary procedures with managerial authorities such as the Ministry of Industry and Trade, managerial tax authorities to apply tax incentives timely and in compliance with regulations.
- Maintain the qualification of incentive criteria during the operation of the project to fully enjoy CIT incentives.



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## Deloitte Vietnam's solution offerings

- We believe that this Alert provides the Enterprises necessary information and view for your strategic planning, optimizing CIT incentives of the Government for SI sector. Deloitte Vietnam will continue to update Enterprises with the newest and most important information on CIT incentive policy in this sector.
- With practical and diversified experiences from various SI incentive consultancy projects, Deloitte Vietnam would be pleased to assist your business by introducing our support services provided by the Global Investment and Innovation Incentives (GI3) group in relation to SI incentives as follows:



### Advisory and planning

- Assess and analyze the opportunity as well as possibility for qualification of incentive criteria.
- Advise on strategic planning for tax incentive optimization.
- Advise on the roadmap of incentive application.



### Incentive application

- Assist in the dossier preparation and working process with the Ministry of Industry and Trade to obtain SI Certification.
- Assist in working with the tax authorities to obtain a Tax certainty ruling on CIT incentive application in SI sector.



### Incentive compliance

- Assist in reviewing during project operation to maintain the CIT incentives granted.



# Contact us



**Thomas McClelland**  
**National Tax Leader**  
+84 28 7101 4333  
tmcclelland@deloitte.com



**Bui Ngoc Tuan**  
**Tax Partner**  
+84 24 7105 0021  
tbui@deloitte.com



**Bui Tuan Minh**  
**Tax Partner**  
+84 24 7105 0022  
mbui@deloitte.com



**Phan Vu Hoang**  
**Tax Partner**  
+84 28 7101 4345  
hoangphan@deloitte.com



**Dinh Mai Hanh**  
**Tax Partner**  
+84 24 7105 0050  
handinh@deloitte.com



**Suresh G Kumar**  
**Tax Partner**  
+84 28 7101 4400  
ksuresh@deloitte.com



**Vo Hiep Van An**  
**Tax Partner**  
+84 28 7101 4444  
avo@deloitte.com



**Vu Thu Nga**  
**Tax Partner**  
+84 24 7105 0023  
ngavu@deloitte.com

## Hanoi Office

15<sup>th</sup> Floor, Vinaconex Building,  
34 Lang Ha Street, Dong Da District,  
Hanoi, Vietnam.  
Tel: +84 24 7105 0000  
Fax: +84 24 6288 5678

## Ho Chi Minh City Office

18<sup>th</sup> Floor, Times Square Building,  
57-69F Dong Khoi Street, District 1,  
Ho Chi Minh City, Vietnam.  
Tel: +84 28 7101 4555  
Fax: +84 28 3910 0750



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