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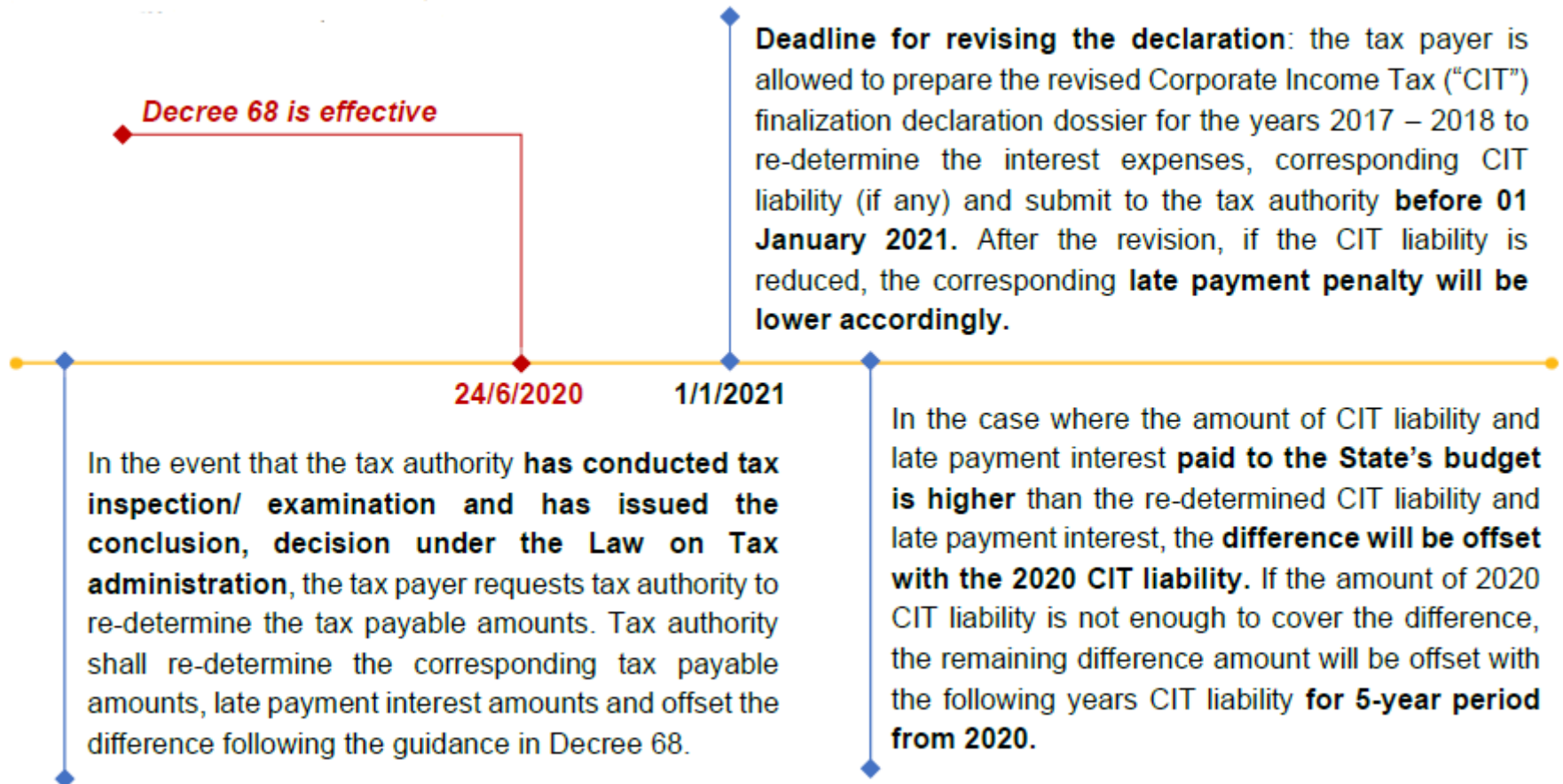
# Decree 68 deductible interest expenses in related party transactions

On 24 June 2020, the Government had issued Decree 68/2020/NĐ-CP (“Decree 68”) revising, amending Clause 3, Article 8 of Decree 20/2017/NĐ-CP (“Decree 20”) on tax administration applicable for enterprise having related party transactions. Decree 68 is effective from the signing date and applied from the tax year 2019.

Content	Decree 68	Decree 20	Applied timing and retrospective regulations
<b>Applicable interest expense</b>	Total interest expense <b>after offsetting with interest income from deposits and loans.</b>	Total interest expense incurred during the year (not allow to offset with interest income from deposit and loans).	<ul style="list-style-type: none"> <li>• Applied from the CIT year of 2019</li> <li>• Retrospectively applied for the CIT years of 2017 and 2018</li> </ul>
<b>Non-applicable object</b>	<p>Not applicable for tax payers operating as credit institution, insurance institution under the Law on credit institution and Law on insurance business.</p> <p>Not applicable for ODA loan, Government's incentive loan, loans for implementation of national target programs, loans for implementation of the state welfare programs and policies.</p>	Not applicable for tax payers operating under the Law on credit institution and Law on insurance business.	<ul style="list-style-type: none"> <li>• Applied for the CIT year of 2019</li> <li>• <b>Not retrospectively applied</b></li> </ul>

Content	Decree 68	Decree 20	Applied timing and retrospective regulations
<b>Threshold for deductible interest expense</b>	Do not exceed 30% of <b>Net operating profit plus interest expense (after offsetting with interest income from deposits and loans) (“EBITDA”)</b> and depreciation expense incurred in the year.	Do not exceed <b>20%</b> of Net operating profit plus interest expense and depreciation expense ( <b>“EBITDA”</b> ) incurred in the year.	<ul style="list-style-type: none"> <li>• Applied from the CIT year of 2019</li> <li>• Retrospectively applied for the CIT years of 2017 and 2018</li> </ul>
<b>Non-deductible interest expense carried forward to the following tax years</b>	<p><b>Non-deductible interest expense in the year is allowed to be carried forward to the following tax year if the total deductible interest expense of the following year is lower than the threshold specified under Decree 68.</b></p> <p>The maximum duration for non-deductible interest expense carry-forward is <b>05 consecutive years</b>, counting from the year following the year the non-deductible interest expense arise.</p>	Not allowed to carry forward the non-deductible interest expense.	<ul style="list-style-type: none"> <li>• Applied for the CIT year of 2019</li> <li>• <b>Not retrospectively applied</b></li> </ul>

## Application for the tax years 2017 - 2018





## The enterprises subject to Decree 68 should pay attention to the following salient points:

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- For the CIT years of 2017 and 2018, enterprises should amend CIT finalization returns for the retrospective regulations before 01 January 2021
- For the CIT year of 2019, the enterprises should amend the related party transactions disclosure return according to the new Form No.01 prescribed under Decree 68. In which, This form includes item (15) in Section IV, detailing the interest expenses of the previous years used to determine the deductible interest expenses in the tax year.
- In case where the enterprises have been audited by Tax Authorities; and the audit minutes have been issued by the Tax Authorities, enterprises should request the Tax Authorities to re-determine tax payable, for the years of tax audit

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