



# PwC Vietnam NewsBrief

Transfer Pricing - Draft decree  
amending and supplementing  
Decree 132/2020/ND-CP



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30  
years  
in Vietnam



At a glance..

## **Draft decree amending and supplementing Decree 132/2020/ND-CP**

On the 5<sup>th</sup> July 2024, the Ministry of Finance released a draft decree which when enacted will amend and supplement parts of the transfer pricing rules contained in Decree 132. At the moment, the draft decree has been released to various government departments and the wider business community for them to provide their comments. We will keep you up to date with any developments.



# Draft decree amending and supplementing Decree 132

## Key points

- The draft decree extends the definition of a related party to align with the changes in the Law on Credit Institutions. A charter capital ownership percentage of 20% applies to credit institutions.
- The draft decree also extends the definition of a related party to include affiliates of credit institutions, which is newly introduced under the Law on Credit Institutions.
- The draft decree limits the application of a third-party lender or guarantor to be deemed a related party. Lenders, guarantors, and credit institutions will not be classified as related parties if they do not participate in the "management, control, or capital contribution" of the borrower. This amendment aims to address concerns of taxpayers who purely borrow from commercial banks but were previously captured under EBITDA cap rules.
- It is important to note that the draft decree does limit the carry forward of non-deductible interest expenses in cases where a taxpayer is no longer subject to EBITDA cap rules once the decree comes into effect due to the change in the related party definition covering third-party lenders or guarantors. Specifically, non-deductible interest expenses due to EBITDA cap rules in the previous years will not be carried forward.
- Article 21 extends the responsibility of the State Bank of Vietnam to provide information on related persons of credit institutions and their related party companies upon request from the tax authorities.
- Amendments are proposed to Appendix I of the transfer pricing declaration forms to reflect the changes brought into effect by the decree.
- When finalized, the decree will apply to the corporate income tax return for FY2024 and onwards.

# Contact us

This publication has been prepared for general guidance on matters of interest only, and does not constitute professional advice. For further information or if you require our official advice or assistance, please reach out to us.

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