Fundamentals Level – Skills Module

Taxation (Vietnam)

Monday 1 December 2008

Time allowed
Reading and planning: 15 minutes
Writing: 3 hours

ALL FIVE questions are compulsory and MUST be attempted.
Tax rates and allowances are on pages 2–3.

Do NOT open this paper until instructed by the supervisor.

During reading and planning time only the question paper may be annotated. You must NOT write in your answer booklet until instructed by the supervisor.

This question paper must not be removed from the examination hall.

Paper F6 (VNM)

ACCA

The Association of Chartered Certified Accountants

The Ministry of Finance of the Socialist Republic of Vietnam

SUPPLEMENTARY INSTRUCTIONS

1. Calculations and workings need only be made to the nearest VND.
2. All apportionments should be made to the nearest month.
3. All workings should be shown.

TAX RATES AND ALLOWANCES

The following tax rates and allowances are to be used in answering the questions

Value added tax (VAT)

Standard rate	10%

Corporate income tax (CIT)

Standard rate for enterprises under the Law on Foreign Investments	
– For licences issued from 1 January 2004	28%
Standard rate for enterprises under the Law on Enterprise	
– For licences issued from 1 January 2004	28%

Foreign contractor tax (FCT) regime

No	Scope of services and activities of the foreign contractor (FC) under the contracts	Deemed added value margin (provided in Circular 05)	Applicable VAT rates (provided in Article 8 of the VAT Law)	Deemed VAT rate	Deemed CIT rate (provided in Circular 05)
(1)	(2)	(3)	(4)	(5) = (3) * (4)	(6)
1	Trading	10%	5%–10%	0·5%–1%	1%
2	Services	50%	5%–10%	2·5%–5%	5%
3	Construction and installation (not including the value of construction materials and equipment)	50%	10%	5%	2%
4	Construction and installation (including the value of construction materials and equipment)	30%	10%	3%	2%
5	Other manufacturing and business activities, and transportation	25%	5%–10%	1·25%–2·5%	2%
6	Interest	N/A	Exempt	Exempt	10%
7	Royalties	N/A	Exempt	Exempt	10%

Personal income tax (PIT)

Regular income tax rates for Vietnamese citizens and other residents in Vietnam

	Chargeable monthly income VND	Tax rate
First	5,000,000	0%
Next	10,000,000	10%
	15,000,000	
Next	10,000,000	20%
	25,000,000	
Next	15,000,000	30%
Above	40,000,000	40%

Regular income tax rates for foreigners working in Vietnam and Vietnamese citizens working overseas

	Chargeable monthly income VND	Tax rate
First	8,000,000	0%
Next	12,000,000	10%
	20,000,000	
Next	30,000,000	20%
	50,000,000	
Next	30,000,000	30%
Above	80,000,000	40%

Gross-up formula for expatriate employees

Net income – VND	Taxable income – VND
Over 8,000,000 up to 18,800,000	(Net income – 800,000)/0·9
Over 18,800,000 up to 42,800,000	(Net income – 2,800,000)/0·8
Over 42,800,000 up to 63,800,000	(Net income – 7,800,000)/0·7
Over 63,800,000	(Net income – 15,800,000)/0·6

Gross-up formula for local employees (new tax rates)

Net income – VND	Taxable income – VND
Over 5,000,000 up to 14,500,000	(Net income – 500,000)/0·9
Over 14,500,000 up to 23,000,000	(Net income – 2,000,000)/0·8
Over 23,000,000 up to 31,500,000	(Net income – 4,500,000)/0·7
Over 31,500,000	(Net income – 8,500,000)/0·6

Exchange rates

The following rates of exchange are to be used in answering all questions in this paper:

Euro 1 = VND25,000

USD1 = VND16,000

AUD1 = VND15,000

ALL FIVE questions are compulsory and MUST be attempted

1 Mr Garth Brooks is the general director of Mekong Delta Finance Management (Vietnam) Company Limited (MDFMV), which is a licensed Vietnamese company. It provides financial management services to businesses licensed both in Vietnam and in the Cayman Islands.

Garth was appointed general director on 1 August 2008. Prior to this he had been an employee of Big Bank Finance Management (Vietnam) Limited (BBFMV) from 1 July 2007. Garth ceased employment with BBFMV on 30 June 2008. BBFMV is a licensed Vietnamese entity.

Garth is a 42-year-old American national. He is married with three young school age children. His remuneration from MDFMV during the five months to 31 December 2008 comprised the following:

1 Salary of USD75,000 (USD15,000 per month) net of taxes.

2 Housing benefit of USD17,500 (USD3,500 per month). Any unused housing allowance was to be paid in cash. Garth stayed in a house at a cost of USD4,000 per month from 1 January 2008 until 31 December 2008. Garth paid for the difference from the housing allowance out of his after tax salary.

3 Free use of a company car which cost MDFMV USD1,500 per month. The company has a policy of employees only using their company car for business purposes. All running expenses relating to the car were borne by MDFMV.

4 A travel allowance of USD10,000, so long as the cost of each return trip did not exceed USD2,000.

5 401(k) premiums of USD10,000 for the period 1 August 2008 to 31 December 2008 were paid by MDFMV on behalf of Garth. These premiums were voluntary social insurance contributions made by the employer and in addition to Garth's other remuneration.

Garth earned the following income from his previous employer in the six months to 30 June 2008:

(i) Salary of USD60,000 (USD10,000 per month) net of taxes.

(ii) Housing benefit of USD18,000 (USD3,000 per month). Any unused housing allowance was to be paid in cash. Garth paid for the difference between the rent for the house he stayed in (as in (2) above) of USD4,000 and the housing allowance out of his after tax salary.

(iii) Free use of a company car which cost BBFMV USD1,500 per month. The company has a policy of employees only using their company car for business purposes, however Garth's wife used the car 90% for private purposes and BBFMV never kept any records substantiating the 10% business use of the car. All running expenses relating to the car were borne by BBFMV.

(iv) A travel allowance of USD5,000, so long as the cost of each return trip did not exceed USD1,000.

(v) 401(k) premiums of USD6,000 for the period 1 January 2008 to 30 June 2008 were paid by BBFMV on behalf of Garth. These premiums were voluntary social insurance contributions made by the employer and in addition to Garth's other remuneration.

Garth can prove that he did not receive any income for the month of July 2008.

Required:

(a) Explain the procedures that Garth Brooks himself, and each of his employers must complete in relation to the determination of his tax liabilities for the year ended 31 December 2008. (6 marks)

(b) In respect of Garth Brooks for the year ended 31 December 2008:

(i) Calculate the tax payable by each of Garth Brooks' employers during the year ended 31 December 2008.

Note: your computation should include all of the items of income specifically listed in the question, indicating by the use of '0' any which are not taxable in Vietnam. (14 marks)

(ii) Calculate the tax payable or refundable to Garth Brooks for the twelve-month period ended 31 December 2008. (6 marks)

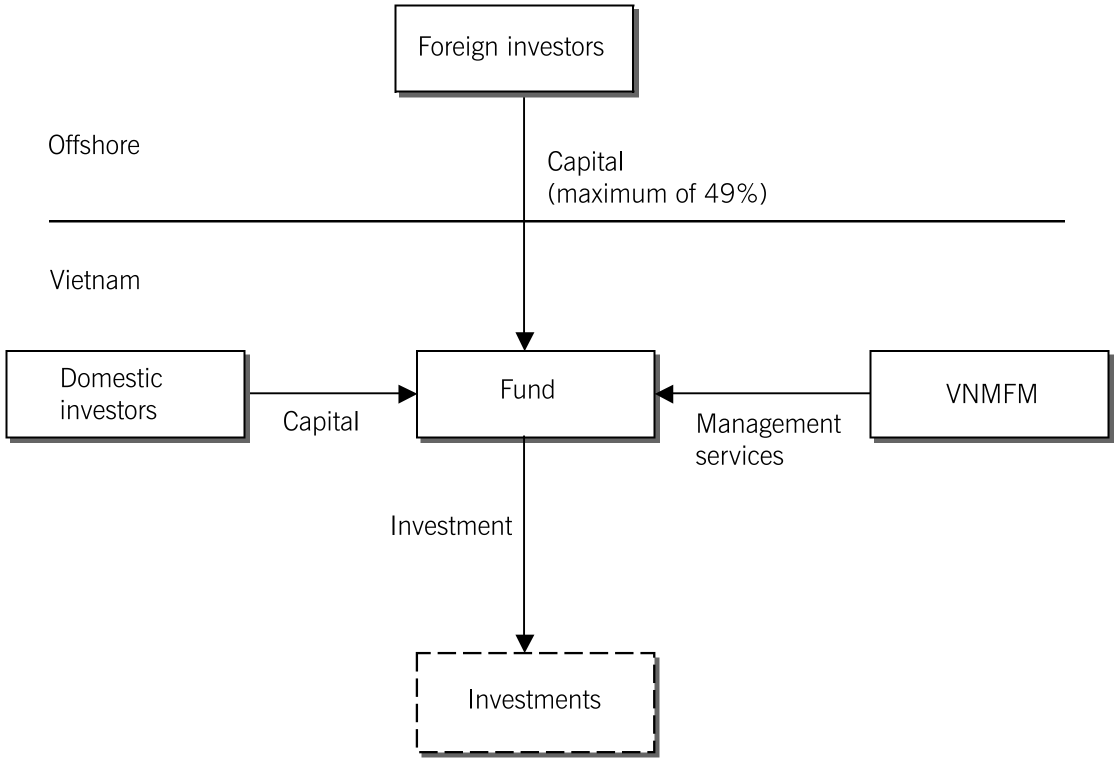
(c) In respect of the two employers, briefly explain the treatment of the 401(k) premiums and the company car benefits provided to Garth Brooks. (4 marks)

Note: throughout this question, you can ignore the provisions of the double tax treaties, as they do not change the Vietnam domestic tax treatment of any of the items of income received.

(30 marks)

2 **(a)** VNM Fund Management (VNMFM) intends to establish an investment fund (the Fund) in Vietnam, which will invest in listed and/or non-listed bonds, equities, private equity or property securities in Vietnam. The Fund will focus on expansion investments in order to generate medium to long-term returns for its investors.

Investment returns will mainly come from capital gains from domestic listings of the investee companies and trade sales to strategic investors. The Fund's operations are illustrated in the diagram below:



Required:

(i) **Explain the income tax treatment of the distributions made by the Fund to the following types of domestic (Vietnamese) investor:**

– **individual investors; and** (4 marks)

– **corporate investors.** (7 marks)

(ii) **State whether and, if so, how your answers in (i) above would change in the case of individual overseas investors and corporate overseas investors, respectively.** (4 marks)

(b) Bellweather Inc is an overseas corporate investor that has invested directly in Vietnamese bonds and equities.

Required:

State how Bellweather Inc will be taxed in Vietnam on the following types of investment income:

– **interest on corporate bonds;**

– **a gain on the sale of listed equities; and**

– **a loss on the sale of non-listed equities.** (4 marks)

(c) **(i)** **State the conditions that must be satisfied for a provision for bad debts to be deductible as a reasonable expense.** (4 marks)

(ii) **List TWO types of contingency provision, other than in relation to bad debts, that can be deductible as a reasonable expense.** (2 marks)

(25 marks)

3 John Smith is a technical consultant, who has been contracted by a Vietnamese soft drink manufacturer to install a bottling line in Vietnam. A Chinese company has supplied the bottling line separately to the Vietnamese soft drink manufacturer.

John Smith is a UK individual and is able to produce an independent practising certificate from the UK indicating he is permitted to practise independently activities corresponding to the activities from which his income is derived in Vietnam.

John Smith received USD500,000 for the year 2007 and USD400,000 for the year 2008 under the contract with the Vietnamese soft drink manufacturer. All amounts are contracted on a gross of tax basis.

Required:

(a) (i) State, giving reasons, how John Smith will be taxed under the tax regulations in Vietnam. (4 marks)

(ii) Calculate the taxes payable by the Vietnamese entity on behalf of John Smith for each of the years 2007 and 2008. (8 marks)

(b) (i) Explain how John Smith's Vietnamese tax position would differ if he rearranged the contractual arrangements such that his UK company entered into the consulting agreement with the Vietnamese entity and John Smith received a salary of Euro 9,000 per month from the UK company. (4 marks)

(ii) Calculate the Vietnamese tax(es) payable under this alternative arrangement for each of the years 2007 and 2008. (4 marks)

(20 marks)

4 (a) XYZ Enterprises Limited (XYZEL) is a leading supplier of numerous goods imported from Singapore, Thailand and the Philippines. The company also operates a real estate business in Vietnam.

XYZEL's activities in the year 2008 included the following:

1 The import of tobacco products subject to special sales tax.

2 The import of alcohol products subject to import duty and special sales tax.

3 The sale of goods subject to instalment payments.

4 The sale of goods where the invoice stated the payment price including the value added tax (VAT).

5 Agency and broking activities involving the sale of goods and services for commission.

6 Goods processing.

7 The sale of residential apartments where the taxable price included the value of land as provided by the peoples' committee.

Required:

In the case of each of the seven listed activities, state how the taxable price for calculating the VAT payable will be determined. (10 marks)

(b) State the circumstances in which input VAT may be carried forward as a tax credit and/or refunded to a business establishment. (5 marks)

(15 marks)

5 Tiger Property Limited (Tiger), which is established in Singapore, is a leading supplier of boutique financial services for real estate related investments in Asia. Tiger has established a fund (the Tiger Fund) in the Cayman Islands to directly invest into Vietnam listed equities which focus their investments in Vietnam property projects, including retail, apartment and office buildings.

Tiger has appointed a fund manager to make all the investment decisions for the Tiger Fund. This fund manager will be based in Singapore, but he established a registered representative office in Vietnam, in June 2008.

As Tiger is a very small operator with little Vietnam property expertise amongst its staff in Singapore, the fund manager has delegated all fund management responsibilities to the Tiger Fund's chief representative in Vietnam. The chief representative lives 100% of the time in Vietnam and since June 2008 has made all investment decisions in relation to the Tiger Fund in Vietnam.

Required:

(a) Explain whether or not the Tiger Fund will be considered to have a resident establishment in Vietnam. (7 marks)

(b) Explain the potential Vietnamese tax implications for the Tiger Fund if it does have a resident establishment in Vietnam. (3 marks)

Note: you should restrict your answer to the Vietnamese tax regulations, i.e. references to the Singapore–Vietnam double taxation agreement are not required.

(10 marks)

End of Question Paper