

Fundamentals Level – Skills Module

Taxation (Vietnam)

Monday 7 December 2009

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.

The Association of Chartered Certified Accountants

The Ministry of Finance of the Socialist Republic of Vietnam

Paper F6 (VNM)

ACCA

SUPPLEMENTARY INSTRUCTIONS

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

TAX RATES AND ALLOWANCES

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

Value added tax (VAT)

| | |
|---------------|-----|
| Standard rate | 10% |
|---------------|-----|

Corporate income tax (CIT)

| | |
|-------------------------------|-----|
| Standard rate for enterprises | 25% |
|-------------------------------|-----|

Foreign contractor tax (FCT)

| Value added rates as a percentage of taxable turnover: | | % |
|---|--|-----|
| 1 | Services, machinery and equipment leasing business, and insurance. | 50 |
| 2 | (a) Construction and assembly and installation where the tender included the supply of materials, machinery and equipment in the construction work. | 30 |
| | (b) Construction and assembly and installation where the tender did not include the supply of materials, machinery and equipment in the construction work. | 50 |
| 3 | Transportation and other business and production. | 30 |
| Corporate income tax rates as a percentage of taxable turnover: | | % |
| 1 | Trading: distribution and supply of goods, raw materials, supplies, machinery and equipment associated with services in Vietnam. | 1 |
| 2 | Services, lease of machinery and equipment, insurance. | 5 |
| 3 | Construction. | 2 |
| 4 | Other production or business activities and transportation (including sea and air transportation). | 2 |
| 5 | Lease of aircraft, aircraft engines, aircraft spare parts and sea going vessels. | 2 |
| 6 | Reinsurance. | 2 |
| 7 | Assignments [transfer] of securities. | 0.1 |
| 8 | Loan interest. | 10 |
| 9 | Income from royalties. | 10 |

Personal income tax (PIT)

Regular income tax rates for Vietnamese citizens and other residents in Vietnam effective from 1 January 2009

| Portion of monthly assessable income (VND million) | Tax rate (%) |
|--|--------------|
| Up to 5 | 5 |
| Over 5 to 10 | 10 |
| Over 10 to 18 | 15 |
| Over 18 to 32 | 20 |
| Over 32 to 52 | 25 |
| Over 52 to 80 | 30 |
| Over 80 | 35 |

Net to gross calculator

| | |
|-------------------------------|----------------------------|
| $N < 4,750,000$ | $G = N/0.95$ |
| $4,750,000 < N < 9,250,000$ | $G = (N - 250,000)/0.9$ |
| $9,250,000 < N < 16,050,000$ | $G = (N - 750,000)/0.85$ |
| $16,050,000 < N < 27,250,000$ | $G = (N - 1,650,000)/0.8$ |
| $27,250,000 < N < 42,250,000$ | $G = (N - 3,250,000)/0.75$ |
| $42,250,000 < N < 61,850,000$ | $G = (N - 5,850,000)/0.7$ |
| $N > 61,850,000$ | $G = (N - 9,850,000)/0.65$ |

| Gross basis | % | Tax |
|-------------------------------|----|-------------------------|
| $G < 5,000,000$ | 5 | $T = 0.05G$ |
| $5,000,000 < G < 10,000,000$ | 10 | $T = 0.1G - 250,000$ |
| $10,000,000 < G < 18,000,000$ | 15 | $T = 0.15G - 750,000$ |
| $18,000,000 < G < 32,000,000$ | 20 | $T = 0.2G - 1,650,000$ |
| $32,000,000 < G < 52,000,000$ | 25 | $T = 0.25G - 3,250,000$ |
| $52,000,000 < G < 80,000,000$ | 30 | $T = 0.3G - 5,850,000$ |
| $G > 80,000,000$ | 35 | $T = 0.35G - 9,850,000$ |

Notes:

G: Gross income

N: Net income

T: Income tax

The General Department of Tax ratio of fixed taxable income over turnover for business individuals who can determine turnover but do not conduct cost accounting for expenses is 15%.

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

Euro 1 = VND25,000

USD1 = VND18,000

AUD1 = VND14,000

ALL FIVE questions are compulsory and MUST be attempted

- 1 (a)** Mr Nguyen Van Minh is a Vietnamese national who is employed by Vina Airlines as a senior pilot. He is contracted to fly 110 hours per month and is paid USD100 per flying hour, gross of tax.

Over time, Mr Minh has managed to save a lot of money and make quite a number of investments. These include:

| | Cost | Market value |
|--|------------|--------------|
| Primary residence | USD300,000 | USD550,000 |
| Investment property | USD250,000 | USD520,000 |
| Gold | USD100,000 | USD120,000 |
| Shares | USD100,000 | USD80,000 |
| Interests in private companies | USD100,000 | USD350,000 |
| Cash on deposit at bank (earning 10% interest) | USD100,000 | USD100,000 |

The primary residence is owned equally by Mr Minh and his wife. Mr Minh owns 100% of the investment property and all the other investments. In all cases the cost of the investments can be determined.

Mr Minh is married with three children all over the age of 18 and studying at university in Australia.

Mr Minh's brother-in-law has a hot tip to make money by investing in his shareholding company (otherwise known as a joint stock company) which imports high end hi-fi equipment.

Mr Minh decided to sell all of his investments on 30 September 2009 and invest the after-tax proceeds into the shareholding company.

Required:

- (i) Calculate the amount of personal income tax that will be deducted from Mr Minh's salary from Vina Airlines for the year ended 31 December 2009.**

Note: you should ignore social insurance, health insurance and unemployment insurance. (4 marks)

- (ii) Calculate the total tax payable by Mr Minh as a result of the sale of all of his investments on 30 September 2009.** (7 marks)

- (iii) State the two alternative bases by which the tax payable on a gain on the future sale of Mr Minh's investment in his brother-in-law's company may be determined.** (3 marks)

- (iv) State whether your answer in (iii) above would change, and if so how, if Mr Minh's brother-in-law had originally established his business as a limited liability company.** (2 marks)

- (b)** Mr Patrick O'Malley is a systems engineer of Irish nationality. In October 2008 he agreed to work for ABC Vietnam Limited for a period of 12 months from 1 January 2009. Because he had never visited Vietnam before he left Ireland and flew to Vietnam on 24 November 2008 in order to holiday in Vietnam before commencing his employment.

Mr O'Malley's employment contract with ABC Vietnam Limited states that in addition to his monthly salary, the company will provide him with the following benefits:

- housing in an apartment leased by the company for the period of his employment and Mr O'Malley is registered pursuant to the Law on Residence; and
- one home leave flight to Dublin, Ireland.

Required:

- (i) State, giving reasons, whether Mr O'Malley will be classed as resident in Vietnam and during which tax years. (4 marks)
- (ii) State by when Mr O'Malley's monthly tax returns need to be submitted to the tax department and who will be responsible for completing the declarations. (2 marks)
- (iii) Explain whether, and if so how, the benefits provided to Mr O'Malley will be taxed in Vietnam. (3 marks)

(25 marks)

- 2 NVH Limited (NVH) is a Vietnamese company that acquires land and develops apartments for resale or long term leasing. NVH was originally a limited liability company but subsequently was converted to a shareholding company (joint stock company).

The year 2009 was NVH's 10th year in business. During the year 2009, NVH fully developed three lots of land and started construction on two more lots of land.

Due to the good sales and leasing market for apartments throughout Vietnam in 2009, NVH reported a net accounting profit of VND 9,000 billion. This profit is derived from total sales revenue and fees for the sale and leasing of apartments plus other income and expenses as outlined below. All amounts are stated net of value added tax (VAT).

| | VND billion |
|---|-------------|
| Net accounting profit before tax | 9,000 |
| Income | |
| Revenue from sales of apartments | 300,000 |
| Revenue from leasing apartments | 35,000 |
| Payment received for fines for breaches of economic contracts | 23,000 |
| Foreign sourced income | 30,000 |
| Expenses | |
| Cost of salaries, wages and benefits | 100,000 |
| Interest on loan | 75,000 |

Additional information:

- (1) Due to the inability to develop all the land it has on its balance sheet, NVH contributed two lots of land to two separate joint ventures (JVs) also for residential property development for sale. As a result NVH has investments in the JVs as follows:

| | Cost of land VND billion | Value of investment in JV VND billion |
|---------------|-----------------------------|--|
| Land number 1 | 20,000 | 30,000 |
| Land number 2 | 10,000 | 8,000 |

- (2) In 2009 NVH discovered additional revenue of VND 2,000 billion from the sale of apartments in previous years. This amount has not been included in the accounting profit of those years or in the VND 9,000 billion net profit figure for 2009.
- (3) NVH records advance payments received for the sale of apartments, initially in the balance sheet and only recognises the revenue when the apartment is delivered to the buyer. As at 31 December 2009, NVH held VND 100,000 billion of advance payments on its balance sheet. NVH is unable to account for its expenses corresponding to such advance payments.

Required:

- (a) Explain the corporate income tax treatment of advance payments (deposits) received from buyers in connection with residential property sales. You should consider both the situation where the expenses and revenue can be matched and where they cannot be matched. (6 marks)

- (b) Compute NVH Limited's taxable profit and corporate income tax liability for the year ended 31 December 2009.

Note: you should commence your computation with the net accounting profit figure and list all of the individual items specifically referred to in the question, indicating with '0' those for which no adjustment is required.

(12 marks)

- (c) State by when NVH Limited must submit its final tax declaration and pay the outstanding corporate income tax due for the year ended 31 December 2009. (2 marks)

- (d) NVH Limited is concerned that there may be additional corporate income tax payable on its transfers of real property (land).

State, giving reasons, whether or not this concern is valid.

(2 marks)

- (e) State how any future dividends that NVH Limited will receive from the two joint ventures (JVs) will be treated for corporate income tax purposes. (2 marks)

- (f) Explain the action(s) that the tax department will take where a company fails to submit a provisional tax declaration and fails to make the provisional tax payment. (6 marks)

(30 marks)

- 3 (a) ABC International, a foreign contractor, provides a Vietnamese party with the service of supervising the construction of a car plant to manufacture BMW cars. The contract price, excluding tax, is USD3,000,000. In addition, the Vietnamese party has agreed to arrange accommodation and a working place for the managers of the foreign contractor valued at USD230,000. Under the contract, the Vietnamese party is responsible for paying the corporate income tax and value added tax due on behalf of the foreign contractor.

Required:

Calculate the amount of corporate income tax payable by the Vietnamese party on behalf of ABC International, in US dollars.

Note: conversion to VND is not required. (3 marks)

- (b) In the first quarter of the year 2009 the foreign airline Laos Air generated turnover of USD1,000,000 in Vietnam, comprising turnover from the sale of passenger tickets at USD850,000, air freight bills of lading of USD100,000, and sales of miscellaneous items of USD50,000. In the same quarter it also collected USD10,000 in airport charges on behalf of the State, and made refunds of USD20,000 to customers who handed in their tickets.

Required:

- (i) **Calculate the corporate income tax payable of Laos Air for the first quarter of 2009, in US dollars.**

Note: conversion to VND is not required. (5 marks)

- (ii) **State when and where Laos Air must declare and pay its corporate income tax.** (2 marks)

- (c) Bank Branch A is a branch of an international bank with its head office in the United States. Bank Branch A leases its computers from its head office for USD1,000,000 per year on a net of tax basis. The head office pays for all of the annual insurance of USD95,000 and maintenance of USD30,000 for the computers.

Required:

Calculate the total foreign contractors tax payable for 2009 in respect of the lease of the computers, in US dollars.

Note: conversion to VND is not required. (7 marks)

- (d) Bank Branch B is a branch of an international bank with its head office in Paris, France. Bank Branch B has a long term loan from its head office. The initial contract for the loan was signed in 1997 and had an extension clause which lasted until 30 October 2009. On 1 November 2009 Bank Branch B signed a new loan agreement for another 12 years with substantially the same terms and conditions. During November and December 2009, Bank Branch B paid Euro50,000 of interest net of any taxes payable in Vietnam.

Required:

Calculate the total foreign contractors tax payable in November and December 2009 by Bank Branch B, in Euro.

Notes:

1. Conversion to VND is not required.
2. You should ignore the double tax treaty (DTA) between France and Vietnam. (3 marks)

(20 marks)

- 4 Zingo Limited (Zingo) is a consumer finance company which has recently started operating in Vietnam. Ms Do My Lan, Zingo's Chief Accountant, will be in Australia attending a training course in November 2009. As she will be at the training course at the time when the declaration must be filed Ms Lan has asked you to prepare Zingo's value added tax (VAT) declaration for the month of November 2009.

Ms My Lan supplies you with the following list of payments and receipts for the month of November 2009, which is Zingo's first operating month. She also tells you that all of the amounts include VAT (where applicable), and that the company has obtained legitimate VAT invoices for all expenditure.

| | Expense VND | Income VND |
|---|----------------|----------------|
| Interest income | | 10,000,000,000 |
| Other fee income | | 6,000,000 |
| Sale of old furniture | | 4,000,000 |
| Purchase of computer equipment | 4,500,000,000 | |
| Salaries | 100,000,000 | |
| Mobile phone bill | 20,000,000 | |
| Electricity bill | 2,900,000 | |
| Rent | 19,000,000 | |
| Management fee from the head office in Paris (gross of tax) | 2,000,000 | |
| Provisional personal income tax | 21,000,000 | |
| Purchase of new computer | 15,000,000 | |
| Telephone and internet | 21,000,000 | |
| Interest on loan | 1,300,000 | |
| Bank charges | 55,000 | |

Required:

Calculate the amount of value added tax (VAT) that Zingo Limited can claim or must declare for the month of November 2009.

Note: you should list all of the individual items referred to in the question, clearly indicating the VAT rate applicable or the fact that VAT is not applicable (N/A) in each case.

(15 marks)

- 5 (a) State the transactions that are not within the scope of Circular 117, which provides guidelines on the calculation of market prices in business transactions between affiliated parties. (2 marks)
- (b) List the items that are required as part of the initial application dossier when a foreign contractor applies for an exemption. (6 marks)
- (c) State the consequences for a business establishment that falsely declares or evades tax. (2 marks)
- (10 marks)**

End of Question Paper