Answers

Marks

1 GVC JSC

Corporate income tax liability for the year ended 31 December 2013

	VND million	Marks
Profit before tax	2,716,500	
Adjustments:		
– Money collected in advance and invoiced in 2013 (no adjustment because it is neither accounting nor tax revenue)	0	2
– Money collected in advance and invoiced in 2012 (no adjustment as already included in sales revenue)	0	1
– Related expenses (no adjustment – treated on a matching basis with recognised sales revenue)	0	1
– *Add:* Nine remaining years of the Lease A rental collected in advance which the company wants to recognise in full for tax purposes in 2013 (300,000/10 years * 9 years)	270,000	1·5
– *Deduct:* Estimated expenses directly incurred for the Lease A rental recognised in advance in 2013 (18,000 * 9 years)	(162,000)	1·5
– *Add:* Free-of-charge villas to employees (goods in exchange for services – treated as sales at market price)	150,000	1·5
– *Add:* Rent-free apartments (internal consumption)	10,000	1·5
– Construction costs of the villas (no adjustment because these are deductible expenses, and were included in cost of sales)	0	1·5
– Depreciation of the apartment (no adjustment for same reason as the construction costs of villas)	0	1
– *Add:* Depreciation expenses for the communal facilities outside the company's projects (not attributable to taxable operations)	200,000	1
– *Add:* Non-deductible salary expenses for 2012 and 2013 (W1)	25,000	6
– *Deduct:* Tax-deferred gains from contributing land-use right – not taxable in 2013 (W2)	(350,000)	3
– *Deduct:* Dividends received (tax exempt)	(120,000)	1
– *Deduct:* Additional deductible bond-issuing costs (W3)	(56,000)	2·5
– *Add:* Non-deductible accrued consulting expenses (USD 1,000,000 * (1 – 40%) * 21,500)	12,900	1·5
– Loss on disposal (no adjustment because this was included in audited reports)	0	1
– *Add:* Non-deductible administrative penalty	500	1
Taxable income	2,696,900	
Tax at 25%	674,255	0·5
		30

Workings (Unit: VND million)

(W1) Provisions for salary payments

For 2012:

	Marks
– Allowable provision for the year: 320,000 * 15% = 48,000	*1*
– 2012 salary provided for but not fully paid in 2013: 48,000 – 40,000 = 8,000	*1*
For 2013:	
– Allowable provision for the year: 420,000 * 15% = 63,000	*1·5*
– Total deductible salary expenses for 2013: 420,000 + 63,000 = 483,000	*1*
– Non-deductible salary expenses for 2013: 500,000 – 483,000 = 17,000	*1*
Total non-deductible expenses to be added back in 2013: 17,000 (for 2013) + 8,000 (for 2012) = 25,000	*0·5*
	6

(W2) Tax-deferred gains from contributing land-use right

	Amount	Marks
– Gains recognised in audited financial statements:	400,000	*1*
– Taxable gains in 2013 (6 months of 4 years amortisation) (400,000/4 years) * 6/12)	(50,000)	*1·5*
– Tax-deferred gains (to be amortised over 3·5 years in the future) (400,000/4 years) * 3·5 years)	350,000	*0·5*
		3

		Marks

(W3) Additional deductible expenses for bond issuing costs

	Amount	
– Total bond issuing costs expense in 2013 (fully deductible in 2013 as incurred in 2013)	60,000	*0·5*
– *Less:* Amount already amortised in audited report of 2013 (8/12 months of 10 years amortisation) (60,000/10 years * 8/12)	(4,000)	*1·5*
– Remaining deductible in 2013	56,000	*0·5*
		2·5

2 (a) Truong Khue – Personal income tax (PIT) payable for the year 2013

(i) Taxable income and non-taxable income

	Taxable income VND million	Non-taxable income VND million	
Remuneration			
Salary (VND 200 million * 12 months)	2,400		1
Bonus	300		0·5
Speaker remuneration	890		0·5
Royalties from translating books and writing articles (classified as remuneration)	560		1·5
Award from the Ministry of Education		20	1·5
Personal expenses covered by GBC	400		1
Total remuneration income	4,550		
Investment income			
Deemed dividend sold (distribution by conversion of retained earnings to capital in the form of bonus and taxable when sold) (VND 10,000 million * 80% * 25%)	2,000		2
Dividend	600		1
Capital gain from the sale of the capital contribution (W)	1,500		2
Total investment income	4,100		
			11

Working (VND million)

(W) Capital gain on sale of shares

Selling price of capital contributions		3,500	*0·5*
Cost of the capital contributions sold			
– Original capital contribution (VND 5,000 million * 80% * 25%)	1,000		*0·5*
– Conversion of retained earnings to capital (VND 5,000 million * 80% * 25%)	1,000	(2,000)	*1*
Taxable gain		1,500	*2*

(ii) Calculation of PIT payable

	VND million	Marks
Tax on remuneration income		
Taxable income from remuneration (from (i))	4,550·0	
Insurance [VND 23 million * (7% + 1·5% + 1%) * 12 months]	(26·3)	1·5
Self-deduction (VND 4 million * 6 months + VND 9 million * 6 months)	(78·0)	1
Dependant deduction (VND 1·6 million * 6 months + VND 3·6 million * 6 months) * 3 persons	(93·6)	1·5
Annual assessable income from remuneration	4,352·1	
Monthly average assessable income	362·7	0·5
Monthly tax payable (VND 362·7 million * 35% – VND 9·85 million)	117·1	1
Annual tax liability from remuneration income	1,405·2	
Deduct: PIT withheld by event organisations on speaker remuneration	(89·0)	0·5
Annual tax payable from remuneration income	1,316·2	
Tax on investment income		
Dividend income (VND 2,000 million + VND 600 million) * 5%	130·0	1
Capital gain (VND 1,500 million * 20%)	300·0	1
Total PIT payable	1,746·2	
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(b) Aman Tan – Personal income tax (PIT) liability on income derived from Vietnam for the year 2013

	VND million	Marks
Assignment of copyright (Royalty) – (USD 250,000 * 21,500 – VND 10 million) * 5%	268·3	2
Royalty received at the year end (VND 2,000 million – VND 10 million) * 5%	99·5	1
Dividend received from GBC – VND 200 million (W) * 5%	10·0	2·5 (W) + 0·5
Total tax liability	377·8	
		6
		25

Working (VND million)

(W) Dividends received by Aman Tan (at the year end, since GBC paid to all shareholders)

Shareholding of Khue in GBC at the time of the dividend (80% – 25% * 80%)	60%	*0·5*
Dividend received	600	*0·5*
Total dividend paid by GBC to all shareholders (600/60%)	1,000	0·5
Shareholding of Aman Tan at the time of the dividend (25% of 80% held by Khue before transfer)	20%	*0·5*
Dividend paid to Aman Tan (1,000 * 20%)	200	*0·5*
		2·5

Tutorial note: *Another way of calculating the dividend paid to Aman Tan which was awarded the same marks:*

*Capital held by Khue on 31 December 2013 (5,000 * 80% * 2 – 2,000 sold to Aman)*	*6,000*	*0·5*
Dividend received by Khue	*600*	*0·5*
% of dividend payment over capital	*10%*	*0·5*
Capital held by Aman on 31 December 2013	*2,000*	*0·5*
*Dividend paid to Aman Tan (2,000 * 10%)*	*200*	*0·5*
		2·5

Marks

3 TMTX Co

(a) **Foreign contractor tax (FCT) in 2013 on the three contracts**

	Corporate income tax (CIT) USD	Value added tax (VAT) USD	Marks
Contract 1: MN Co			
Taxable income	1,010,101 (1,000,000/(1 – 1%)) *(1 mark)*	1,010,101 *(1 mark)* *(or 0 is also acceptable)*	2
Tax	10,101 (1,010,000 * 1%) *(0·5 mark)*	Exempt *(0·5 mark)*	1
Contract 2: ATX Co			
Taxable income	718,367 [(1,200,000 + 300,000 – 300,000 * 80%) * 40% + 200,000]/(1 – 2%) *(4 marks)*	740,585 (718,367/(1 – 3%) *(1 mark)*	5
Tax	14,367 (718,367 * 2%) *(0·5 mark)*	22,217 (740,585 * 3%) *(0·5 mark)*	1
Contract 3: LS Co			
Taxable income	160,000 [(1,800,000/10 instalments) – 20,000 insurance] *(2 marks)*	168,421 (160,000/(1 – 5%) *(1 mark)*	3
Tax	8,000 (160,000 * 5%) *(0·5 mark)*	8,421 (168,421 * 5%) *(0·5 mark)*	1
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Tutorial notes:

1. *Contract 2 (ATX Co). Only the 40% paid to ATX Co in 2013 is taxed in 2013. The value sub-contracted can be deducted, but the expenses paid for the expatriates are taxable.*
2. *Contract 3 (LS Co). Only the payment on 1 July 2013 is subject to FCWT in 2013. The payment on 1 January 2014 is not. The insurance costs can be deducted from the taxable revenue of LS Co.*

(b) **Contract 2 with ATX Co, based on the hybrid method**

	USD	Marks
Value added tax (VAT) portion		
Output VAT [1,500,000 *10%]	150,000	2
Input VAT (300,000 * 80% + 100,000) * 10%	(34,000)	1·5
VAT payable	116,000	0·5
Corporate income tax (CIT) portion		
Taxable revenue: [(1,200,000 + 300,000 – 300,000 * 80%) + 200,000]/(1 – 2%)	1,489,796	2·5
CIT: 1,489,796 * 2%	29,796	0·5
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Tutorial note: *Under the hybrid method, the expenses borne by TMTX should not be included in VAT-taxable revenue since TMTX should have already deducted VAT on these expenses once; also an input VAT deduction is available for the amounts charged by both local suppliers and local sub-contractors.*

Full marks will be awarded to answers stating that under the hybrid method, TMXT has no responsibility for declaring FCWT (the responsibility belongs to ATX).

Marks

4 PMVB Co, value added tax (VAT) queries

(a) ANX Co (ANX)

The requirements for an input VAT credit on an export are:

- there should be an export contract (including an authorisation contract to any agent);
- there should be a Customs declaration form for the exported goods; and
- the payments should be made via a bank. 1·5

ANX should have the documentation to satisfy the first two conditions. 0·5

With regard to condition three, both payments must be made via a bank within the deadline in the contract (i.e. 10 May 2013). 1

Since the agent failed to remit money to ANX via a bank within the deadline, ANX would not be eligible for an input VAT credit in May 2013. 1

ANX should negotiate with the agent to get payment via a bank as soon as possible. If the agent cannot pay by 20 June 2013 (the deadline for submitting the May 2013 VAT return), ANX should amend their May 2013 VAT declaration to reduce such input VAT claimed. 1·5

When the agent makes payment via a bank at a later date, ANX can claim a deduction for the input VAT, even if the tax authorities decided to conduct a tax audit in ANX before the agent remitted the money. 1·5

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(b) TIS Co (TIS)

TIS needs to satisfy the same three conditions as stated in (a) to claim an input VAT credit on an export. 0·5

However, in the case of the export of software via the internet, TIS does not need a physical Customs declaration form for the exported goods. 1

Instead, TIS needs to obtain confirmation from the buyer (i.e. the parent company) that they have duly received the software via the internet. 1

The offset of the fee payment against a trade payable would be considered as a deemed payment via a bank. Accordingly TIS would have satisfied all the conditions for the input credit. 1·5

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(c) ESS Co (ESS)

In order to qualify for the 0% VAT rate for exported services, the Vietnamese exporter needs to:

- prepare sufficient documents (such as a contract for exported services with the foreign buyer, payment via a bank, etc); 1
- obtain a confirmation from the buyer that the buyer has no permanent establishment (P/E) in Vietnam and that the buyer is not a VAT-payer in Vietnam. 1

If ESS cannot provide such confirmation, the services to INVS will not qualify as exported services. As a result, ESS would be required to issue a VAT invoice and charge VAT at 10% on the fee invoiced to INVS. 1

If ESS does not charge the 10% VAT to INVS, then the tax authorities may collect such VAT from ESS. 1

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				Marks
5	**(a)**	**Tax penalties and statute of limitation**		

		From 1 January to 30 June 2013	**From 1 July to 31 December 2013**	
(i)	Penalty for late payment of tax liabilities	0·05% per day	– 0·05% per day for late payment of less than 90 days – 0·07% per day for late payment over 90 days	2
(ii)	Penalty for tax under-declaration	10% of the tax under-declared	20% of the tax under-declared	2
(iii)	Statute of limitation for tax collection in the case of tax evasion	There is no limit	10 years	2
(iv)	Statute of limitation for penalties in the case of tax evasion	5 years	5 years	1

(b) Declaration of transactions with related parties

Where a corporate taxpayer has a transaction with a related party during the year, the taxpayer is required to submit a form to declare these transactions, together with details of the method(s) of determining the arm's length price in these transactions, to the tax authorities. 1·5

The form must be submitted at the same time the company submits its corporate income tax finalisation return, i.e. 90 days after the fiscal year end. 1·5

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