Fundamentals Level – Skills Module

Taxation (Vietnam)

Tuesday 3 June 2014

Paper F6 (VNM)

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 2–4.

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.

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, unless instructed otherwise.
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%
Reduced rate	5%

Corporate income tax (CIT)

Standard rate for enterprises	25%

Foreign contractor tax (FCT)

	Value added rates as a percentage (%) of taxable turnover:	**%**
1.	Services (except oil drilling), leasing of machinery and equipment, and insurance.	50
2.	Oil drilling services.	70
3.	(a) Construction and assembly and installation where the tender includes the supply of materials, machinery and equipment in the construction work.	30
	(b) Construction and assembly and installation where the tender does not include the supply of materials, machinery and equipment in the construction work.	50
4.	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 (including the supply of goods in the form of on-the-spot export (except processing goods for foreign organisations and individuals); supply of goods under DDP, DAT, DAP terms of Incoterms).	1
2.	Services, leasing of machinery and equipment and insurance.	5
3.	Management services of restaurants, hotels and casinos.	10
4.	Leasing of aircraft, aircraft engines, aircraft spare parts and sea going vessels.	2
5.	Construction and installation regardless of whether the tender includes or does not include the supply of materials, machinery and equipment in the construction work.	2
6.	Other production or business activities and transportation (including sea and air transportation).	2
7.	Assignments [transfer] of securities, reinsurance and commissions from reinsurance.	0·1
8.	Derivatives.	2
9.	Loan interest.	5
10.	Income from royalties.	10

Personal income tax (PIT)

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

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

Non-resident tax rate on employment income: 20% on Vietnam sourced income

PIT rates on other income

	Resident	**Non-resident**
Investment income	5%	5%
Capital transfers	0·1% of selling price, or 20% on taxable gain	0·1% of selling price
Transfers of property	2% of selling price, or 25% on taxable gain	2% of selling price
Royalties/Franchises	5% of the income in excess of VND 10 million	5% of the income in excess of VND 10 million
Prizes/Inheritances	10% of the income in excess of VND 10 million	10% of the income in excess of VND 10 million

Personal deductions (per month):

	From 1 January to 30 June 2013	From 1 July to 31 December 2013
Self	VND 4,000,000	VND 9,000,000
Dependant	VND 1,600,000	VND 3,600,000

Social insurance, health insurance and unemployment insurance

Rates for the year 2013

Social insurance (SI)	7%
Health insurance (HI)	1·5%
Unemployment insurance (UI)	1%

Base salary (per month) for the year 2013

The base salary for social insurance, health insurance and unemployment insurance is VND 23,000,000 per month

Rates of exchange

The following rates of exchange are to be used in answering all questions in this paper (unless otherwise stated):

USD 1 = VND 21,500

ALL FIVE questions are compulsory and MUST be attempted

1 The Chief Financial Officer (CFO) of GVC JSC (GVC), a large Vietnamese company operating in the real estate and various other businesses, has approached your company for the provision of tax services.

GVC was established about 15 years ago. The main operations of the company include: building villas and apartments to sell and to lease, building shopping malls to lease, and providing services related to these activities. GVC has been very successful in its core business operations, and has also expanded by investing in various subsidiaries and affiliates.

The CFO has provided the following audited income statement for the year ended 31 December 2013:

Items	Notes	VND million
Sales revenue	1/2/3	8,000,000
Sales reduction		(3,500)
Net sales		7,996,500
Cost of sales	3/4/5	(4,000,000)
Financial income	6	1,200,000
Financial expenses	7	(1,350,000)
Of which: Interest expenses are 1,100,000		
Selling expenses		(225,000)
Administration expenses	8	(970,000)
Net operating profit		2,651,500
Other income		155,000
Other expenses	9	(90,000)
Profit before tax		2,716,500

Following a review of the break-down of the above items and the documents provided by the CFO, the following were noted (all amounts are in VND million, except where stated otherwise):

1. The sales revenue comprises: sales of real estate properties (villas and apartments), rentals of shopping malls and revenue from services and other activities.

   GVC issues invoices and collects monies in advance in respect of the sales of real estate properties, and some of the properties are only handed over in the year following the year in which invoices were issued and money collected. The relevant amounts for these sales and their related expenses for the years 2012 and 2013 are:

Invoices issued and money collected in 2012 for properties handed over in 2013	1,200,000
Related expenses	800,000
Invoices issued and money collected in 2013 for properties handed over in 2014	1,000,000
Related expenses	700,000

   GVC does not recognise the money collected in advance in sales revenue or the related expenses in cost of sales for accounting purposes until the properties are handed over.

   According to the current corporate income tax (CIT) regulations, for the sale of villas and apartments, where a company collects money in advance from clients before handing over the properties, it is required to issue invoices and to declare provisional CIT at 1% of the money collected. The amount invoiced is not considered taxable revenue of the company in the year the invoice is issued. GVC has duly declared the provisional CIT on all of the money collected in advance in 2012 and 2013.

2. GVC collected rentals on an annual basis for all of its leases except for one lease (Lease A) where the rentals were collected in advance. Lease A is for ten years starting from 1 January 2013, and the lessee paid the entire 300,000 rental in advance for the ten years at the start of the lease. For accounting purposes, GVC recognised one-tenth of the rental in 2013. However, as the company is rich in cash, GVC's executives have opted to realise the whole of the rental receipt for tax purposes in 2013 (as allowed under the regulations).

   Based on the company's reliable estimate, with proper evidences the expenses incurred directly for the rental under Lease A are expected to be 18,000 per year.

3. In addition, during the year 2013 GVC provided some villas to some key employees of the company free of charge in exchange for commitment of five years of services. The market value of these villas amounted to 150,000 in 2013, but this amount was not included in the reported sales revenue.

   GVC also allows some of its expatriate managers to stay in some of its luxurious apartments rent-free. The rental which should have been collected for these apartments amounted to 10,000 in 2013.

   The construction costs of these villas and depreciation of the apartments, amounting to 100,000 and 6,000 respectively, were included in cost of sales.

4. As a commitment with the local authorities, when GVC constructs buildings, villas and apartments, it also develops additional facilities and infrastructure for the adjacent areas (outside the company's projects) such as roads and parks. The allocated depreciation expense for these communal facilities for 2013, included in cost of sales, amounted to 200,000.

5. GVC has provided the following summary of the company's salary expenses for the years 2012 and 2013:

	For 2013	**For 2012**
Total salary expenses of the year (as included in cost of sales)	500,000	368,000
Total actual payments from 1 January 2012 to 31 March 2013		320,000
Total actual payments from 1 April 2013 to 31 December 2013		40,000
Total actual payments from 1 January 2013 to 31 March 2014	420,000	

   From 2012, GVC decided to utilise the provision for salary payment for tax purposes under the CIT regulations. The company, however, only used a rate of provision of 15% (instead of the maximum 17%) of the total salary actually paid up to 31 March of the next year.

6. Financial income includes:

   – 400,000 from the contribution of a land-use right to a subsidiary from 1 July 2013. The book value of the asset and the agreed contributed value were 250,000 and 650,000 respectively, at the time of contribution. GVC informed the tax authorities that the gain would be amortised over four years for tax purposes, but recognised the whole gain in its 2013 audited financial statements for accounting purposes.

   – 120,000 of dividends received from its investments in subsidiaries and affiliates.

7. Included in the interest amount of 1,100,000 in financial expenses is the amortisation of the costs of issuing bonds on 1 May 2013. GVC paid 60,000 to a foreign investment bank for the issuing costs of these ten-year bonds to the international market. The foreign investment bank issued an invoice to GVC in May 2013 and the company duly withheld foreign contractor tax (FCT) when making payment of the issuing costs at the end of May 2013. For accounting purposes GVC amortised the issuing costs of the bonds over ten years.

8. In 2013, GVC signed a contract with a foreign consulting company for USD 1,000,000, for some consulting services in Vietnam regarding the operations of its business. The works were completed during the year 2013, however, due to a dispute GVC only settled 40% of the contractual amount in 2013 and recorded this to administration expenses. The remaining 60% of the expense was accrued to administration expenses at the year end, but the dispute remained unsettled by 31 March 2014 and it is unlikely to be settled in the near future. GVC duly withheld and paid FCT on the 40% of the contract amount settled in 2013.

9. The following items are included in other expenses:

   – a loss on the disposal of fixed assets with a book value of 20,000 and a selling price of 5,000 (exclusive of VAT); and

   – a tax administrative penalty of 500.

Additional information:

1. Proper supporting vouchers/invoices are available for all items unless otherwise stated.
2. All amounts not described in notes 1 to 9 above are taxable/deductible in accordance with the tax regulations. Assume the advertising and promotion expenses of the company would not exceed the regulatory cap, even after taking into account any of the adjustments above.
3. GVC pays corporate income tax at the standard tax rate of 25%.

Required:

Estimate GVC JSC's corporate income tax (CIT) liability for the year ended 31 December 2013.

Notes:

1. You should commence your computation with the accounting profit before tax, and list all of the individual adjustment items specifically referred to in notes 1 to 9, indicating with '0' those items for which no adjustment is required.
2. You should make all calculations to the nearest VND million.
3. You are not required to perform a calculation of the advertising and promotion expenses cap.
4. You should ignore any implications of value added tax (VAT), and the provisional CIT declared by GVC on the cash collected in advance.

(30 marks)

2 Truong Khue, 34 years old, is a successful businessman and a well-known speaker in Vietnam. He is the Chairman and also Chief Executive Officer (CEO) of Gifted Brains Co (GBC), a limited liability company in Vietnam specialising in the organisation of soft skills training courses. The original chartered capital of GBC is VND 5,000 million, of which Khue holds 80%. Khue actively participates in the day-to-day management of the company's operations, and in the delivery of its training courses. In addition, he is invited to speak at many educational events, seminars and activities in Vietnam and overseas, at which he speaks and receives remuneration as an individual (not under GBC's name). Khue also spends most of his free private time in translating famous educational books in English, following instructions by publishers, and in writing articles for newspapers.

Khue qualifies for three dependants for the year 2013: his 62-year-old mother, and two daughters who are both below 17 years old.

During the year 2013, Khue had income from various sources, as follows:

- Salary as CEO of GBC: VND 200 million per month.
- Bonus from GBC: VND 300 million.
- Dividends from the profit distribution of GBC: VND 600 million (GBC paid a dividend to all of its shareholders according to their shareholding ratio on 31 December 2013).
- Speaker remuneration: gross amount of VND 890 million (the net receipt after personal income tax (PIT) withholding was VND 801 million).
- Royalties for translating books for publishers and writing articles: VND 560 million.
- Awards from the Ministry of Education for his contributions to the community, accompanied by a Certificate of Contribution Award issued by the Ministry of Education: VND 20 million.

All of Khue's personal expenses for his trips, both to domestic and overseas events, where he was invited to speak as an individual, are paid for by GBC. The total amount of these expenses in 2013 was VND 400 million.

On 1 January 2013, GBC converted some of its retained earnings of VND 5,000 million to equity capital. Each shareholder was entitled to an equivalent number of bonus shares (i.e. one new share for every one original share held). From a tax perspective, this entitlement would be viewed as a distribution from the company .

Immediately after the conversion, Khue sold 25% of his investment in GBC to his friend, Aman Tan, for an amount equivalent to VND 3,500 million. Aman is a Singaporean resident, who wants to become the strategic partner of GBC. On the same date that he purchased the capital contribution from Khue, Aman also agreed to assign the copyright of his special course 'Train the gifted brains', for a contractual value of USD 250,000, to GBC for localisation and exploitation in Vietnam. Aman is also to receive an additional royalty from GBC every time GBC provides the customised course to students. On 31 December 2013, GBC paid Aman an amount of VND 2,000 million for such additional royalties.

Required:

(a) Calculate in respect of Truong Khue for the year 2013:

(i) His taxable and non-taxable income from remuneration and investment. (11 marks)

(ii) The personal income tax (PIT) PAYABLE on his taxable income from remuneration and investment. (8 marks)

(b) Calculate in respect of Aman Tan for the year 2013, his PIT LIABILITY on his income derived from Vietnam, assuming he is not present in Vietnam in 2013. (6 marks)

Note: All calculations should be in VND million, rounded up to one decimal.

(25 marks)

3 TMTX Co (TMTX) is a Vietnamese company operating in various fields of business, which enters into many contracts with foreign companies. In 2013, TMTX entered into three contracts with foreign companies under the terms and conditions described below:

Foreign company	Contractual amount	Activities of foreign company, terms and conditions
MN Co (MN) which has no permanent establishment (P/E) in Vietnam	USD 1,000,000	MN sold machinery and equipment to TMTX under Delivery Duty Paid (Incoterms) ('DDP') terms. MN did not provide any additional services in Vietnam, including warranty provisions. TMTX paid 50% of the contract amount on 1 July 2013, and the remaining 50% on 30 November 2013. All tax incurred in Vietnam is to be borne by TMTX.
ATX Co (ATX) which does have a P/E in Vietnam but does not adopt Vietnamese Accounting Standards ('VAS')	USD 1,500,000, of which: – USD 1,200,000 is for construction and equipment; and – USD 300,000 is for installation and commissioning services	ATX constructed a factory (including the supply of materials and equipment for the factory) for TMTX in Vietnam. TMTX settled 40% of the contract amount on 1 December 2013, and was required to pay the remaining 60% on 31 March 2014. In addition, TMTX incurred USD 200,000 during 2013 for the accommodation and travel costs of the expatriates sent to Vietnam for the installation and commissioning services. TMTX did not incur any such expenses for the expatriates of ATX in 2014. ATX sub-contracted 80% of the services works in Vietnam to its subsidiary in Vietnam, and purchased goods for an amount of USD 100,000 from Vietnamese suppliers for the supply of the equipment. These amounts are net of 10% value added tax (VAT). All tax incurred in Vietnam is to be borne by TMTX.
LS Co (LS) which has no P/E in Vietnam	USD1,800,000	LS leased an item of equipment to TMTX for five years, starting from 1 January 2013, under an operating lease. Rentals are to be paid in arrears in ten instalments, on 1 July and 1 January every year. LS will bear the insurance costs for the equipment during the lease period. For 2013, LS has documents to prove that it paid a USD 20,000 premium for insuring the equipment. TMTX is to bear the VAT portion of foreign contractor tax (FCT), while the corporate income tax (CIT) portion is to be borne by LS.

Required:

(a) Calculate the foreign contractor tax (FCT) to be declared and paid in 2013 in respect of each of the above contracts by TMTX Co and LS Co. (13 marks)

(b) Estimate the total FCT to be declared and paid by TMTX Co in respect of the contract with ATX Co, if ATX Co uses the hybrid method for all of its contracts when filing FCT in Vietnam. (7 marks)

Note: All calculations should be in US dollars (USD).

(20 marks)

4 The following questions relating to value added tax (VAT) have been raised by clients of PMVB Co, a tax consulting firm in Vietnam:

(a) ANX Co (ANX) exported goods to a foreign buyer in April 2013. ANX authorised an export agent in Vietnam to sign the contracts with the foreign buyer. The export agent conducted all necessary procedures for the export, and obtained sufficient documents for the export. The deadline for payment in accordance with the export contract and authorisation contract was 10 May 2013. The foreign buyer remitted money to the agent via a bank on 6 May 2013, however, the agent had not transferred the money to ANX by 31 May 2013.

ANX had incurred input VAT for the exported goods in February 2013 but has not yet claimed this input VAT. ANX did claim credit for the input VAT in their May 2013 VAT return but are not sure if they were eligible for the credit.

ANX want to know: what the primary requirements for an input VAT credit are in this case, whether they are eligible for such a credit and what action (if any) they should now take. (7 marks)

(b) TIS Co (TIS) is a Vietnamese subsidiary of a foreign company processing and exporting software to its parent company. TIS usually packages the software and relevant code on a DVD and exports the DVD to its parent company. However, in April 2013, due to urgent requests from its parent company, TIS transmitted the software to the parent company via the internet. TIS does not have a customs declaration for this transmission.

The parent company agreed with TIS in the contract for the software that they will offset the software development fee against an amount which the parent company has paid to an overseas supplier on behalf of TIS.

TIS want to know: whether they can claim an input VAT credit for the expenses incurred which relate to the software exported in April 2013 and what action (if any) they should now take. (4 marks)

(c) ESS Co (ESS) provided research services in Vietnam to INVS, a foreign company, for INVS to consider and decide whether to go ahead with a potential investment project in Vietnam.

ESS has incurred input VAT for these services starting from March 2013, and requested INVS to provide a confirmation that it has no permanent establishment (P/E) in Vietnam. However, at the end of April 2013, INVS replied that they did not want to provide such a confirmation to ESS and that they did not understand why they had to provide such a confirmation.

ESS wants to know: why INVS is required to issue such a confirmation, and what the implications are for both INVS and ESS if INVS continues to refuse to provide such confirmation. (4 marks)

Required:

Provide the advice as requested by each of PMVB Co's clients.

Note: The mark allocation is as shown against each client's query.

(15 marks)

5 (a) State the applicable provisions for the periods 1 January to 30 June 2013, and 1 July to 31 December 2013 respectively, with regard to the following:

(i) The penalty for the late payment of tax liabilities. (2 marks)

(ii) The penalty for tax under-declaration. (2 marks)

(iii) The statute of limitation for tax collection in cases where the tax authorities have identified tax evasion by the taxpayer. (2 marks)

(iv) The statute of limitation for penalties in cases where the tax authorities have identified tax evasion by the taxpayer. (1 mark)

(b) State the requirements for the declaration of transactions with related parties. (3 marks)

(10 marks)

End of Question Paper