Answers

Marks

1 Health Blessing Ltd

(a) Corporate income tax (CIT) rates for the year 2012

Activity	Tax rate	Reasons	Marks
Manufacturing	7·5%	2007 to 2009: Tax exempt	
		2010 to 2012: 50% tax reduction, with concessional tax rate 15%	2
Services	10%	2007 to 2009: three years of losses	
		2010: Tax exemption commenced (per Circular 130)	
		2011 and 2012: 50% reduction, with concessional tax rate 20%	2
Trading	12·5%	2010: Tax exempt	
		2011 and 2012: 50% tax reduction, no concessional tax rate	2
			6

(b) Break-down of profit before tax by activity for the year 2012

Unit: VND million

Description	Manufacturing	Services	Trading	Other income	Total	Marks
Sales revenue	3,055,000	70,000	900,000		4,025,000	
% of total revenue	75·9%	1·7%	22·4%		100·0%	1
Sales revenue	3,055,000	70,000	900,000		4,025,000	
Cost of sales	(2,230,000)	(50,000)	(720,000)		(3,000,000)	
Gross profits	825,000	20,000	180,000		1,025,000	
Selling expenses	(189,750)	(4,250)	(56,000)		(250,000)	1·5
Administration expenses	(98,670)	(2,210)	(29,120)		(130,000)	1·5
Operating profits	536,580	13,540	94,880		645,000	
Non-operating income				65,000	65,000	0·5
Non-operating expenses				(56,000)	(56,000)	0·5
Profit before tax	536,580	13,540	94,880	9,000	654,000	5

Marks

(c) Calculation of CIT liability for the year 2012

Unit: VND million

Description	Manufacturing	Services	Trading	Other income	Total	Marks
Profits before tax (from (b))	536,580	13,540	94,880	9,000	654,000	
Adjustments						
– Service revenue		0			0	1
– Service cost of sales		0			0	1
– Finance lease rental (principle is non-deductible)	1,800				1,800	1
– Damaged inventory by fire (the insured value is non-deductible)	2,500				2,500	1
– Damaged inventory by accident (wholly non-deductible)			50,000		50,000	1
– Bonuses (deductible as stated in policy)	0	0	0	0	0	1
– Amortisation of distribution right (W1)			1,050		1,050	1·5
– Donation to Sympameals (recipients are not qualified for deductibility)	228	5	67		300	1
– Removal of net interest expenses from other income (2,500 – 1,500)				1,000	1,000	1
– Re-allocate net interest expenses to operating activities (deductible)	(759)	(17)	(224)		(1,000)	1·5
– Disposal gain on scrap allocated to manufacturing	500			(500)		2
– Non-deductible advertising and promotion expenses (W2)					0	4
Total taxable income	540,849	13,528	145,773	9,500	709,650	
Tax rates	7·5%	10·0%	12·5%	25%		
CIT liabilities	40,564	1,353	18,222	2,375	62,514	2
						19
						30

Workings:

(W1) Distribution right

	VND million	
Total distribution right value (1,500 * 3 years)	4,500	*0·5*
Tax amortisation (10 years)	450	*0·5*
Accounting amortisation (3 years)	1,500	*0·5*
Add back (1,500 – 450)	1,050	*1·5*

		Marks

(W2) Advertising and promotion (A&P) expenses

	VND million	
Total expenses (excluding A&P expenses)		
Sales revenue + Non-operating income – Profit before tax – A&P expenses		
(4,025,000 + 65,000 – 654,000 – 80,000)	3,356,000	*1*
(or Cost of sales + Administration costs + Distribution costs + Non-operating expenses – A&P expenses)		
Less: Non-deductible expenses	(55,650)	*1*
(1,800 + 2,500 + 50,000 + 1,050 + 300)		
Less: Cost of goods sold of trading activities	(720,000)	*0·5*
Total deductible expenses for A&P cap	2,580,350	
10% cap for A&P expenses	258,035	*1*
Actual A&P expenses	80,000	
Non-deductible A&P expenses	0	*0·5*
		4

2 Mr Leonardo di Panucci

(a) Personal income tax (PIT) if Mr Panucci spends MORE than 183 days in Vietnam in the year 2012

Note: *According to the ruling in the question, Mr Panucci would be subject to PIT in Vietnam on his world-wide income from 1 January to 31 December 2012 (including the income received in Singapore).*

	USD	VND	
For the year 2012 (from 1 January to 31 December 2012)			
Taxable income from January 2012 to 30 June 2012 (in Singapore)			
Gross income (USD22,000/(1 – 20%)) * 6 months	165,000		1·5
Taxable income from 1 July to December 2012 (in Vietnam)			
Salary (USD20,000 * 6 months)	120,000		0·5
Bonus (paid in June 2013 so not taxed in this period)	0		0·5
One-off relocation allowance (non-taxable)	0		0·5
Tuition fee for son (USD3,000 * six months) (taxable as studying in university)	18,000		1
Tuition fee for daughter (non-taxable as studying in school)	0		1
Taxable housing income (W1)	24,000		2
Total taxable income in 2012	327,000	6,867,000,000	
Personal relief (4,000,000 * 12 months)		(48,000,000)	0·5
Dependant relief (1,600,000 * three persons * 12 months)		(57,600,000)	1
Annual assessable income		6,761,400,000	
Monthly assessable income		563,450,000	
Monthly tax liabilities (Assessable income * 35% – 9,850,000)		187,357,500	1
Total tax liabilities in Vietnam in 2012		2,248,290,000	0·5
Tax credit for tax paid in Singapore (W2)		(693,000,000)	2
Tax payable in Vietnam in 2012		1,555,290,000	
For the year 2013 (from 1 January to 31 December 2013)			
Salary (USD20,000 * 12 months)	240,000		0·5
Bonus	20,000		1
Tuition fee for son	36,000		0·5
Taxable housing income (W3)	44,400		2
Total taxable income	340,400	7,148,400,000	
Personal relief (4,000,000 * 12 months)		(48,000,000)	0·5
Dependant relief (1,600,000 * three persons * 12 months)		(57,600,000)	0·5
Annual assessable income		7,042,800,000	
Monthly assessable income		586,900,000	
Monthly tax liabilities (Assessable income * 35% – 9,850,000)		195,565,000	1
Tax payable in Vietnam in 2013		2,346,780,000	0·5
Total tax liabilities from July 2012–December 2013		3,902,070,000	0·5
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Marks

Workings:

(W1) Taxable housing in 2012

	USD	Marks
Total taxable income before housing	303,000	*0·5*
15% of taxable income before housing	45,450	*0·5*
Actual housing (USD4,000 * six months)	24,000	*0·5*
Taxable housing (lower of actual housing or 15% taxable income before housing)	24,000	*0·5*
		2

(W2) Tax credit for tax paid in Singapore

	USD	VND	Marks
Total taxable income in Vietnam	327,000		
Income in Singapore taxed in Vietnam	165,000		
Tax liabilities in Vietnam		2,248,290,000	
Vietnamese tax liabilities attributable to Singapore income (2,248,290,000 * 165,000/327,000)		1,134,458,257	*1*
Tax paid in Singapore (USD165,000 * 20% * 21,000)		693,000,000	*0·5*
Vietnamese tax credit for tax paid in Singapore (lower of Vietnamese and Singapore tax)		693,000,000	*0·5*
			2

(W3) Taxable housing in 2013

	USD	Marks
Total taxable income before housing	296,000	*0·5*
15% of taxable income before housing	44,400	*0·5*
Actual housing	48,000	*0·5*
Taxable housing (lower of actual housing or 15% taxable income before housing)	44,400	*0·5*
		2

(b) PIT if Mr Panucci spends LESS than 183 days in Vietnam in the year 2012

	VND	Marks
For the first tax year (12 months from 1 July 2012 to 30 June 2013)		
Tax payable in first tax year (same as 2013 in case (a))	2,346,780,000	2
For the second tax year (from 1 January to 31 December 2013)		
Total tax liabilities in Vietnam (same as 2013 in case (a))	2,346,780,000	1
Less: tax on overlapped period (2,346,780,000/12 * 6)	(1,173,390,000)	1·5
Tax payable in second taxable year	1,173,390,000	
Total tax payable from July 2012–December 2013	3,520,170,000	0·5

Recommendations: As he and his employer are flexible about the number of days he will spend in Vietnam in 2012, it would be tax efficient for Mr Panucci to spend less than 183 days in Vietnam in 2012. The resulting tax saving will be VND381,900,000 (3,902,070,000 – 3,520,170,000). 1

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Tutorial note: *According to Circulars 84/2008 and 62/2009, the first tax year of Mr Panucci would be the 12-month period from his first arrival (i.e. 1 July 2012 to 30 June 2013). As a tax resident, he would be subject to PIT in Vietnam on his world-wide income from 1 July 2012 to 30 June 2013 (not including the income received in Singapore). His second tax year would be the second calendar year from his first arrival (i.e. 1 January to 31 December 2013). The tax liabilities for the overlapped period (1 January to 30 June 2013) which have already been paid in the first tax year will be deducted from the tax liabilities of the second tax year.*

Candidate should notice that the calculation of tax in both tax years (12 month periods) is the same as the tax for 2013 in case (a). As the bonus would be paid on 30 June 2013 (i.e. still within the overlapped

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period), the bonus would be taxed in both years. However, tax on this bonus (and all other income in the overlapped period) can be deducted from the tax liabilities of the second year.

Strictly, Mr Panucci would also be subject to health insurance contribution (1·5% of base salary), but it is not taken into account in this answer for simplicity. However, credit will still be given to answers with deduction of such health insurance contribution.

3 ITLC

(a) Taxes in Vietnam applicable to ITLC

1. ITLC would be subject to foreign contractor tax (FCT), which includes both corporate income tax (CIT) and value added tax (VAT) portions (of which the VAT portion will be borne by Hong Ngoc). 1·5

   ITLC would not be required to declare and pay FCT directly (as it does not adopt VAS, but Hong Ngoc will be required to withhold and pay the FCT on ITLC's behalf to tax authorities). 1·5

2. In the selling alternative, ITLC would also be involved with the personal income tax (PIT) on the individual income of its personnel assigned to Vietnam, if any. 1

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(b) Selling alternative

(i) Lump-sum price v separate price

According to Vietnamese Foreign Contractor Tax (FCT) regulations, where a foreign contractor supplies equipment with attached installation and training services and the value of each item is not separable in the contract, the whole contract value would be subject to FCT at a CIT rate of 2%. 1·5

Note: *The VAT portion is taxed at 3% but given the VAT is borne by Hong Ngoc, it is not relevant in this case.*

If the value of equipment is priced separately from the services, the equipment value would be subject to CIT at the rate of 1% and the services at 5%. 1·5

(ii) FCT payable and price to be quoted by ITLC

Lump-sum price:

	USD	USD	
– Taxable revenue: (1,200,000 – 200,000 sub-contracted)/(1 – 2%)	1,020,408		1
– CIT: 1,020,408 * 2%		20,408	0·5
Total FCT for lump-sum quotation		20,408	
Price to be quoted (1,200,000 + 20,408 CIT)		1,220,408	0·5

Separately priced:

For equipment:			
– Taxable revenue: 1,000,000/(1 – 1%)	1,010,101		1
– CIT: 1,010,101 * 1%		10,101	0·5
For services			
– Taxable revenue: (200,000 – 200,000 sub-contracted)/(1 – 5%)	0		1
– CIT:		0	0·5
Total FCT for separate quotation		10,101	
Price to be quoted: (1,000,000 + 200,000 + 10, 101)		1,210,101	0·5

(iii) For tax efficiency in Vietnam, ITLC should separate the value of the equipment from the services in the contract rather than quoting a lump-sum, as this will result in a CIT saving of USD10,307 (20,408 – 10,101). This would also reduce the contract value quoted to and VAT borne by Hong Ngoc. 1·5

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(c) Leasing alternative

		USD	USD	Marks
(i)	For leasing payments			
	– Taxable revenue:			
	(250,000 * 5 years)/(1 – 5%)	1,315,789		1·5
	– CIT: 1,315,789 * 5%		65,789	0·5
	Total FCT on leasing payments		65,789	
	For service payments			
	– Taxable revenue:			
	(80,000 + 50,000 * 4 years) – (80,000 + 50,000 * 4 years sub-contracted)/(1 – 5%)	0		1
	– CIT:		0	0·5
	Total FCT on service payments		0	
(ii)	Price to be quoted:			
	– For each annual lease payment (250,000 + 65,789/5)	263,158		1
	– For services (80,000 first year, 50,000 from 2nd year)	80,000		0·5
		50,000		
(iii)	Total contract price (263,158 * 5 + 80,000 + 50,000 * 4)		1,595,790	1
				6
				20

4 Vatapo Group

(a) Tax point for value added tax (VAT)

(i) For sales of goods: the time of transfer of ownership or of the right to use the goods to the purchaser, irrespective of whether money was received. 1·5

(ii) For the provision of services: the time of completion of the provision of services or the time of billing for the provision of services, irrespective of whether money was received. 1·5

(iii) For real estate trading: the date of collection of money pursuant to the schedule of implementation of the project or the schedule for payment specified in the contract. 1·5

(iv) For construction and installation: the time of acceptance and handover of the completed works or items of works or completed volume of construction or installation, irrespective of whether money was received. 1·5

(v) For the importation of goods: the date of registration of a customs declaration. 1

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(b) Vatapo Trading

The date of taxable revenue for VAT would be 5 October 2012, as it was on this date that goods were fully transferred to the buyer. 2

Note: *4 October 2012 when the buyer accepted the goods is also an acceptable answer, though not fully precise. As mentioned in the question, the goods were only transferred when they were fully unloaded to buyer's warehouse. The invoice date and payment date are not relevant for goods.*

(c) Vatapo Design

Vatapo Design should recognise the revenue in two instalments:

– For Phase One (60% of the contract value): on completion of Phase One (i.e. 30 September 2012) as it is earlier than the invoice issuance. 2

– For Phase Two (40% of the contract value): on the date the invoice was issued (i.e. 15 October 2012) as this is earlier than the completion of the services. 2

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(d) Vatapo Real Estate

The VAT-taxable revenue that Vatapo Real Estate should recognise on each date is:

(i)	Before 2012: VND1,200 billion * 40% = VND480 billion	0·5
(ii)	On 1 March 2012: VND1,200 billion * 30% = VND360 billion	0·5
(iii)	On 31 August 2012: VND1,200 billion * 20% = VND240 billion	0·5
(iv)	On 31 December 2012: VND1,200 billion * 10% = VND120 billion	0·5
		2
		15

5 (a) Vincap Co

(i) According to Circular 28/2011/TT-BTC, point 8, Article 11

– For the assignment of the 40% capital contribution to Siam Invest Co, as both the transferor and transferee are foreign companies, the Vietnamese enterprise the capital of which is transferred (i.e. Vincap-SHT) is required to file and pay the capital transfer tax (stipulated in corporate income tax (CIT) regulations) arising from the transfer. 2

– For the assignment of the 20% capital contribution to TM Co, as the transferee is a Vietnamese company and the transferor is a foreign company, the Vietnamese transferee (buyer), i.e. TM Co, is required to withhold, file and pay the capital transfer tax (CIT) to tax the authorities. 2

– The deadline for submission of tax declaration is ten days from the date of approval of the transfer by the authorised Government authorities, or from the date of transfer as agreed in the Agreement for Capital Transfer if the capital transfer does not require approval from the authorities. 2

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(ii) As the accounting currency of Vincap-SHT is VND while the proceeds from Siam Invest Co are in USD, for capital transfer tax calculations, the proceeds should be converted into VND using the exchange rate prevailing at the date of transfer. Also, if applicable, the costs of the capital transferred should be converted into VND at the rate prevailing at the date of capital contribution (Circular 130/2008/TT-BTC). 2

(b) Personal income tax (PIT) finalisation

A resident individual is required to finalise tax on employment income by themselves when:

– the tax liabilities are higher than tax provisionally paid; or
– the individual has requested a refund or offset of the tax overpaid to a subsequent period; or
– the individual has income from more than one source.

1 mark per valid reason, maximum: 2

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