Fundamentals Level – Skills Module

Taxation (Vietnam)

Tuesday 4 December 2012

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 2–3.

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.

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, leasing of machinery and equipment, 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, leasing of machinery and equipment, insurance.	5
3.	Construction.	2
4.	Other production or business activities and transportation (including sea and air transportation).	2
5.	Leasing 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

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

Personal deductions (per month):

Self	VND4,000,000
Dependant	VND1,600,000

Social insurance, health insurance and unemployment insurance:

Rates

Social insurance (SI)	6%
Health insurance (HI)	1·5%
Unemployment insurance (UI)	1%

Base salary (per month)

The base salary for Social Insurance, Health Insurance and Unemployment Insurance: VND16,600,000 per month

Rates of exchange

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

AUD 1 = VND22,000
USD1 = VND21,000

ALL FIVE questions are compulsory and MUST be attempted

1 Health Blessing Ltd (HB) is a limited liability company established in Vietnam in 2005. HB's main activity is the manufacturing of high precision equipment, but the company also imports and sells high-tech health care equipment, as well as providing installation, maintenance and training services for the equipment that HB or its clients import into Vietnam.

You have recently been employed by HB as its tax manager, and have been asked by the Finance Director to determine the company's corporate income tax (CIT) liabilities for 2012. The following information may be relevant to this task.

HB is located in the Binh Xuyen Industrial Park and was entitled to some CIT incentives as follows[1]:

– For its manufacturing activities: three years of tax exemption plus seven years of 50% tax reduction from the first taxable year or in accordance with the CIT regulations. In addition, a concessional tax rate of 15% is available for 12 years from the first year of operation. The first year of operation was 2005, and first profitable year of manufacturing activities was 2007.

– For its service activities: a one year tax exemption plus two years of 50% tax reduction from the first taxable year or in accordance with the CIT regulations. A concessional tax rate of 20% is available for ten years from the first year of operation. The service activities commenced in 2007 but have made consistent losses in every year since then.

– For its importation and sales of imported equipment: the tax holiday is the same as for its service activities, but no concessional tax rate is available. These activities were profitable from the first year of operations, which was 2010.

The following is an extract from HB's draft Income Statement for the year ended 31 December 2012 (all figures are in VND 'million):

Description	Note	Manufacturing	Services	Trading	Total
Sales revenue	1	3,055,000	70,000	900,000	4,025,000
Cost of sales	2	(2,230,000)	(50,000)	(720,000)	(3,000,000)
Gross profits		825,000	20,000	180,000	1,025,000
Selling expenses	3				(250,000)
Administration expenses	4				(130,000)
Operating profit					645,000
Non-operating income	5				65,000
Non-operating expenses	6				(56,000)
Profit before tax					654,000

Notes:

1. Sales revenue includes sales of VND20,000 million related to a package of services for equipment provided to a client. HB fully completed these services by 31 December 2012, but only invoiced the client for 80% of the works by that date. As the services are completed, HB accrued all the revenue and costs in the Income Statement above, according to the guidance in the Vietnamese Accounting System (VAS). HB earned a gross margin of 30% for these services.

2. The following issues are to be noted in respect of cost of sales:

   – Rental payments of VND2,000 million for the lease of equipment under a finance lease are included in the cost of sales of manufacturing activities. The auditor is correctly proposing that only the interest of VND200 million should be included in the cost of sales according to VAS, but this has not yet been reflected in the draft Income Statement.

   – Equipment valued at VND3,500 million in the inventory of the manufacturing activity was damaged by fire on 20 July 2012. The equipment was insured but the insurer only agreed to pay VND2,500 million and this amount was settled in full on 31 December 2012. The full book value of the equipment was written off

[1] The incentives set out in this question are for illustrative purposes only, and are not necessarily in accordance with those set out in the regulations prevailing at 2005.

in cost of sales, while the payment by the insurer was not recorded. The auditor proposed that payment received from the insurer should be deducted to the amount already written off.

– Goods for trading activities valued at VND50,000 million were destroyed in a truck accident while in transit before delivery to the buyer. These goods were not insured.

– 2011 Chinese New Year bonuses for all employees of VND2 million each were all included in the cost of sales of the various businesses when paid in January 2012. HB has 700 employees in manufacturing, 150 employees in services, 100 employees in trading and 50 employees in administration and support. The bonuses were not stated in either the Labour Contract or Collective Labour Agreement, but were mentioned in a policy issued by the General Director at the end of 2011.

– Amortisation of VND1,500 million on the distribution right for a special equipment in Vietnam is included in the cost of sales of trading activities. The terms of the distribution agreement with licensor are three years (extendable to ten years) and HB amortised the right for three years for accounting purposes, as HB is not certain of the extension. However, according to a recent specific guidance from the local tax authorities, the right should be amortised over ten years for tax purposes.

3. Selling and distribution expenses include advertising and promotion costs of VND80,000 million.

4. Administration expenses include an amount of VND300 million on donations to 'Sympameals', a reputed private donation programme which funds free meals to the poor in the National Hospital of Cancers.

5. The non-operating income includes the following items:

   – Interest income from bank deposits: VND1,500 million
   – Gain from the disposal of scrap materials from the manufacturing activity: VND500 million (sales proceeds from the disposal of VND1,300 million less the book value of VND800 million)

6. The non-operating expenses include interest expenses for operating activities of: VND2,500 million.

In a recent tax audit, the local tax authorities agreed that all common expenses which are not specifically attributable to any activity will be apportioned to each activity in accordance with the current CIT regulations.

Required:

(a) Determine the corporate income tax (CIT) rate applicable to each activity (manufacturing, services and trading) of Health Blessing Ltd (HB) in the year 2012, and briefly explain the reasons for such rates based on the prevailing CIT regulations. (6 marks)

(b) Assuming that the local tax authorities in Vinh Phuc normally require HB to prepare a break-down of the profit before tax for each activity (manufacturing, services, trading and other) before making adjustments, prepare such a break-down for HB in the year 2012 showing:

- **the allocation of common expenses to each activity according to the current CIT regulations;**
- **the other (non-operating) income and other (non-operating) expenses; and**
- **the profit before tax of each activity.** (5 marks)

(c) Based on the above information, compute HB's CIT liability for the year 2012.

Notes:
1. You should commence your computation in part (c) with the accounting profit before tax, with a break-down of each activity as in part (b) and list all of the individual adjustment items specifically referred to in notes 1 to 6, indicating with '0' those items for which no adjustment is required. You are not required to explain the reasons for the adjustments, but you are required to show all workings to arrive at the figures, if needed.
2. For simplicity, you are not required to calculate the cap for advertising and promotion expenses for each activity. Instead, you only need to calculate the cap based on the total deductible expenses of the company minus the cost of sales of the trading activity.
3. You should make all calculations to the nearest VND million.
4. You should ignore any implications of value added tax (VAT). (19 marks)

(30 marks)

2 Assume that today's date is 1 June 2012.

PMG, a large Vietnamese incorporated and listed company, is reviewing an employment agreement with Mr Leonardo di Panucci under which he will act as the Finance Director of PMG from 1 July 2012. Mr Panucci is 53 years old and an Italian. The commencement of his employment on 1 July 2012 will also be his first date of arrival in Vietnam. The employment contract is expected to last for two years. After negotiation, both parties have agreed the following gross remuneration for Mr Panucci (i.e. tax will be borne by himself):

– Monthly salary: USD20,000;
– Annual bonus to be received by the end of each 12th month that he works for PMG: USD20,000;
– One-off relocation allowance: USD5,000;
– Tuition fee for his children: USD3,000 per month for his son, Caprio di Panucci, 21 years old, who will study in an international university in Vietnam, and USD2,000 per month for his daughter, Monica di Panucci, 17 years old, who will study in an international school in Vietnam;
– Housing allowance: USD4,000 per month, to be paid directly by PMG to the landlord.

Mr Panucci's wife, Vendetta di Panucci, is aged 56 and she will join him during his assignment to Vietnam to take care of their two children. Mrs Vendetta di Panucci has no income from any sources.

Before his employment in Vietnam, Mr Panucci has been working for a Singaporean company with a net income of USD22,000 per month. The effective Singaporean tax rate on Mr Panucci's income in Singapore was 20% and he will settle all taxes in Singapore at this rate before arriving in Vietnam. His wife and children had no income in Singapore.

PMG is aware of a well-known ruling from the General Department of Taxation in 2011 requesting that for an individual first arriving in Vietnam, if the individual spends more than 183 days in the first calendar year in Vietnam, their world-wide income from 1 January to 31 December would be included in their taxable income in Vietnam (i.e. the income received before their arrival in Vietnam in the year would also be taxed in Vietnam), and in return, the individual would be allowed to deduct personal relief for 12 months and credit the tax paid overseas in Vietnam. On the other hand, if the individual spends less than 183 days in that calendar year, the normal rule for determining tax residency and taxable income under the current Personal Income Tax Circulars in Vietnam (Circulars 84/2008 and 62/2009) would apply.

Under the basic provisions of his contract with PMG, Mr Panucci will spend more than 183 days in Vietnam during the first 12-month consecutive period from his first arrival on 1 July 2012. However, it would be possible to be more flexible with the number of days in Vietnam in the calendar year of 2012 (i.e. he can be present for less than 183 days in Vietnam during the period from 1 July to 31 December 2012). Accordingly, PMG thinks that it may be more tax efficient for Mr Panucci in the period 2012–2013 if he were to spend less than 183 days in Vietnam in the year 2012.

Required:

Assuming there is no change in the personal income tax (PIT) regulations and exchange rate in 2013 from those in 2012:

(a) Calculate the total PIT liabilities to be withheld by PMG from Mr Panucci in the period July 2012 to December 2013 if Mr Panucci spends MORE than 183 days in Vietnam in the year 2012, based on the ruling stated above. (19 marks)

(b) Calculate the total PIT liabilities to be withheld by PMG from Mr Panucci in the period July 2012 to December 2013 if Mr Panucci spends LESS than 183 days in Vietnam in the year 2012, and briefly comment on whether PMG's view that it would be more tax efficient for Mr Panucci to be present in Vietnam for less than 183 days in 2012 is correct. (6 marks)

(25 marks)

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Question 3 begins on page 8.

3 ITLC, a company incorporated in Hong Kong, specialises in cross-border selling and leasing specialised health care equipment in Asia. ITLC is negotiating a contract to supply special health care equipment to Hong Ngoc, a private Vietnamese hospital. The equipment is normally expected to be used for ten years, but Hong Ngoc only needs the equipment for five years.

Following the latest negotiations, Hong Ngoc has requested ITLC to provide them with the best quotation for two alternative cases:

1. Selling the equipment on Cost, Insurance and Freight (CIF) terms to Hai Phong port and sending personnel to install the equipment and to train the staff of Hong Ngoc. The contract will contain a provision that, after five years, ITLC commits to buy the equipment back and Hong Ngoc commits to sell it at 40% of the price it will pay to ITLC originally.
2. Leasing the equipment to Hong Ngoc for five years and providing guaranteed specialised personnel to install and operate the equipment during the five-year period. In this case, no training for Hong Ngoc's staff would be required.

In both cases, Hong Ngoc expects the tax costs in Vietnam to be included in the price (i.e. ITLC will bear all tax costs in Vietnam), except for value added tax (VAT) which will be borne by Hong Ngoc.

ITLC has an affiliate company in Vietnam, VTLC Co, which can provide all the required after-sale services (e.g. installation, training, operation etc). ITLC expects to sub-contract these works to VTLC for their full value they intend to quote Hong Ngoc.

According to ITLC's estimates:

For the selling alternative:

With the buy-back commitment specified by Hong Ngoc, the amount net of Vietnamese taxes that ITLC would be willing to sell the equipment at CIF Hai Phong port is either a lump-sum of USD1,200,000 (i.e. installation and training costs are included 'free-of-charge'), or USD1,000,000 for the equipment plus USD200,000 for the installation and training costs.

For the leasing alternative:

The leasing payment would be USD250,000 per annum net of Vietnamese taxes, plus the costs of the installing and operating personnel which are estimated at USD80,000 in the first year and USD50,000 in subsequent years.

Required:

(a) Assuming ITLC has no intention of adopting the Vietnamese Accounting System (VAS) in conducting the above contract, advise ITLC of the taxes in Vietnam relevant to the execution of the contract, and ITLC's responsibilities in declaring and paying such taxes. (4 marks)

(b) For the selling alternative:

(i) explain the tax treatments and applicable tax rates under the Vietnamese foreign contractor tax (FCT) regulations on ITLC's decision to quote a lump-sum price or two separate prices for the supply of the equipment and services;
(ii) calculate, for each of the alternatives, the taxable revenue, the amount of FCT and the price to be quoted in the contract; and
(iii) state, giving reasons, which alternative is the more tax efficient in Vietnam for ITLC.

Note: The following mark allocation is provided as guidance for this requirement:

(i) 3 marks
(ii) 5·5 marks
(iii) 1·5 marks

(10 marks)

(c) For the leasing alternative, calculate:

(i) the amount of FCT that ITLC will bear for the leasing and service activities;
(ii) the amount ITLC should quote for each lease payment in the contract (inclusive of the corporate income tax portion of the FCT); and
(iii) the total contract price (including the lease payment and the services payment).

Note: The following mark allocation is provided as guidance for this requirement:

(i) 3·5 marks
(ii) 1·5 marks
(iii) 1 mark

(6 marks)

Note: All calculations should be made in USD.

(20 marks)

4 Vatapo Group is a Vietnamese-incorporated group of 12 companies which operate in a wide range of activities, covering: design; construction; manufacturing and trading of construction materials and home appliances; provision of installation services; and real property development.

The Finance Director of the Vatapo Group requires advice on the following:

– Vatapo Trading (VT), a company specialising in trading activities, signed a contract to sell 1,000 water heaters to a Vietnamese company on 15 September 2012. The contract provided that VT would deliver all the heaters to the buyer's site no later than 30 September 2012, and that payment for the goods would be made on the same date when the goods were fully unloaded from the trucks to buyer's warehouse (i.e. they were fully transferred to the buyer). VT loaded the heaters on the trucks and issued an invoice for the goods on 29 September 2012. Due to a traffic jam caused by a sudden flood, the trucks could only reach the buyer's site on 2 October 2012. The buyer initially refused to accept the goods, then reluctantly accepted in the afternoon of 4 October 2012 after various negotiations. It took one full day to unload the goods from the trucks to the buyer's warehouse. Payment was made on 6 October 2012.

– Vatapo Design (VD) signed a contract for designing a hospital for a Vietnamese client on 1 July 2012. The work consists of two phases: Phase One for about 60% of the work to be completed within three months from the signing of the agreement, and Phase Two to be completed within one month from the completion of Phase One. According to the agreement, the client will make a payment for 30% of the contract upon signing of the agreement, 40% upon completion of Phase One and the remaining 30% upon completion of Phase Two. VD issued an invoice for 100% of the agreement value on 15 October 2012. The services were performed and completed as scheduled in the agreement.

– Vatapo Real Estate (VRE) is a property trader and the project owner of Vatapo Village, a residential apartment project for sale in Dong Nai Province. The apartments were 100% completed on 31 August 2012. The money, totalling VND1,200 billion, was collected in instalments in accordance with the payment schedule in the contract. VRE collected 40% of the money from clients before 1 January 2012, and during 2012 received three collections: one for 30% on 1 March 2012, another for 20% on 31 August 2012 and the third for the remaining 10% on 31 December 2012. The percentage of completion of the project at the relevant times is:

  o Before 1 January 2012: 50% completed.

  o On 1 March 2012: 80% completed.

  o On 31 August 2012: 100% completed.

Required:

(a) State the value added tax (VAT) tax point in each of the following cases:

(i) the sale of goods;
(ii) the provision of services;
(iii) real estate trading;
(iv) construction and installation; and
(v) the importation of goods.

Note: The following mark allocation is provided as guidance for this requirement:

(i)–(iv) 1·5 marks each
(v) 1 mark

(7 marks)

(b) State, giving reasons, the date on which Vatapo Trading is required to recognise the taxable revenue from the sale of the heaters for VAT purposes. (2 marks)

(c) State, giving reasons, the date(s) on which Vatapo Design is required to recognise the taxable revenue from the design contract for VAT purposes. (4 marks)

(d) Determine the VAT taxable revenue that Vatapo Real Estate is required to recognise on each of the following dates:

(i) before 2012;
(ii) on 1 March 2012;
(iii) on 31 August 2012; and
(iv) on 31 December 2012.

Note: If no taxable revenue should be recognised on any of the four dates, identify this by the use of '0'.

The total marks will be split equally between each part. (2 marks)

(15 marks)

5 **(a)** Vincap Co, a company established in the British Virgin Island, contributed 60% of the capital to Vincap-SHT, a joint venture established in Vietnam on 1 January 2005. On 15 September 2012, Vincap Co signed an agreement with Siam Invest Co, a company in Thailand, and TM Co, a company in Vietnam, for the assignment of 40% and 20% respectively of the capital contribution in Vincap-SHT. The proceeds from the assignment to Siam Invest Co are in USD, and from TM Co in VND. Vincap-SHT's currency in its accounting records is VND.

Required:

In relation to Vincap Co's transfers of the capital contribution in Vincap-SHT:

(i) **State the responsibilities (if any) of each of the parties (Vincap Co, Siam Invest Co, TM Co, Vincap-SHT) for the filing and paying of capital transfer tax in Vietnam, including the deadline for submission of the tax declaration;** (6 marks)

(ii) **Explain the implications of the proceeds from Siam Invest Co being denominated in a foreign currency (USD) on the capital transfer tax calculation in accordance with the stipulations in Circular 130/2008/TT-BTC.** (2 marks)

(b) **State TWO circumstances in which a resident individual having income from employment is required to finalise their personal income tax (PIT) with the tax authorities themselves.** (2 marks)

(10 marks)

End of Question Paper