Fundamentals Level – Skills Module

Taxation (Vietnam)

Tuesday 12 June 2012

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 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.	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

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 based 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 Mr Tung Dao has recently been appointed to the position of Chief Accountant of AV JSC Co ('AV Co'), a Vietnamese joint stock company operating in various fields, including manufacturing, services and the trading of consumer goods and equipment. AV Co's recent year end was 31 March 2012 and the audited report has just been issued. The deadline for corporate income tax (CIT) finalisation is approaching, and the accountant has provided Mr Tung with the following draft CIT return, which he has asked your firm to review and revise if necessary.

		Note	VND million
A	**Accounting profit before tax**		**500,000**
B	**Determination of taxable income**		
1	**Adjustments to increase profits before tax**		**20,850**
1.1	Adjustments to increase revenue		–
1.2	Expenses related to revenue not taxed in this period	1	150
1.3	Depreciation of assets not in accordance with regulations	2	500
1.4	Non-deductible interest expenses	3	750
1.5	Expenses without supporting invoices/vouchers	4	4,000
1.6	Penalty for violation of administrative regulations	5	2,500
1.7	Non-deductible employment expenses	6	7,000
1.8	Accruals and provisions which are not actually paid	7	4,000
1.9	Loss on foreign exchange revaluation	8	1,950
2	**Adjustments to decrease profits before tax**		**1,600**
2.1	Non-taxable profits	9	1,000
2.2	Revenue which has been taxed in prior years		0
2.3	Expenses related to the revenue to be taxed in this period	10	600
2.4	Gain on foreign exchange revaluation		0
3	**Total taxable income**		**519,250**
C	**Determination of corporate income tax (CIT)**		
1	Total CIT at common tax rate (25%)		**129,813**

Notes:

The following explanations on the above items have also been provided:

1. On 31 January 2011 (previous year), AV Co entered into a contract to install a line of equipment for TCT Co in Vietnam for a total fee of VND1,000 million. The work lasted for three months. By 31 March 2011, the costs actually incurred by AV Co amounted to VND480 million and AV Co had completed 80% of the project. AV Co also estimated that it would incur an additional VND120 million to complete the remaining 20% of the work.

   According to the contract, AV Co issued an invoice on 31 March 2011 for 100% of the contract value (i.e. VND1,000 million) despite only having completed 80% of the work.

   Relevant extracts from AV Co's books related to this contract (in VND million) are as follows:

   For the year ended 31 March 2011

	Income statement	**Tax return (audited and accepted by the tax authorities in December 2011)**
Revenue	800	1,000
Cost of sales	(480)	(600)

   For the year ended 31 March 2012

	Income statement
Revenue	200
Cost of sales	(120)

   The cost of sales of VND120 million reflected the actual costs for the remaining 20% of the work. All of the above revenue and expenses were supported by proper documents.

2. This item relates to the depreciation of a machine used as a fixed asset for manufacturing one key product of AV Co. The machine underwent a major repair from 1 June 2011 to 30 November 2011 and because the machine was not in use during that period, the accountant added back a half-year's depreciation to non-deductible expenses. When it was purchased on 1 April 2008, the machine had an original cost of VND7,000 million and an expected useful life of seven years.

3. On 1 June 2011, AV Co borrowed VND5,000 million at an interest rate of 18% per annum from a commercial bank to contribute to the legal capital of AX Ltd, a wholly owned subsidiary of AV Co. In its financial statements, AV Co recognised an interest expense of VND750 million, being ten months interest on the loan, but the accountant has adjusted this expense as the bank had not yet issued an invoice to AV Co at the time he prepared the draft CIT return. The invoice has now been received by AV Co.

4. This item includes payments of VND3,000 million in total for the purchase of sand from various direct individual exploiters. The purchasing department has prepared a list of goods purchased without invoice as per Form 01/TNDN under Circular 130/2008/TT-BTC; however, given no official invoices are available, the accountant believes that the amount must be adjusted in the CIT return.

   The remaining amount of VND1,000 million relates to actual expenses which are not supported by any documents.

5. This represents adjustments made by the accountant for the whole tax recollection and penalties resulting from the tax audit carried out in December 2011 for the year ended 31 March 2011, consisting of the following:

   (1) Penalty for the late declaration and payment of foreign contractor tax (FCT): VND300 million

   (2) Recollection of FCT under-declared: VND2,000 million

   (3) Penalties for the under-declaration of FCT: VND200 million

   AV Co had settled these amounts, in full, with the tax authorities by 31 March 2012.

   AV Co had made a provision of VND2,000 million for the FCT under-declaration in its income statement for the year ended 31 March 2011. As such, in the current year they have only booked the penalties into expenses.

6. This adjustment consists of the following:

   – Special occasional payments made to employees for Revolutionary Day and National Day: VND5,000 million

   – Bonuses to members of the board of directors who are not involved in the daily management of the company's business: VND2,000 million

   The entitlement conditions for both payments are specified in AV Co's Financial Policy. The accountant made this adjustment based on his experiences with the previous tax audit.

7. This represents the total adjustment for warranty provision costs for the sales of machinery that AV Co made during the year. The provisions of both years (in VND millions) consist of the following:

	Year ended 31 March 2011	**Year ended 31 March 2012**
Sales revenue	70,000	100,000
Opening balance of provision	3,200	2,800
Closing balance of provision (4% of sales)	2,800	4,000
Provision expenses/(income) in the income statement	(400)	1,200

   The accountant made the adjustment because he believes that all provisions should be non-deductible.

8. During the year, AV Co has recorded the following foreign exchange gains/(losses) (in VND millions) in its financial statements. All of the unrealised gains/losses are due to revaluations at the year end, and the accountant prudently adjusted for the whole of income statement charge as non-deductible:

	To income statement	To balance sheet
Realised net gain	500	
Unrealised gain on account receivables	200	
Unrealised loss on account payables	(150)	
Unrealised loss on USD loans owing to foreign lenders	(2,800)	
Unrealised gain on overseas investment project		1,500
Unrealised gain on cash at bank	300	

9. This adjustment relates to the following income (in VND million) that AV Co recorded in its income statement during the year:

Item	Amount	Additional information
Interest from tax-exempt Government bond	300	Received on 31 December 2011
Dividend from investment in subsidiary (AX Ltd)	500	Received on 30 April 2012. The dividend was announced on 1 February 2012 and recorded by AV Co as 'Other income' in year ended 31 March 2012.
Dividend from securities held for trading	200	Received during the year ended 31 March 2012

10. On 31 March 2012, AV Co entered into a leasing agreement with AT Co, by which AV Co would lease a machine from AT Co for three years from 1 April 2012 for use in its manufacturing activities. AV Co paid in advance the total lease payment for the three-year period of VND600 million on the same day as it entered into the lease and received an official invoice from AT Co for this amount. As payment was made and the invoice received, the accountant believes that the whole advance amount of VND600 million should be deductible in the year ended 31 March 2012.

During an interview with the accountant, you also identified the following issues for which no adjustments have been made in the CIT return:

11. On 31 March 2012, AV Co issued an invoice of VND5,000 million for the sale of a machine to a buyer. AV Co had purchased this machine for trading in December 2011 for VND4,000 million. As the machine (together with the risks and rewards of ownership) was only delivered to the buyer in April 2012, the revenue and costs of goods sold were not recorded in the financial statements of AV Co in the period ended 31 March 2012, and the accountant decided not to adjust for the gross profit of VND1,000 million in the draft return.

12. During the year, AV Co had received and paid an invoice for the international school fees of the son of its general director, totalling VND350 million. The general director's labour contract clearly states that AV Co will only cover a maximum VND250 million of school fees, so AV Co deducted the excess VND100 million from the salary of the general director. The general director is a Vietnamese citizen.

Required:

(a) Review the corporate income tax (CIT) declaration prepared for AV JSC Co by its accountant (as above), and redraft it making all necessary adjustments.

Note: You are required to use the same format of the tax declaration as provided in the question and should make all calculations to the nearest VND million. (26 marks)

(b) AV JSC Co is considering changing its financial year from the current year ending 31 March to the calendar year (ending 31 December), and thus also wishes to change the tax assessment period to the calendar year.

Required:

Advise AV JSC Co of the requirement for assessment periods in the conversion year (as stipulated in Circular 18/2011), and state the assessment periods for corporate income tax (CIT) purposes in 2012 and 2013, if AV JSC Co wants to effect the change within the year 2012. (4 marks)

(30 marks)

2 Mr Nam Tran, 60 years old and divorced, is an overseas Vietnamese holding citizen status in Australia. He has held the position of general director of AXM from 2009. During 2012, Nam retired and terminated his employment with AXM, his last working day at AXM was 15 April 2012.

During his entire employment period in Vietnam, AXM rented a house for him at a cost of VND30 million per month. In 2012, Nam also received the following income (gross of tax in Vietnam) from AXM in Vietnam according to his labour contract:

– Salary: USD15,000 per working month (or pro-rata)

– Rest and recreation allowance in cash: USD1,000 per month for each full working month

– Bonus: USD20,000 (paid on 30 April 2012)

– One-off relocation allowance to Australia: USD10,000

– Air fares for Nam to go back to Australia on annual leave: VND50,000,000

On 1 January 2012, as a reward for Nam's contribution, AXM granted him 10,000 AXM shares free of charge. At the time of this grant, the market price of AXM shares was VND50,000 per share; however, in its accounting records AXM only recognised employment costs equal to the nominal value of the shares, which was VND10,000 per share. On 30 May 2012, Nam sold all of these AXM shares for VND52,000 per share in the Vietnamese stock market. Nam did not register for the 20% method for tax on capital transfers at the beginning of the year.

Nam is reputed for his management skills in the business community in Vietnam, so following his retirement VSC, a famous training company, signed an independent service agreement with him for a training tour on management skills in the large cities of Vietnam. Nam also received an amount of VND180 million (after personal income tax (PIT) withheld) from VSC for the training courses he conducted from 16 April 2012 to 31 May 2012.

Nam cannot prove that he is a tax resident of any other country in 2012. His actual schedule of time spent in Vietnam and time spent elsewhere for the year 2012 is as follows:

From	To	Notes
1 January 2012	20 January 2012	Working in Vietnam
21 January 2012	6 February 2012	Lunar New Year leave and annual leave in Singapore
7 February 2012	15 April 2012	Working in Vietnam
16 April 2012	31 May 2012	Training tour around Vietnam
1 June 2012	31 December 2012	Went back to Australia and then travelled around the world

Required:

(a) Explain the taxability of the award of 10,000 shares made to Mr Nam Tran by AXM in January 2012 and state the taxable income, point of taxation and tax filing responsibilities in respect of the award for personal income tax (PIT) purposes. (4 marks)

(b) For the calendar year 2012:

(i) Calculate the number of days Mr Nam Tran spent in Vietnam and determine his tax residency for Vietnam PIT purposes; (5 marks)

(ii) Assuming that from the beginning of the year 2012, AXM was fully informed of Mr Nam Tran's leave schedule and retirement date, explain the responsibilities of the following in respect of the filing of his PIT return in Vietnam, and state the deadline for submission of such returns:

(1) AXM;
(2) VSC; and
(3) Mr Nam Tran. (6 marks)

(iii) Assuming that he is treated as tax resident in Vietnam, calculate Mr Nam Tran's tax liability for the purposes of his individual PIT tax finalisation.

Note: You should ignore social insurance, health insurance and trade union contributions and any special tax exemption available for 2012. (10 marks)

(25 marks)

3 **(a)** VNED, a Vietnamese company, entered into an agent contract with DUP, a US company, under which VNED would act as an agent of DUP for international express delivery services. In the period from January to June 2012, VNED had the following transactions relating to the contract:

– VNED collected fees totalling VND42,000 million from Vietnamese senders for delivery to overseas recipients. According to the contract, VNED was entitled to commission of 5% of the fees collected. VNED converted the fees to USD and remitted them (net of commission and other deduction, if any) to DUP.

– VNED received a statement from DUP, informing VNED that the fees collected by DUP for delivery services from overseas senders to Vietnamese recipients was USD150,000. According to their contract, VNED is also entitled to commission of 5% of the fees that DUP collected from overseas senders.

Required:

Assuming DUP wishes to adopt the deemed method for paying foreign contractor tax (FCT) in Vietnam:

(i) Briefly explain to DUP and VNED the FCT treatment (taxability, tax rates, taxable revenue) of the fees that VNED collected from domestic senders, and the fees that DUP collected from overseas senders; (5 marks)

(ii) Calculate the FCT liability (in VND million) that VNED will be required to withhold and declare on behalf of DUP for the above transactions in Vietnam, assuming that under the contract all FCT will be borne by VNED; (3 marks)

(iii) Calculate the FCT liability (in VND million) that VNED will be required to withhold and declare on behalf of DUP for the above transactions in Vietnam, assuming that under the contract all FCT will be borne by DUP. (3 marks)

(b) VIGLACONST JSC (VIGLACONST), a construction company in Vietnam, is developing a residential complex in Dang Xa, Gia Lam, Hanoi. VIGLACONST signed a contract to purchase specialised construction equipment from Ginie Ltd, a company established in Singapore.

The contract price is USD1 million and the terms of delivery is DDU (Delivered Duty Unpaid, Incoterms) Dang Xa. That means the price will cover all costs (equipment, insurance, transportation etc) to the delivery point at VIGLACONST's site premises in Dang Xa, Gia Lam, Hanoi. Risks will be transferred to VIGLACONST at the destination, before the equipment is unloaded from the carrier's truck. VIGLACONST will install the equipment themselves.

The contract is silent on which party will bear tax in Vietnam.

Given the tight credit terms from banks, VIGLACONST was late in arranging payment to Ginie Ltd and was subject to a contractual penalty of USD50,000 plus a USD10,000 interest charge for late payment. VIGLACONST has now fully settled the total amount of USD1,060,000 to Ginie Ltd.

Required:

Assuming that following settlement of the total amount of USD1,060,000, Ginie Ltd has insisted that they will not be responsible for any foreign contractor tax (FCT) in Vietnam:

(i) Explain VIGLACONST JSC's potential liability (if any) for FCT as a result of the contract with Ginie Ltd; (5 marks)

(ii) Assuming both parties then agree that Ginie Ltd bears FCT in Vietnam, calculate the maximum FCT liabilities that may be applied to each component of the USD1,060,000 payment from VIGLACONST JSC to Ginie Ltd. (4 marks)

(20 marks)

4 **(a)** Thanh Hung Ltd (THL) is a manufacturing company headquartered in Hanoi. THL has two dependent manufacturing factories, which do not maintain an accounting function, located in Hai Duong and Vinh Phuc provinces. All of the products manufactured by the headquarters and the manufacturing units are sold in Hanoi, with a value added tax (VAT) rate of 10%.

In January 2012, the total revenue (exclusive of VAT) from sales of the units manufactured in the Hai Duong, Vinh Phuc and Hanoi factories was VND800 million, VND1,000 million and VND200 million, respectively.

Required:

Calculate (in VND million) the amount of value added tax (VAT) to be paid to the Hai Duong, Vinh Phuc and Hanoi tax authorities by Thanh Hung Ltd if:

(i) The amount of VAT payable according to the tax declaration of the headquarters (i.e. output VAT – input VAT) in January 2012 is VND50 million; (3 marks)

(ii) The amount of VAT payable according to the tax declaration of the headquarters (i.e. output VAT – input VAT) in January 2012 is VND30 million; (3 marks)

(iii) The amount of VAT refundable according to the tax declaration of the headquarters (i.e. input VAT – output VAT) in January 2012 is VND30 million. (1 mark)

(b) When preparing the VAT return for June 2012, THL's accounting department discovered that materials purchased and received in early April 2012 under an invoice with input VAT of VND30 million had been damaged during the reception of the goods because of the negligence by their store-keepers. However, the invoice had still been declared in the list of deductible input VAT in the VAT return for April 2012.

Required:

Advise Thanh Hung Ltd of the correct VAT treatment of this invoice, and the appropriate actions to be taken regarding the VAT returns in order to comply with the current regulations in the above case. (4 marks)

(c) In October, November and December 2011, THL had three consecutive months with aggregate input VAT exceeding output VAT. So the company requested a refund of VAT of VND300 million in December 2011 and received this refund in March 2012. However, in June 2012 THL discovered that they had mistakenly declared an invoice for sales, issued in December 2011 with an output VAT amount of VND200 million, as an invoice for purchases.

Required:

Advise Thanh Hung Ltd of the appropriate actions to be taken in order to comply with the current regulations in the above case. (4 marks)

(15 marks)

5 TD Vietnam (TDV) is a subsidiary of TDG, a large Japanese group. In 2011, TDV had numerous purchases of goods and services from TDG.

Required:

Based on the guidance on the determination of arm's length price transactions between related parties provided in Circular 66/2010/TT-BTC dated 22 April 2010 ('Circular 66'):

(a) Define the terms 'arm's length price' and 'independent transactions'. (2 marks)

(b) Explain the requirements for TD Vietnam to disclose its transactions with TDG at the year end as stipulated in Circular 66. (3 marks)

(c) List THREE categories of information about transactions with related parties that TD Vietnam will be required to prepare and keep for the request of tax authorities in respect of its transactions with TDG. (3 marks)

(d) State the power of the tax authorities in determining taxable income if TD Vietnam fails to provide sufficient information for determining arm's length prices. (2 marks)

(10 marks)

End of Question Paper