Fundamentals Level – Skills Module

Taxation (Vietnam)

Tuesday 2 December 2014

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.

Paper F6 (VNM)

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 for 2013	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 You are the tax manager of DELTVN, a well-known international tax consulting firm. VNCE JSC ('VNCE') is a Vietnamese company operating in the business of construction materials, construction of civil works and construction-related services. VNCE has just appointed DELTVN for corporate income tax (CIT) review services.

VNCE has prepared the following draft CIT declaration for the year ended 31 December 2013:

		Note	VND million
A	**Accounting profit before tax**		**128,800**
B	**Determination of taxable income**		
1	**Adjustments to increase profits before tax**		**41,526**
1.1	Adjustments to increase revenue	1	12,500
1.2	Expenses related to revenue which is not taxed in this period	2	0
1.3	Non-deductible expenses	3	24,026
1.4	Income tax paid overseas for income received overseas		0
1.5	Other adjustments to increase profits before tax	4	5,000
2	**Adjustments to decrease profits before tax**		**10,200**
2.1	Non-taxable income	5	10,200
2.2	Revenue which is not taxed in this period	2	0
2.3	Expenses related to the revenue to be taxed in this period		0
2.4	Other adjustments to reduce profits before tax		0
3	**Total taxable income**		**160,126**
C	**Determination of corporate income tax (CIT)**		
	Total CIT at common tax rate (25%)		**40,032**

VNCE is audited by an independent auditor and the accounting profit before tax is taken from their audited financial statements. As the chief accountant was overseas for a business trip, the draft tax return was prepared by a junior accountant of VNCE, who has provided the following explanations with regard to the above items. All amounts are supported by proper documents, except where stated otherwise:

1. The increase in revenue resulted from an invoice issued by VNCE dated 2 January 2014 for deposits for construction works received from Client M on 31 December 2013. The deposits account for 10% of the contract value. VNCE has not yet provided any services to Client M, but recorded the taxable revenue because the money was received in 2013.

2. VNCE conducted construction consulting services for Client N during 2012 and 2013 resulting in total revenue of VND33,000 million and total costs of sales of VND17,000 million. VNCE issued invoices upon receipt of money from Client N while recognising revenue and expenses for accounting purposes based on actual progress. VNCE completed and finalised the contract during 2013. The company recorded the following in its income statement and tax return with regard to the services provided to Client N:

	2012		**2013**	
	Audited income statement VND million	**Audited tax return VND million**	**Audited income statement VND million**	**Tax return**
Revenue	15,000	20,000	18,000	To be discussed with tax adviser
Costs of sales	(8,500)	(12,000)	(8,500)	To be discussed with tax adviser

VNCE made the relevant adjustments for 2012 when preparing its 2012 tax return. These adjustments were accepted by the tax authorities in a recent audit.

3. Non-deductible expenses consists of:

– Expenses for purchasing waste materials without invoices	2,400
VNCE has properly prepared the list of goods purchased according to the regulated forms, however, the accountant thought he should still adjust the list for prudence purposes. Amongst these purchases, 60% were paid in cash to suppliers with no payment receipt and the remaining 40% were paid via a bank.	
– Depreciation of a hospital for employees inside the factory	500
– Depreciation of gym facilities for employees to use after working hours	200
– Depreciation over the cap of VND1,600 million of a four-seater car purchased on 1 January 2013 for the general director. The excess depreciation was calculated based on the purchase price inclusive of value added tax (VAT) at 10% of VND2,860 million.	126
– Amortisation of a land lease right in an industrial park for a piece of land which was leased for a project which was later abandoned	800
– Clothing expenses in cash (with signed receipts) of VND3·0 million per staff	1,200
VNCE also provided clothing in kind amounting to VND3·5 million per staff member to the same members of staff.	
– Total salary for six board members (two active members and four non-active members).	14,400
According to a board resolution, members who do not actively participate in the management of the company's operations receive 50% of the salary of members who actively manage the company.	
– Costs of goods for trading destroyed in a fire at VNCE's warehouse before delivery to the buyer. The goods were not insured.	1,500
– Penalty for late delivery of construction materials under a contract with an important Client P.	800
– Payment for the VAT portion of foreign contractor tax (FCT) on behalf of Client R. The contract with the foreign contractor is gross of VAT and corporate income tax (CIT), but the accountant only withheld the CIT portion and forgot to withhold the VAT portion when making the payment. The foreign contractor agreed to pay back the VAT portion but payment has not yet been made. Given the deadline for FCT payment, VNCE agreed to advance the VAT for the foreign contractor. This amount is recorded as an advance on behalf of a foreign party in VNCE's audited financial statements, but the accountant thought it would be prudent to make this adjustment because it would not be deductible.	750
– Sponsorship for the 'Spring Flower Street' event in Nguyen Hue Street, Ho Chi Minh City during the Lunar New Year Festival, on the condition that VNCE's logo appeared in the list of sponsors and VNCE received a certificate of sponsorship.	600
– Expenses without proper invoices	300
– Total expenses for the vacation trip of VNCE's employees to Nha Trang beach. The trip which is not related to business, was 50% sponsored from the Trade Union Fund contributed by employees and 50% sponsored by the company.	450

4. This item represents a non-refundable deposit which VNCE received on 30 December 2013 from Client T, for the construction of civil works which VNCE has not yet started. The accountant has seen an article on a forum advising that where a company receives money from clients, it should issue invoices and treat the item as taxable income in the year of receipt.

5. Non-taxable income:

   – Dividends from investment in listed shares 3,500

   – Dividends from subsidiaries 5,800

   – Interest income received on 1 October 2013 from exempt Government bonds purchased on 1 October 2012. 900

     VNCE's income statement also showed an accrued interest income portion for October to December 2013, but the accountant only made an adjustment for the amount actually received.

During fieldwork at VNCE, DELTVN's staff have reported on the following issues, which they think may have an impact on the tax return but have not been taken into account by the accountant:

6. In the year ended 31 December 2012, VNCE entered into a contract to purchase some specialised technical documents regarding new construction technology from a foreign company. The documents were delivered on 30 October 2012 and VNCE accounted for the whole contract amount, equivalent to VND2,100 million, as an accounting expense of 2012. VNCE did not account for this expense in its tax return for 2012.

7. During the year 2013 VNCE incurred the following foreign exchange gains/(losses), all of which have been properly reflected in the company's accounting profit before tax:

	VND millions
– Realised gains from operations	3,500
– Realised losses from operations	(2,500)
– Unrealised gains from the revaluation of cash and accounts receivable	1,200
– Unrealised losses from the revaluation of accounts payable	(2,200)
Total	0

Required:

Review the corporate income tax (CIT) declaration prepared for VNCE JSC for the year ended 31 December 2013 (as prepared by its accountant) and redraft it making all necessary adjustments.

Notes:
1. You should use the same format for the tax declaration as provided in the question.
2. You should make all calculations to the nearest VND million.
3. You should ignore any implications of value added tax (VAT) except for those items in note 3 which include specific reference to VAT.
4. You are not required to perform a calculation of the advertising and promotion expenses cap.

(30 marks)

2 Hung Phan, 30 years old, is a manager with DLCVN, an international law firm. He has been with the firm for six years. With effect from 1 April 2013, the firm decided to relocate Hung from Hanoi to Ho Chi Minh City due to work requirements. His family, including his pregnant wife, Trang Pham, joined him. The firm rented the family a small apartment in Phu My Hung at a rental of VND15 million per month from 1 April 2013.

Trang Pham used to work in a bank with a gross salary of VND24 million per month but with no other benefits, however, following the move to Ho Chi Minh City she decided to take temporary unpaid leave for her pregnancy. On 1 July 2013, she gave birth to twins, Trung Phan and Hieu Phan. Trang only returned to work on 1 January 2014.

During the year 2013, Hung received the following from DLCVN:

– Salary: VND32 million per month when he was in Hanoi, increased by 12·5% on his relocation to Ho Chi Minh City.

– Overtime payments: 200 hours overtime for the whole year at 200% of his normal salary of which 20 hours were worked when he was in Hanoi and the remaining 180 hours equally each month when he was in Ho Chi Minh City. DLCVN has an average of 160 standard working hours per month.

– Bonus: one month's salary received in January 2013 and another month's salary on 21 December 2013.

– Membership of a gym club in Ho Chi Minh City. The registration fee of the gym club is VND2 million per month and this was paid in cash to Hung Phan.

DLCVN bears all personal income tax with regard to the employment income of its employees, however, the employees are responsible for their own compulsory insurance contributions.

Required:

In respect of Hung Phan's personal income tax (PIT) for the year 2013:

(a) Calculate his total and monthly taxable income before housing allowance, his monthly housing allowance, his monthly personal deductions/reliefs, and his total non-taxable income, separately for each of the two periods:

- **1 January to 30 June 2013; and**
- **1 July to 31 December 2013.** (16 marks)

(b) Calculate the total annual PIT liabilities PAYABLE on his taxable income. (9 marks)

Notes:
1. You should make all calculations in VND millions rounded to one decimal.
2. You should, for simplicity, apply consistently the gross-up principles as provided in Circular 111/2013/TT-BTC regarding PIT for both periods in 2013 (i.e. you are NOT required to use different approaches in the gross-up calculations for each period as guided in the General Department of Taxation for 2013 PIT finalisation).

(25 marks)

3 DNTV Ltd ('DNTV') is an international tax consulting firm with a subsidiary in Vietnam. Recently, DNTV has been approached by various international clients for tax advice as follows:

Case 1: In 2013, foreign company A1 signed a contract for the construction of a factory for Z1, a Vietnamese company. The contract price is USD10 million (gross of value added tax (VAT) and corporate income tax (CIT)) made up as follows:

– Machinery and equipment supply: USD6·4 million

– Design and construction: USD1·6 million

– Supervision and installation services: USD2 million

A1 sub-contracted the whole of the activities for the supply of the machinery and equipment, and for the design and construction, to Vietnamese sub-contractors at the same contract price, and only performed the supervision and installation services themselves. A1 does not want to apply the Vietnamese Accounting System (VAS) for the project.

Case 2: Foreign airline CNAL has a booking office in Vietnam. In 2013 CNAL recorded the following from its activities in Vietnam:

– Revenue from air fares for passengers: USD1·7 million (inclusive of airport charges)

– Revenue from transportation of cargo: USD0·3 million

– Collection of airport charges on behalf of the State (paid back to the State): USD0·1 million

– Refund of air fares to passengers: USD0·4 million

Case 3: HZ Bank, a foreign bank located in Hong Kong, entered into an interest swap with VCB, a Vietnamese bank, on 1 August 2012. According to the swap agreement, settlement by the 'losing' party (i.e. the party which has the unfavourable interest movement) will be made every six months at the beginning of the period.

From 1 August 2012 to 31 January 2014, the following settlements have been made:

Period	Settlement date	Settled by HZ Bank USD million	Settled by VCB USD million
1 August 2012 to 31 January 2013	1 August 2012	2	
1 February 2013 to 31 July 2013	1 February 2013		3·5
1 August 2013 to 31 January 2014	1 August 2013	2·5	

For tax purposes in Vietnam the swap is treated as a financial derivative, which is exempt from VAT in Vietnam. According to the swap agreement, any settlement will be gross of foreign contractor tax (FCT) in Vietnam.

HZ Bank has heard from VCB that under FCT regulations it is possible to offset amounts payable and receivable in a year for FCT purposes, and HZ Bank wants DNTV to confirm this.

Required:

(a) For cases 1 and 2:

Calculate the foreign contractor tax (FCT) taxable income and tax payable in 2013, giving brief explanations of the reasons for your treatments. (10 marks)

(b) For case 3:

(i) Briefly advise HZ Bank of the FCT treatment of interest swap agreements in Vietnam.

Note: You are not required to understand and comment on the technical aspect of the swap transaction. (6 marks)

(ii) For each of the years 2012 and 2013, calculate the corporate income tax (CIT) portion of the FCT payable, and the amount net of tax receivable by HZ Bank. (4 marks)

Note: You should make all calculations in both parts (a) and (b) in USD.

(20 marks)

4 CRDTIV JSC ('CRDTIV') is a Vietnamese joint stock company which operates in various industries and also has invested in a number of 100% owned subsidiaries in various locations. CRDITV's head office is in a large office building owned by the company in the centre of Hai Duong Province (not located in an industrial park). All the business activities of CRDTIV are subject to value added tax (VAT) and all payments are made via a bank.

Transaction (1): CRDTIV recently finished the construction of a canteen and a dormitory for its employees at one of its factories. The input VAT incurred was VND180 million and VND500 million for the canteen and dormitory, respectively.

Transaction (2): CRDTIV also constructed a small medical station for its employees in the area near its head office. The employees, their family and people in the nearby area can all have a free medical check at the station. The station will have no revenue. The input VAT costs for the medical station were VND400 million.

Transaction (3): CRDTIV purchased a large quantity of helmets and pens all with the company's logo to give away to its customers for promotion purposes. The input VAT for these promotional items was VND80 million.

Transaction (4): According to the capital contribution agreement to set up one of CRDTIV's subsidiaries, CRDTIV made an advanced payment of VND3,850 million (inclusive of 10% VAT) to a vendor for the construction of a factory for the subsidiary. The vendor has issued VAT invoices to CRDTIV for this construction, since the subsidiary was not set up at the time of payment.

Transaction (5): CRDTIV purchased a fixed asset with a value of VND5,720 million (inclusive of 10% VAT) and immediately transferred the assets to its subsidiary, CRDT-X, for the same value. CRDT-X's activities are not subject to VAT. Since it was an internal movement of assets, CRDTIV decided to issue an order for internal movement of assets and did not issue a VAT invoice to CRDT-X.

Transaction (6): CRDTIV purchased materials valued at VND880 million (inclusive of 10% VAT) for the production of goods to be sold to an international organisation for non-refundable aid to Vietnam. The international organisation has provided CRDTIV with the documents regarding their non-refundable aid.

Transaction (7): CRDTIV purchased a four-seater car for its general director for VND1,980 million (inclusive of VAT 10%).

Required:

For each of the transactions (1) to (7) calculate the amount of CRDTIV JSC's creditable or non-creditable input value added tax (VAT) giving a brief explanation for any items which are NOT creditable in full.

Note: You should make all calculations to the nearest VND million.

(15 marks)

5 For the purposes of this question you should assume that today's date is 1 February 2014

WRD, a foreign invested company, has always prepared and submitted its corporate income tax (CIT) returns on time. WRD has recently identified that they have adopted the wrong tax treatment for an expense item. WRD thought that the expense should be deductible in 2012 and declared it as such in their annual CIT return for 2012. However, the item should only have become deductible when it was settled during the fourth quarter of 2013. WRD had already submitted their annual CIT return for 2013 before the mistake was identified. The tax implications of the wrong treatment of this expense item is VND1,000 million.

The tax authorities are currently performing a tax check for a value added tax (VAT) refund on WRD, and they plan to conduct a CIT audit for the years 2010 to 2012 in two months' time.

Required:

(a) State which of WRD's corporate income tax (CIT) return(s) would be impacted by the wrong treatment of the expense item and advise on the appropriate actions and procedures to be taken in order to reflect the expense in a compliant manner in its CIT return(s). (6 marks)

(b) State, giving reasons, whether the current value added tax (VAT) refund check by the tax authorities will have any impact on WRD's ability to correct the treatment of the expense item in its CIT return(s). (2 marks)

(c) Assuming that after the VAT refund check:

(1) the tax authorities announce a decision granting WRD a VAT refund of VND2,200 million for the period from January to September 2013; and

(2) after receiving the decision, WRD discovers a mistake in their July 2013 VAT return which the tax authorities did not identify which will reduce the VAT refundable by VND200 million.

Required:

Briefly advise WRD what action they should take in respect of the discovery and whether or not any penalty will be payable. (2 marks)

Note: You are not required to calculate either the tax or penalties payable for any part of this question.

(10 marks)

End of Question Paper