Fundamentals Level – Skills Module

Taxation (Vietnam)

Tuesday 3 December 2013

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.

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

Base salary (per month)

The base salary for social insurance, health insurance and unemployment insurance is VND21,000,000 per month

Rates of exchange

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

USD1 = VND21,000

ALL FIVE questions are compulsory and MUST be attempted

1 Minh Tam JSC (Minh Tam) is a large Vietnamese joint stock company, which was established in January 2010. Minh Tam trades in industry-specific equipment and also leases this equipment (under operating lease agreements) and provides services in relation to this equipment. In addition to these main activities, the company also has some investments in securities and real estate.

The unaudited income statement of Minh Tam for the year ended 31 December 2012 is as extracted below:

Items	Notes	Amount (VND million)
Sales revenue	1/2	290,000
Sales reduction	3	(4,000)
Net sales		286,000
Cost of sales	4	(168,000)
Administration expenses	5	(28,000)
Selling expenses	6	(47,000)
Operating profits		43,000
Other income	7	20,000
Other expenses	8	(8,000)
Profit before tax		55,000

NOTES:

1. In the case of the provision of services, Minh Tam often requests that customers pay 50% of the contract value on the signing of the contracts (i.e. before the actual performance of the services). In order to receive money from the customers, Minh Tam has to issue them with value added tax (VAT) invoices. In the year ended 31 December 2011 and 2012, Minh Tam made the following supplies for which VAT invoices were issued but the services had not been performed:

Year	Payment received before the services were performed (VND million)	Mark-up earned by Minh Tam on the supply	Notes
2011	4,950	25%	Profits were properly included in the accounting revenue of 2012, and declared in the taxable revenue of 2011.
2012	5,830	20%	Profits were not included in the accounting revenue of 2012.

Notes:

(i) All Minh Tam's services are subject to VAT at 10%.

(ii) The mark-up is calculated as a percentage of profit on estimated costs. For example, a mark-up of 20% means that if the cost of the services is 100, the company will earn a profit of 20 and the revenue (without VAT) is 120.

2. On 1 July 2012, Minh Tam leased an item of equipment for three years for a rental of VND500 million per month. According to the lease agreement, the rental will be reduced by 10% if the customers paid the full three years rental in advance. In July 2012 the customers paid the rental in full to enjoy the discount, for which Minh Tam properly issued invoices. In the unaudited income statement, Minh Tam has accounted for the six months lease revenue, and recorded costs relating to this lease of VND300 million per month. It also has evidence that this cost will remain stable for the whole of the lease term. Minh Tam has selected to declare tax for the whole of the lease rental received in advance in 2012.

3. In accordance with Minh Tam's sales discount policy, those customers who purchase more than ten items of equipment are given a cash discount of VND50 million. This cash discount is not deducted from the invoiced amount, but recorded as a sale reduction in the company's books. During the year 2012, these cash discounts were given to 12 customers.

4. In addition to the costs of the services and the lease mentioned (as referred to in notes 1 and 2 above) the following items in cost of sales are relevant:
   – The cost of sales for Minh Tam's trading activities accounted for 50% of the total cost of sales.
   – Minh Tam purchased various tools and instruments for assembling and handling parts of the equipment. These tools and instruments did not qualify as depreciable fixed assets under Vietnamese accounting standards. In 2012 these purchases amounted to VND3,300 million (inclusive of VAT at 10%). Minh Tam has expensed all of these purchase costs in the income statement, but for tax declaration purposes wants to amortise the tools and instruments in accordance with current regulations.
   – The salaries for the Board of Directors comprise VND7,000 million paid to members who are directly involved in the management of the company's operations, and VND2,000 million to members who were not involved in that management.
   – An accrual has been made for occasional bonuses for Lunar New Year Holiday of VND5,500 million. These bonuses were not provided for in either the Collective Labour Contract or any other documents, except for a statement in the Labour Handbook stating that 'the management will consider paying bonuses depending on the business operations results'. There is no evidence that the bonus payments will be made before the tax declaration deadline.
5. Administration expenses include:
   – *Per diems* paid to employees in cash during business trips (local and overseas) of VND7,000 million. The amount of the *per diem*s calculated based on the Ministry of Finance's guidance for Government officials on identical business trips is VND2,000 million.
   – Uniform allowances in cash and in kind made to all employees on 31 December 2012 of VND3,500 million. On 31 December 2012, Minh Tam had 400 employees.
6. Selling expenses include advertising and promotion expenses of VND40,000 million incurred during the year 2012, made up of the following items:

	VND million
TV advertising expenses	25,000
Marketing support	8,500
Trade fair expenses (half of these expenses were not supported by proper documents)	3,000
Product introductions	3,500
	40,000

7. Other income includes interest of VND8,000 million from Government tax-exempt bonds and profits of VND6,000 million from selling these bonds after receiving the interest. The bonds were purchased for VND100,000 million and sold for VND106,000 million.
8. Other expenses consist of:

	VND million
Self-assessed penalty for late payment of CIT in previous years	500
Self-assessed additional CIT liabilities from previous years which were discovered during 2012	2,000
Penalty for violation of economic contracts	5,500
	8,000

Additional information:

1. Proper supporting vouchers/invoices are available for all items unless otherwise stated.
2. All amounts not described in notes 1 to 8 are taxable/deductible in accordance with the current tax regulations.
3. Minh Tam pays corporate income tax at the standard tax rate of 25%.

Required:

Compute Minh Tam JSC's corporate income tax liability for the year ended 31 December 2012.

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 8, indicating with '0' those items for which no adjustment is required.
2. You should make all calculations to the nearest VND million.
3. All the amounts above are exclusive of value added tax (VAT), except when specifically stated otherwise.

(30 marks)

2 Thomas Clark, 50 years old, is an Australian citizen who has been living in Vietnam for over ten years. He is the general director of DG Co Ltd, the subsidiary of DG Group, a multinational company.

Eight years ago, Thomas married Ngoc Huong, a Vietnamese citizen, who is now 38 years old. Thomas and Ngoc Huong have a son, Alex, who is seven years old and have also adopted a girl, Ngoc Lan, who is three years old. Thomas's son, Christiano, 12 years old, from his previous marriage, also lives with them.

Thomas and his family live in a penthouse apartment in Ho Chi Minh City, which DG Co Ltd rents for Thomas at the cost of VND85 million per month. Additionally, Thomas received the following gross-of-tax income from DG Co Ltd during 2012:

– Salary: USD10,000 per month (net of a deduction of a USD5,000 per month contribution from Thomas to DG Group's voluntary pension fund). DG Co Ltd also contributes another USD5,000 per month to the pension fund. The fund deposits money with banks and will pay a lump sum to Thomas upon his retirement or the termination of his employment.
– International school and kindergarten fee of USD1,500 for each of Thomas's three children.
– Airfares of USD2,400 for the five members of Thomas's family to travel for a vacation to Europe.
– Car rental of VND20 million per month for Thomas's family to use at their discretion.
– Fixed medical costs of VND50 million for the whole year paid in cash (regardless of actual utilisation).
– Incentive of USD30,000 for his performance over the past year. Thomas can receive this incentive in cash or to convert it into DG Group's shares and bonds (listed overseas) at the market price. Thomas received the incentive in the form of bonds. These bonds were transferred to him at the year end, so he did not receive any interest in the year.

DG Co Ltd withheld compulsory health insurance contribution from Thomas's income in accordance with current regulations.

Ngoc Huong was the chief accountant of SBC JSC, a company listed on the stock exchange of Vietnam, until 31 October 2012. Her contractual gross-of-tax salary from 1 January 2012 was VND48 million per month. Due to the economic crisis, the company's performance was not very good and Ngoc Huong decided to terminate her employment at the end of October 2012 and become a housewife. On the termination of her employment, SBC JSC decided to pay her:

– A 13th month salary (pro-rata to the months of service in the year). However, Ngoc Huong only received VND15 million, being the residual amount after SBC JSC withheld provisional personal income tax and deducted the costs for the company's laptop which Ngoc Huong wanted to keep for her personal use after the termination.
– The refund of the VND200 million which Ngoc Huong had deposited in 2011 in SBC JSC's share purchase scheme. Under the scheme, the employee would be given the right to purchase shares of the company at a discounted price of 50% of their market value if the employee still worked for the company after three years. According to the scheme, the employee is required to deposit money each year for the cost of the shares which he/she wants to purchase. Where the employee leaves the company before the end of the three years (i.e. before 2014), the deposited monies will be refunded and the right to purchase is terminated.

Ngoc Huong started taking care of her mother, aged 70 years old, who has no income, from 1 May 2012, when her brother (who used to live with their mother) left for an overseas secondment.

Thomas and Ngoc Huong decided that Thomas would be registered to claim relief for all qualified dependants whom they have in common. Ngoc Huong registered to claim dependant relief for her mother only.

Required:

(a) Calculate the taxable income (including taxable housing income) and non-taxable income of Thomas Clark and Ngoc Huong for the year 2012. (16 marks)

(b) Calculate the tax liabilities of Thomas Clark and Ngoc Huong for the year 2012, assuming that they decide to finalise the tax with the tax authorities themselves. (9 marks)

Note: Your calculations should be made in VND million, to one decimal place, in both parts of this question.

(25 marks)

3 (a) FSAH Garment Co Ltd (FSAH), a company incorporated in Singapore, is a company trading in textile products. In recent years, FSAH has entered into various contracts with Vietnamese traders and manufacturers, including the following:

(1) Fabric purchase contracts

Contract A with BR Viet Co Ltd (BR Viet), whereby FSAH purchased fabric from BR Viet. The fabric was purchased by BR Viet mainly from local suppliers, but some was also imported from Chinese suppliers under Free-On-Board ('FOB' – Incoterms) terms. FSAH instructed BR Viet to deliver the fabric, under the mechanism of on-the-spot import/export, directly to Vietnamese customers under the sale contracts signed between FSAH with those customers.

Contract B also with BR Viet, whereby FSAH purchased fabric from BR Viet. FSAH instructed BR Viet to deliver this fabric, under the mechanism of on-the-spot import/export, directly to two manufacturing companies, incorporated in Vietnam, PRCS Viet Co Ltd (PRCS) and MNFT Co Ltd (MNFT), with factories in Dong Nai and Binh Duong provinces respectively, for further processing in accordance with the processing contracts in (2) below.

(2) Fabric processing contracts

Contract C with PRCS, whereby PRCS processed the fabric received from BR Viet into finished garments for FSAH, using equipment supplied by FSAH. As instructed by FSAH, the finished garments are to be exported directly to FSAH in Singapore and will then be sold by FSAH to non-Vietnamese customers. FSAH will pay PRCS a processing fee for the garments.

Contract D with MNFT, whereby MNFT processed the fabric received from BR Viet into semi-finished garments for FSAH, using equipment which MNFT itself had purchased from GEP, a company in Malaysia under Delivery Duty Paid ('DDP' – Incoterms) terms. Once the garments are semi-finished, as instructed by FSAH, MNFT is to deliver all these semi-finished garments, under the mechanism of on-the-spot export mechanism, to CSTM Viet, a Vietnamese trader.

(3) Equipment purchase contract

Contract E whereby FSAH purchased the equipment to be supplied to PRCS from GMEM GmbH (GMEM), a company incorporated in Germany, under a contract signed in Singapore. The equipment was to be transported to Vietnam at GMEM's own cost and imported at the Vietnamese port by PRCS, who would use it for processing fabric for FSAH under Contract C. Once the fabric processing under Contract C is completed, the equipment will be returned to FSAH by PRCS.

Required:

For each of the contracts A, C, D and E, briefly explain the following:

- **whether FSAH Garment Co Ltd (FSAH) will be subject to foreign contractor withholding tax (FCWT) in Vietnam;**
- **whether FCWT would apply to any of the other foreign parties involved in the transactions; and**
- **in those cases where FCWT is applicable to either FSAH or any other foreign party involved in the transactions, which company/party will be responsible for the FCWT declaration, if FSAH and all the other foreign parties involved selected the 'deemed' method for FCWT filing and payment.** (14 marks)

(b) ALD is a French company specialising in hotel and resort management. In November 2012 ALD entered into a contract with TH Co Ltd (TH), a Vietnamese company, for the management services in respect of its resort in the south of Vietnam. The contract is net of Vietnamese tax (i.e. TH will be responsible for the foreign contractor withholding tax in Vietnam).

Based on the contract, the fixed portion of fees which TH will pay ALD is:

– a resort management fee of USD4·5 million; and
– a fee for the use of the ALD brand-name of USD1·8 million.

In addition, TH will be responsible for all the accommodation and travel expenses of the expatriates assigned to Vietnam by ALD to perform the management services. TH has estimated the cost of these expenses at USD0·9 million.

The VAT rate applicable to the management activities is 10%.

Required:

Calculate, in US dollars (USD), ALD Co's annual taxable income and the corporate income tax (CIT) and value added tax (VAT) portions of the foreign contractor withholding tax (FCWT) in respect of the contract with TH Co Ltd. (6 marks)

(20 marks)

4 Bi-Los JSC (Bi-Los) is a Vietnamese joint stock company, which engages in many activities, but mainly the trading of goods in Vietnam.

Bi-Los had the following transactions during December 2012 for which the creditability of input VAT is questioned. All amounts are stated exclusive of value added tax (VAT) at 10% unless otherwise stated.

(1) Purchased goods with an invoiced value of VND5,000 million. Due to an accident, the whole inventory was damaged during transportation to Bi-Los's warehouse. The goods were not insured.

(2) Purchased two tons of liquid chemicals with an invoiced value of VND3,000 million for resale. The net volume received was 1·6 tons. The chemicals are evaporative in nature, and the regulatory normal loss due to evaporation during transportation is 10%.

(3) Paid VAT of VND1,500 million on 28 February 2012 in respect of imported goods which had been omitted from the company's declaration for February 2012.

(4) Received an invoice for VND4,000 million for the construction of a canteen for employees working in the company's factory in the Vietnam–Singapore Industrial Park.

(5) Purchased a 50-seater bus for transporting its employees at a value of VND2,300 million.

(6) Received an invoice for VND800 million for repairing an item of equipment which the company had purchased. The equipment had been damaged and an insurance company agreed to cover all the repair costs, but authorised Bi-Los to contract for and incur the repair costs on its behalf. Following the repair, Bi-Los handed the invoice over to the insurance company in order to claim the compensation.

(7) Incurred expenses of VND12,000 million in Vietnam for goods which were sold to Hoang Anh Co (HA), another Vietnamese company, for HA's project in Laos for which Bi-Los issued invoices without a VAT charge on the sales. Of the total amount of VND12,000 million, invoices for VND1,300 million were issued to the wrong tax code by Bi-Los.

(8) Invoices with an aggregate value of VND800 million were settled in cash. In the case of all these invoices the amount before VAT exceeded VND20 million.

Required:

For each of the above items, calculate the creditable and/or non-creditable input value added tax (VAT) and briefly explain the reasons for your treatment.

Note: You should prepare your answer in a table format with column headings of: Item number; Amount before VAT; Creditable input VAT; Non-creditable input VAT and Explanation.

(15 marks)

5 **(a) State the regulatory deadline for submitting the following tax declarations:**

(i) The monthly value added tax (VAT) declaration;
(ii) The quarterly corporate income tax (CIT) declaration;
(iii) The foreign contractor withholding tax (FCWT) finalisation when a contract is completed;
(iv) The annual CIT finalisation; and
(v) The CIT finalisation when a company is transformed from a one-member limited liability company to a joint stock company.

Note: The total marks will be split equally between each part. (5 marks)

(b) In December 2012, Mai Hanh Co Ltd (Mai Hanh), a Vietnamese company, identified that the value added tax (VAT) payable in their October 2012 VAT return was understated by VND200 million.

Mai Hanh have also discovered that the taxable revenue declared in the company's July 2012 VAT return should have been VND13,200 million instead of the VND12,300 million actually declared. This mistake, however, did not impact the VAT liability for July 2012 because the revenue misdeclared is from exported services, which are zero rated.

Required:

Advise Mai Hanh Co Ltd what documents they should submit to the tax authorities in respect of each of the two mistakes. (5 marks)

(10 marks)

End of Question Paper