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# Answers

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Section B

Marks

1 FXVN Ltd

(a) Regulations about the treatment of foreign exchange differences (*according to Article 6, Circular 78/2013 as amended by Circular 96/2015*)

During the construction period when the company has no business operations, foreign exchange differences arising from the settlement of monetary items in a foreign currency for the formation of fixed assets shall be recorded separately (*i.e. capitalised*).

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When the fixed assets are completed and put into use, the foreign exchange differences arising during the construction period shall be offset and the net gains/losses shall be allocated to financial income/expenses for corporate income tax (CIT) purposes for up to five years from the year the assets are put into use.

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Foreign exchange gains/losses arising from the time when the company starts its business operations (including transactions for the formation of fixed assets) shall be recorded in financial income/financial expenses as they arise.

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(b) Deductible expense from foreign exchange differences in fiscal year ended 31 December 2016

		Amount VND million	
<b>Foreign exchange differences capitalised</b>			
Loss from settlement for the purchase of machinery	<i>(21,450 – 22,410)*4 million</i>	(3,840)	1
Gain from settlement for the first construction invoice	<i>(22,470 – 22,410)*3 million</i>	180	1
Loss from settlement for the final construction invoice	<i>(22,290 – 22,370)*3 million</i>	(240)	1
Total (net) foreign exchange difference to be capitalised		<u>(3,900)</u>	0.5
<b>Deductible expenses</b>			
Deductible foreign exchange differences (losses) allocated to the year 2016	<i>(3,900/5 years*6/12 months, i.e. from July)</i>	390	1.5
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2 Mr Simon Samson

(a) Deductions from taxable income in the year 2016

		VND million	
<b>Self-deduction</b>			
<i>(9*10 full months from March to December 2016)</i>		90.0	1.5
<b>Dependant deduction</b>			
Luong Le <i>(3.6*5 months from August to December)</i>		18.0	1.5
Lauren <i>(3.6*10 months from March to December)</i>		36.0	1.5
<b>Insurance deduction</b>			
Voluntary <i>(VND1 million (capped)*8 months from May to December)</i>		8.0	1.5
<b>Donation</b>			
Qualified donation to charity fund		<u>60.0</u>	1
Total		<u>212.0</u>	<u>7</u>

Tutorial notes:

1. Time apportionment of the self-deduction and dependant deduction is not required under point c.1.2, part 1, Article 9, Circular 111/2013.
2. According to point d.1.3 of the same Article 9, a taxpayer's child having income of less than VND1 million average per month who is studying in a school, domestic or overseas, qualifies as a dependant. Thus Lauren qualifies as a dependant from the time Simon came to Vietnam, not just from September.
3. According to Example 11 in Article 9 of Circular 111/2013 as amended by Circular 92/2015, the maximum deduction allowed for contributions to a voluntary insurance fund is VND1 million per month, including contributions by both the employer and the employee. The total contributions for Simon were VND3.3 million (2.5 million + 0.8 million), will thus be capped at VND1 million per month.

**(b) Tax treatments of royalty income**

According to Article 13 of Circular 111/2013:

- A royalty shall be subject to personal income tax (PIT) at the rate of 5%. 0-5
- The taxable royalty shall be the total contractual royalty minus VND10 million, regardless of the number of instalment payments. 1

	VND millions	
Total taxable royalty ( $USD60,000 \times 22.5$ ) – 10 million)	1,340	1
Tax (1,340 million $\times$ 5%)	67	0-5
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**3 MCNR Co****(a) Deductibility of purchases and subcontracted services for foreign contractor tax (FCT) purposes**

According to Articles 12 and 13 of Circular 103/2014:

- Where a foreign contractor purchases materials, spare parts, machinery and equipment from local suppliers in Vietnam for the implementation of the contract, the value of the purchases would not be deducted from taxable revenue for FCT purposes. 1
  - Where a foreign contractor signs a contract to subcontract a part of the works to a local subcontractor in Vietnam, the value subcontracted would be excluded (deducted) from taxable revenue for FCT purposes. 1
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**(b) FCT payable if the contract price items are broken down**

	Taxable value (contract price) USD million	Corporate income tax (CIT) to be withheld	
Machinery and equipment	42.42 $(45 - 3 \text{ guarantee}) / (1 - 1\%)$		1-5
	<b>Tutorial note:</b> Local purchases not deducted.		
CIT		0.42 $(42.42 \times 1\%)$	0-5
Construction and installation	11.22 $(15 - 4) / (1 - 2\%)$		1
CIT		0.22 $(11.22 \times 2\%)$	0-5
Tax on services (remaining items)	18.95 $(3 + 8 + 4 + 1 + 2) / (1 - 5\%)$		2
	<b>Tutorial note:</b> Guarantee is taxed here.		
CIT		0.95 $(18.95 \times 5\%)$	0-5
Total FCT		1.60	6

**(c) FCT payable if lump sum price**

	Taxable value (contract price) USD million	CIT portion to be withheld	
Total value of contract	72.45 $(75 - 4 \text{ sub-contracted}) / (1 - 2\%)$		1-5
Total FCT		1.45 $(72.45 \times 2\%)$	0-5 <u>2</u> <b>10</b>

## 4 VRF Ltd

## (a) Value added tax (VAT) refund due for May 2016

	Domestic sales VND million	Exports VND million	Total VND million	
Revenue	16,800	25,200	42,000	0.5
Ratio	40%	60%		1
Output VAT	1,680 (16,800*10%)	0 (25,200*0%)	1,680	
Creditable input VAT(30 million from April + 9,600 million)			(9,630)	1
Excess of input VAT over output VAT (9,630 – 1,680)			(7,950)	0.5
Refundable input VAT for exports (allocated using the revenue ratio)		4,770 (7,950*60%)		1
Input VAT carried forward	3,180			0.5
	(7,950 – 4,770)			

The VAT refund by tax authorities was correct. In addition, the company can carry forward VND3,180 million to the next period.

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## (b) VAT refund for June 2016

	Domestic sales VND million	Exports VND million	Total VND million	
Revenue	60,000	32,200	92,200	
Ratio	65%	35%		0.5
Output VAT	6,000 (60,000*10%)	0	6,000	1
Input VAT carried forward from May (from (a))	(3,180)			0.5
Creditable input VAT allocation (per revenue ratio)	(2,600) (4,000*65%)	(1,400) (4,000*35%)	(4,000)	1
VAT payable for domestic sales – excess of output VAT	220 (6,000 – 3,180 – 2,600)			1
Refundable input VAT after offsetting domestic sales and exports (less than 10% of export revenue)		(1,180) (1,400 – 220)		1

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**Tutorial note:** The refund for May 2016 follows the principles set out in example 82 in Article 18 of Circular 219/2013, as revised by Circular 26/2015. The refund for June 2016 follows the interpretation of the principles set out in Article 18 of Circular 219, as revised by Circular 130/2016.

## 5 IVEX Ltd

## (a) Corporate income tax (CIT) for the year ended 31 December 2015

Tax rate	Income from original investment 7.5% VND million	Income from expansion 22% VND million	Other income 22% VND million	
Historic value of fixed assets	150,000 (200 – 50)	50,000		1
Assets allocation	75%	25%		0.5
Operating taxable income	40,000 (48,000 – 8,000)			0.5
Allocation of taxable income between original investment and expansion	30,000 (40*75%)	10,000 (40*25%)		1
Other income			8,000	0.5
Tax liabilities	2,250 (30,000*7.5%)	2,200 (10,000*22%)	1,760 (8,000*22%)	1.5
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## (b) CIT for the year ended 31 December 2016

	VND million	
Accounting profits	160,000	
Add back: accrued wages and allowances not paid before the CIT finalisation deadline (the 17% provision does not apply)	8,500	1
Add back: expenses not supported by documents (9,200 – 2,800)	6,400	1
Add back: depreciation for eight months in 2016 when machinery was not in use (6,000/5 years*8/12) – cessation for maintenance over 12 months	800	1.5
Add back: uniforms in cash in excess of VND5 million per person (720 – 120*5)	120	1.5
Deduct: profit share from BCC (exempt in the same manner as dividends)	(40,000)	0.5
Total taxable income	<u>135,820</u>	
CIT at 20%	27,164	<u>0.5</u>
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## (c) Deductibility of expenses

According to Article 6 of Circular 78/2014, as amended by Circulars 96/2015 and 130/2016, a company is allowed to deduct expenses which satisfy the following conditions:

- being actually incurred in relation to the business operations of the company; 0.5
- being supported by proper documents (e.g. invoices) according to prevailing regulations; and 0.5
- for invoices over VND20 million (inclusive of value added tax (VAT)), payment is made via a bank and evidence of this is available. 1

The deductibility position of the IT support services expenses charged to IVEX Ltd by the headquarter company would be as follows:

- The charge for expenses incurred at the specific service request of IVEX Ltd would likely be deductible, if the three conditions (as set out above) are satisfied, as these are actually services incurred in relation to the business operations of IVEX Ltd. 1
- The lump sum charge would likely be non-deductible because it would appear to be an allocation of the headquarter company management costs which may be deemed as not incurred in relation to the business operations of IVEX Ltd, and there would be no supporting documents regarding the validity of such charges (e.g. the allocation based on the judgement of the headquarter company would not be a valid justification for deductibility). 1

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**Tutorial note:** Other reasonable assessments of the deductibility would also be acceptable.

## 6 Mr Tony Phu

## (a) Taxable and non-taxable employment income for the year 2016

	Taxable in 2016 VND million	Non-taxable in 2016 VND million	Taxable in the future VND million	
Annual salary (580*12)	6,960			0.5
Two monthly additional salaries (580*2)	1,160			0.5
Incentive bonus (100,000 shares*0.048)			4,800	1
Car rental (30*12)		360		0.5
Medical insurance for family (180*5/6)	150			1
Medical insurance for himself (180/6)		30		1
Golf membership	160			0.5
Share options (50,000 shares*(0.045 - 0.010))	1,750			1.5
School fee for daughter	150			0.5
School fee for son (100*(1 - 5%))	95			1
Total employment income	<u>10,425</u>	<u>390</u>	<u>4,800</u>	<u>8</u>

**Tutorial notes:**

1. A non-accumulative medical insurance fee for an employee is non-taxable. The medical insurance fee for family members is taxable.
2. Tuition fees for children in Vietnam is a taxable benefit for Vietnamese employees, even if it is waived and paid directly to the school by the employer. The value of the benefit is the normal market fee, which in this case includes the 5% discount for the second child, as this granted generally by the school to everyone (not only to employees).

## (b) Personal income tax (PIT) liability on employment income for the year 2016

	VND million	
Monthly taxable income (10,425/12 months)	868.8	0.5
Self-deduction	(9.0)	0.5
Dependant deduction (3.6 million*2 children)	(7.2)	1
Compulsory insurance [24.2 million*(8% + 1.5% + 1%)]	(2.5)	1
Monthly assessable income	<u>850.1</u>	
Annual tax liability [(850.1*35% - 9.85) = 287.7*12 months]	<u>3,452.4</u>	<u>1</u>
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**Tutorial note:** The purchase cost of the shares when exercising the options deducted from Mr Tony Phu's salary is not deductible for PIT purposes because it is his individual investment.

## (c) Treatments of investment income

**Incentive bonus shares**

If Tony chooses to receive the shares, the investment income (capital gain) from the sale of the shares will become taxable when they are sold, and PIT will be payable at the rate of 0.1% of the sales proceeds. 1

**Tutorial note:** If Tony selects to receive cash, no investment income will arise.

**Shares purchased via the share option**

The investment income (capital gain) from the sale of the shares will become taxable when they are sold on 31 December 2016, and PIT will again be payable at the rate of 0.1% of the sales proceeds. 1

**Dividends**

Dividends are subject to PIT at the rate of 5% at the time of their receipt. 1

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