

Fundamentals Level – Skills Module

Taxation (Vietnam)

Tuesday 4 June 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 3–5.

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

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The question paper begins on page 3.

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%
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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, 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 (a) LOMA JSC (LOMA) is a Vietnamese joint stock company whose operations are diversified into many industries, including manufacturing, infrastructure development and real estate. LOMA's taxable income/(losses) from each activity in recent years is as follows:

Year ended 30 June	Manufacturing	Infrastructure development	Trading	Real estate	Capital gain from project transfer	VND million Other income
2006	(300,000)	(Company cannot account separately for each activity)				
2007	(30,000)	(Company cannot account separately for each activity)				
2008	(20,000)	(Company cannot account separately for each activity)				
2009	(10,000)	(Company cannot account separately for each activity)				
2010	100,000		(50,000)	(20,000)		35,000
2011	75,000	(95,000)	(15,000)	30,000		20,000
2012	90,000	15,000	(15,000)	(20,000)	45,000	10,000

LOMA had no real estate or transfer of project activities before the year ended 30 June 2010.

LOMA is entitled to the following corporate income tax (CIT) incentives for its activities during the period:

Manufacturing:

- Years ended 30 June 2010 and 30 June 2011: exempt from tax
- Year ended 30 June 2012: 5% tax (i.e. a 50% reduction from the 10% concessionary tax rate)

Infrastructure development:

- Year ended 30 June 2012: exempt from tax

None of the other activities are entitled to any tax incentives.

Required:

For each of the three years ended 30 June 2010, 2011 and 2012, calculate LOMA JSC's tax liabilities, if any, and the utilisable accumulated losses to be carried forward to subsequent year(s).

Note: In each of the years, you should clearly show the order for the offsetting of taxable income and tax losses to arrive at assessable income. Assume that CIT regulations which were issued during 2012 would be applicable to the entire year of 2012. (20 marks)

- (b) Capcon JSC (Capcon) is a Vietnamese incorporated company located in Hanoi with various investment projects in Ho Chi Minh City. On 1 July 2011, Capcon contributed the following assets to set up Caprec Ltd (Caprec), a limited liabilities company in Ho Chi Minh City which is wholly (100%) owned by Capcon. Caprec's year end is 31 December and Capcon's year end is 30 June.

Assets	Original cost	Accumulated tax depreciation/ amortisation (straight-line)	Agreed contribution value	Total depreciable life of the asset in Capcon's books
	VND million	VND million	VND million	Years
Land use right (LUR)	40,000	20,000	50,000	40
Equipment	25,000	10,000	30,000	5
Intangible asset (franchise)	30,000	6,000	40,000	10
Inventory	8,000		10,000	
Shares of FPT (listed in the stock market)	12,000		10,000	
Cash	10,000		10,000	

When taking over these assets, Caprec recorded them in its books at the agreed contribution value and continued to depreciate/amortise the assets over their remaining useful life as determined by Capcon. Caprec sold all the inventory contributed before 31 December 2011, its fiscal year end.

Before the capital contribution, Capcon registered with the tax authorities for the maximum period for the amortisation of the gain from the contribution of the LUR (i.e. 10 years); however, on 1 July 2012, Capcon sold all of its shareholding in Caprec to another investor in Vietnam for VND200 billion.

Required:

- (i) **Calculate the taxable gains of Capcon JSC and the deductible expenses of Caprec Ltd arising from the above transactions for their first fiscal year after the capital contribution (i.e. the year to 30 June 2012 for Capcon JSC and to 31 December 2011 for Caprec Ltd) under the most prudent approach;**

(8 marks)

- (ii) **Advise Capcon JSC on the tax treatment of the contributed land use right (LUR) on the sale of its shareholding in Caprec Ltd on 1 July 2012.**

(2 marks)

(30 marks)

- 2 Marty Bui, 45 years old, and Dion Tran, 44 years old, got married on 16 May 2012. They are both overseas Vietnamese, and both have been married before and are divorced.

Before their marriage, Marty and Dion were colleagues in Delta Ltd, a foreign invested consulting company located in Ho Chi Minh City. In accordance with Delta Ltd's internal rules, they could not both stay employed in the company after their marriage, so Marty decided to terminate his employment and set up his own business. On his last working day on 15 May 2012, Delta Ltd paid Marty the following:

- May salary: US\$8,000 (half of his monthly salary);
- May living allowance: US\$2,500 (half of his monthly allowance);
- May cash housing allowance: US\$1,500 (half of his monthly cash housing allowance);
- One-off severance allowance: US\$88,000 (Marty had worked for Delta Ltd since 1 January 2007 and the company decided to give him one month's salary for each year of working instead of the half a month's salary for each year of working as regulated by the law. The allowance granted for his employment in 2012 is rounded to half a month salary).

From 16 May to 31 December 2012, Marty's business earned him a taxable income from business activities of VND500 million.

Before their marriage, the couple used their eligible return air fares to their home country (the US) to visit their parents and prepare for the wedding. The total cost to Delta Ltd of both their air fares was VND100 million.

Delta Ltd gave Marty and Dion a wedding gift valued at VND100 million, on their wedding day.

Marty has a seven-year-old son, and Dion has a five-year-old daughter and a nine-year-old son, from their first marriages. Since the wedding, all five of them have been living together in Ho Chi Minh City in the apartment that Delta Ltd rents for Dion at a cost of VND63 million per month. The company also paid the school fees and kindergarten costs for all three children for the whole of the year 2012 at a cost of VND240 million per child.

In addition to the above benefits, Dion received the following income from Delta Ltd during the year 2012:

- Salary: US\$15,000 per month
- Living allowance: US\$3,000 per month
- Annual bonus: US\$36,000 per year

Required:

- (a) **Calculate Marty's and Dion's taxable and exempt income for the year 2012, in VND, allocating their common income in the most reasonable and tax-efficient manner.**

Note: According to the personal income tax (PIT) regulations, a severance allowance for the period before 2009 paid in accordance with the Labour Code is exempt from PIT. The Labour Code and related regulations stipulate that the employee is entitled to a severance allowance of half a month's salary for each working year before 2009. (19 marks)

- (b) **Calculate the tax liabilities of Marty and Dion for the year 2012, allocating the dependant relief in the most tax-efficient manner.**

Note: Ignore insurance contributions in your calculations. (6 marks)

(25 marks)

- 3 (a) SMTM Construction Co Ltd (SMTM) is a large Japanese company. SMTM recently won a bid for the construction of a large factory for MT JSC, a company in Binh Duong Province. MT JSC requested that the contract be a 'turn-key construction', i.e. SMTM would be responsible for the supply of equipment, construction, services etc required for the factory to operate properly when it was handed over to MT JSC.

SMTM estimated the value of works (excluding foreign contractor tax (FCT) in Vietnam) as follows:

- Supply of machinery and equipment: USD5,000,000
- Design services: USD1,000,000
- Construction works: USD2,000,000
- Installation services: USD1,000,000
- Commissioning services: USD500,000
- Training (on-site in Vietnam): USD500,000

The value added tax (VAT) rate for all the above works under the domestic VAT regulations is 10%.

SMTM is considering two alternative approaches for the contract:

- (1) To carry out all the works themselves. To do this, they will purchase machinery and equipment valued at USD1,000,000 and construction materials valued at USD300,000 domestically from Vietnamese sellers.
- (2) To sub-contract the supply of the machinery and equipment and the construction works to Vietnamese sub-contractors. Under this alternative, SMTM will carry out only the services of design, installation, commissioning and training.

The value of each item of works, as well as the content of domestic supply and sub-contract, if any, will be clearly stated in the contract.

SMTM has been using the deemed method for FCT for all of its other contracts in Vietnam.

Required:

- (i) **Briefly advise SMTM Construction Co Ltd (SMTM) and MT JSC of the foreign contractor tax (FCT) treatment under the deemed method of each of the two approaches that SMTM is considering for the implementation of the contract in accordance with the Circular 60/2012/TT-BTC. Your advice should clearly identify the taxable revenue, including the deductibility of the works carried out by the Vietnamese companies and the applicable tax rate(s).** (8 marks)
 - (ii) **Calculate, in USD, the taxable revenue and FCT liabilities (both the corporate income tax (CIT) and value added tax (VAT) portions) of SMTM for each of the two approaches.** (7 marks)
- (b) In order to make its tender offer more competitive, SMTM is considering replacing the on-site training activity by an online training arrangement. Under this alternative, the total training value would be USD300,000 (USD100,000 for the on-site training and USD200,000 for the online training), a saving of USD200,000 from the original estimate. SMTM believes that the online training is not subject to FCT as the activities are carried out outside Vietnam.

Required:

Briefly advise SMTM of the FCT treatment of the online training activity, and calculate, in USD, the FCT saving to SMTM for this alternative under approach (2) (i.e. SMTM will sub-contract all works except the services). (5 marks)

(20 marks)

- 4 Na Huong JSC (Na Huong) is a large joint stock company in Vietnam operating in various industries. In 2012, Na Huong carried out various transactions as follows:

Transaction 1: Signed a contract with Investinla JSC, another Vietnamese company, for consulting services in respect of Investinla JSC's new investment in Laos. The total contract value is VND500 million, of which 40% relates to services performed in Vietnam, and the remaining 60% relates to services performed in Laos.

Transaction 2: Lent money to an affiliated company, Nam Anh JSC, as follows:

- a loan of VND10 billion and charged Nam Anh JSC interest of 9% per annum; and
- an advance of VND1 billion for the purchase of goods, for which Nam Anh JSC will pay interest of 5% per annum for each month from the date the money is received to the date the goods are delivered.

Transaction 3: Signed a contract for the sale of ten tons of goods to Puchas JSC at the value of VND10 billion. To fulfil the contract, Na Huong ordered ten tons of the goods for VND8 billion from Repuless JSC; however, Repuless JSC failed to deliver the goods by the deadline and compensated Na Huong VND1 billion for contract violation. Because Na Huong failed to deliver the goods to Puchas JSC on time, Puchas JSC requested compensation for late delivery of one ton of goods. To fulfil the contract, Na Huong had to purchase 11 tons of goods from another supplier for VND9.9 billion (inclusive of VAT at 10%) for the supply and compensation due to Puchas JSC.

Transaction 4: Made the following transfers (internally) of non-current assets:

- non-current assets with a book value of VND10 billion to its 100% owned subsidiary, NH JSC, for producing consumer goods which are subject to VAT; and
- non-current assets with a book value of VND12 billion to an affiliate, HN JSC, at a revalued amount of VND14 billion.

Transaction 5: Acted as a commission agent as follows:

- for VinaAir, the largest airline in Vietnam. The last six months revenue from air fare sales under this agency contract was VND20 billion, of which Na Huong is entitled to commission at the rate of 5%;
- for PruManu Ltd, a life insurance company. Na Huong receives an average commission of VND1 billion from PruManu Ltd each year.

Note: All the above amounts are exclusive of value added tax (VAT), unless otherwise stated.

Required:

For each of the above transactions, briefly explain whether or not they will be subject to value added tax (VAT) and the requirements for the declaration of the VAT, if any, by Na Huong JSC. Assume that all the above transactions happened after Circular 06/2012/TT-BTC on VAT was in force.

(15 marks)

- 5 (a) On 15 April 2012, DLY Co JSC (DLY) signed a contract to purchase materials from SPL Co Ltd (SPL) for the production of pens. The total contract value is VND44 billion, inclusive of value added tax (VAT) at 10%. SPL delivered the pens on 15 July 2012, and issued a VAT invoice to DLY on the same date.

In accordance with the contract, the deadline for payment was 31 July 2012 but due to the tightening of credit from its bank, DLY had to pay SPL in three instalments as follows:

- on 5 September 2012: VND22 billion via a bank;
- on 10 October 2012: VND11 billion by depositing cash into SPL's bank account; and
- on 31 December 2012: VND11 billion via a bank.

Required:

Advise DLY Co JSC on the appropriate input value added tax (VAT) declaration in its VAT return for each of the months from July to December 2012 with regard to this contract. (6 marks)

- (b) CG Co JSC (CG) is the parent company of a group of companies, comprising CG and its four subsidiaries: CG01, CG02, CG03 and CG04.

CG is seeking advice on the most suitable method to determine the arm's length price for the following transactions between the companies in the group:

Transaction 1: Company CG01 sells clothes to Company CG02 for VND400,000 per unit. Company CG01 sells identical clothes to Company XT (not a related party) for VND600,000 per unit.

Transaction 2: Company CG03 sells clothes to Company CG04 for VND500,000 per unit. CG03's total costs for one unit of clothes are VND200,000. Similar companies often earn a mark-up of 7% on cost for similar sales.

Required:

State, giving reasons, the most appropriate method to determine the arm's length price for each of the above two transactions as provided in Circular 66/2010/TT-BTC (4 marks)

(10 marks)

End of Question Paper