

# Examiner's report

## F6 (VNM) Taxation

December 2015

### General Comments

There were two sections to the examination paper and all of the questions were compulsory. Section A consisted of 15 multiple choice questions (two marks each) which covered a broad range of syllabus topics. Section B had four questions worth 10 marks each and two longer questions worth 15 marks, each with a scenario to test the candidates' understanding and application of Vietnamese tax regulations in more depth. The following report on each section focuses on some of the noteworthy issues for each question.

### Specific Comments

#### Section A

Most, if not all, candidates attempted all questions in this section, with good results in many of the questions. Section A covers a broad range of the syllabus and requires candidates to illustrate not only understanding of the issues but also care to avoid potential distractors.

The following questions are reviewed with the aim of giving future candidates an indication of the types of questions asked, guidance on dealing with exam questions and to provide a technical debrief on the topics covered by the specific questions selected.

### Sample Questions for Discussion

#### Example 1

RETRA Co, a company specialising in developing real estate projects, has an apartment and villa development project in the centre of Hanoi, which is expected to be completed in 2018. The estimated total revenue and profits from this project are VND2,000 billion and VND300 billion, respectively. RETRA Co has been collecting money in advance from customers and in 2014 the total proceeds received were VND200 billion, on which provisional tax of 1% was duly paid on receipt.

**What is the taxable income from the project of RETRA Co for the purposes of its 2014 corporate income tax (CIT) finalisation return?**

- A. VND0 billion
- B. VND30 billion
- C. VND200 billion
- D. VND300 billion

The question tested the candidate's knowledge of the provisions in the CIT regulations about taxing time and tax treatment for the collection in advance with regard to real estate. The candidates are expected to demonstrate that they knew about the time of recognising revenue for real estate. At the time of the provisional tax payment in 2014 (i.e. time of collection), despite the fact that the company is required to pay provisional tax of 1% of receipt at the time of collection, no CIT-taxable revenue should be recognized at this point of time.

Accordingly, the correct answer should be A (VND0 billion).

#### Example 2



PROVI Co is a company established in Vietnam. PROVI Co paid provisional quarterly corporate income tax (CIT) of VND8 billion relating to the year ended 31 December 2014. The final tax liabilities of PROVI Co per its CIT finalisation return for 2014 was VND11 billion. The company settled the additional tax obligations as per its CIT finalisation return for 2014 on 31 March 2015.

**What is the amount on which the late tax payment penalty payable by PROVI Co will be based and from which date would it be charged?**

- A** Based on VND0.8 billion, payable from 31 January 2015
- B** Based on VND2.2 billion, payable from 31 January 2015
- C** Based on VND2.2 billion, payable from 1 April 2015
- D** Based on VND3 billion, payable from 31 January 2015

In this question, the candidates are tested on a new provision regarding late payment penalty triggering point according to Article 17 of Circular 151/2014 supplementing Article 12a of Circular 156/2013. It is provided that in case provisional quarterly CIT is lower than the finalisation CIT liabilities by 20% or more, the excess over that 20% shall be subject to penalty from the deadline of tax payment of quarter IV of the year, in this case 31 January 2015.

Accordingly, the correct answer A ("Based on VND0.8 billion, payable from 31 January 2015") was derived as follows:

Tax underpaid = VND 11billion – VND8 billion = 3 billion  
20% of the final CIT liabilities = VND11 billion \* 20% = 2.2 billion  
The excess of underpaid tax over 20% = 3 – 2.2 billion = VND0.8 billion)

The penalty would be based on the excess of the underpaid amount of VND3 billion over 20% of the final CIT liabilities, not on the underpaid amount of VND3 billion or 20% of the final CIT liabilities of VND2.2 billion.

## **Section B**

### **Question One**

This 10-mark question is about eligibility of tax incentives applicable on an investment expansion project, and the determination of taxable income and tax liabilities (with tax incentives).

The candidates are expected to know that the expansion is eligible for incentives, at least because it satisfied a condition specified in point 6(a), Article 18 of Circular 78/2014, with the design capacity of the expansion exceeds 20% of the original design capacity.

A small number of candidates correctly pointed out this condition. In addition, many candidates gave a formula for determination of taxable income based on revenue instead of historical costs of fixed assets, which is not correct.

In part (b) of the question with regard to the calculation of CIT liability, many candidates did not separate the taxable income of the original project versus the expansion project, despite the fact that they should be subject to

different tax rate. Encouragingly though, many candidates who attempted this question provided a correct calculation of the tax liability for other income of VND3 billion.

## Question Two

This question tested candidates about PIT deduction.

Many candidates correctly calculated all the available deductions, including self-deduction, dependant deduction, insurance deduction and donations in this question.

The most common mistakes in this question were the following:

- Mr. Takeshi's deduction period was 12-months, when he only spent 7 months in Vietnam;
- Deduction for the handicapped sister was claimed on the hand of Mr. Nobi: this is not correct because she is related to his wife, Ms. Ngoc Le and should be claimed as a dependant of Ms. Ngoc Le;
- Deduction for Mr. Takeshi's own son was for the full 7 months, while he became 18 (no longer dependant) by 1 May (so he only qualified as a dependant for 4 months)
- His deduction for insurance in Japan was omitted, despite the fact that it was specified that it is mandatory insurance;
- Ms. Ngoc Le's self-deduction was only for one month, or six months – while she remained a Vietnamese citizen for 12 months in the year and earned high income even after marrying Mr. Takeshi;

Some candidates provided a calculation of PIT liabilities for both Ms. Ngoc Le and Mr. Takeshi, which was not required and did not earn any marks.

## Question Three

This question tested candidates' understanding of Foreign Contractor Withholding Tax ("FCT") in various situations under provisions in the new Circular 103/2014.

A number of candidates answered that the contracts would not be subject to FCT because they are only for supply of goods without any services in Vietnam. It should be noted that under Circular 103, some provisions were supplemented stating that in case the foreign supplier(s) determining the selling price in Vietnam (as in the case of the contract with ELPPA Co., or the foreign supplier(s) bearing risks for the goods in Vietnam (DDP terms in the case of the contract with BookMac Co), they would be subject to FCT. In the absence of other information, it is fair to assume that they performed trading activities which would be subject to FCT at 1% CIT and exempt from VAT.

A number of candidates stated that PH Co is not subject to FCT (although not as many answers explained that the warranty clause itself would no longer be viewed as a trigger of FCT in Vietnam). Other scripts answered that the contract would be subject to FCT because of the warranty, regardless whether it would be actually implemented in Vietnam or not – it should be noted that such provision was abolished in Circular 103.

A number of answers incorrectly indicated that the training fee should be exempt because it was provided overseas. In fact, since the training was provided online, the supplier would be subject to FCT in Vietnam.

Many candidates stated that the license fee would be subject to FCT at the rate of 3% VAT and 2% CIT as "other income", which would be not correct because it should be treated as a "royalty", being subject to FCT at 10% CIT and no VAT.



The fact that this question was attempted by most candidates, and the results were satisfactory, showed significant improvement from candidates with regard to FCT questions – this is a welcome change from previous sittings.

#### Question Four

Generally most candidates did well in this question. The question tested candidates' knowledge about various important issues in VAT regulations, from the cap for deductible input VAT for luxury cars, or VAT treatment on displaying of goods, to the VAT treatment of promotions and give-aways.

A number of candidates made a common mistake in part (a) about the unit of deductible input VAT in item (1). The input VAT for construction costs should be VND60,000 million, not VND60 million.

Part (b) showed mixed results: while many candidates correctly pointed out that the water used for the vacation trip of the employees should be subject to VAT, they also indicated that the water used for meetings would also be subject to VAT. In fact, water used for client meetings is viewed as "internal consumption for business purposes" – and should not be subject to VAT.

For the water used for food processing, many candidates answered that it should be exempt from VAT. Technically it would not be 100% correct – the correct answer should be: SCG is not required to issue VAT invoice, not required to charge and declare VAT for this transaction, as provided in Circular 119/2014).

#### Question Five

This question was generally well answered. However, some candidates did not answer this question (perhaps because they did not allocate the time properly across the exam). A number of candidates showed confusion when making adjustments, with mistakes between negative (deduct) and positive (add back) adjustments.

Common mistakes from this question included:

- Both accruals were adjusted (many accruals should be subject to adjustments – except interest income and expenses which are always taxed on accrual basis).
- Welfare expenses were subject to adjustment when it should not be, because of the introduction of the one-month cap for deductibility of welfare expenses and in this case expenses did not surpass the cap.
- The whole vacation trips expenses of VND8,000 million were adjusted – in fact vacation trip was one of the welfare expenses, and together with the other expenses they did not exceed the cap. Accordingly only the items not supported by proper documents should be non-deductible and be added back.
- No adjustment for FCT borne for foreign contractor. These are non-reimbursed expenses which have not been provided in the contract and should therefore be non-deductible (an add-back adjustment is required).
- The loss of the overseas branch was not adjusted, when it should be added back because according to point 22, Article 7 of Circular 78, the results of overseas activities should be accounted separately and not offsettable with the profits of the bank.

#### Question Six

As with several previous sittings, this PIT question was generally very well answered.

Some candidates did make some minor mistakes, but these would not materially affect the good result. The most common mistakes were the following:

*Part (a)*

- Various candidates incorrectly treated the base salary as non-taxable and the excess of base salary as taxable (the correct treatment should be the reverse)
- Fixed wage in ILO was ignored, or calculated for a 12 month period (Ms. Dau only worked with them for 9 months).
- Compensation from the insurer was treated as a taxable income when it should not.

*Part (b)*

- The deduction for the husband was ignored by some candidates.
- Both sources of income were combined for grossing up and PIT calculation. According to PIT regulations however, when the employee has more than one source of income, each source should be grossed up separately at different tax bands. This is the most important change from previous regulations that all candidates are expected to know.
- Income from both sources were multiplied by 12 months. From the question, Ms. Dau only received 9 months' income from ILO.