

# Examiner's report

## F6 (VNM) Taxation

December 2016

### 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 worth 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 testing the candidates' understanding and application of business and individual tax issues in Vietnam in more depth, often in the role of a consultant or practitioner. The following paragraphs report on each section and focus on some of the key learning points.

### Specific Comments

#### Section A

Almost all candidates attempted all of the questions in this Section. This section covers a broad range of syllabus outcomes and requires candidates to illustrate not only understanding of the issues but also carefulness to avoid potential distractions. The attempts and results are satisfactory.

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

On 1 November 2014, PCS Co purchased materials for VND100 million from its suppliers. PCS Co settled 75% of this amount in 2014 by bank transfer, and the remaining amount on 2 January 2015 in cash. The cash payment was treated as a non-deductible expense in PSC Co's tax return for 2014 and no adjustment was made in the tax return for 2015.

**What is the amount of the correcting adjustments to deductible expenses that PSC Co. should make in its 2014 and 2015 tax returns with regard to the above transactions?**

	2014	2015
A	VND0	VND0
B	VND0	VND25 million reduction
C	VND25 million reduction	VND25 million increase
D	VND25 million increase	VND25 million reduction

This question tested a new amendment in the Corporate Income Tax regulations. According to Article 4 of Circular 96/2015 revising Article 6 of Circular 78/2014, where a company makes cash payments of over VND20 million, the company must reduce the expenses in the year that the cash payment is made.

Accordingly, the current treatment of the Company (to treat it as non-deductible expenses in 2014 and no adjustment in 2015) was incorrect. The Company should have made no adjustment in 2014 and reduce deductible expenses in 2015 (the year of cash payment).

However, the question asked for "**correcting adjustments to deductible expenses**". Thus, the correcting adjustment to the current treatment would be to increase the deductible expenses of 2014, and to decrease the

deductible expenses in 2015 both by VND25 million (the amount in excess of VND20 million paid in cash). That would make answer D the correct choice.

### Example 2

Ms. Nguyet Truong, a Vietnamese citizen, was the owner of shares in VCI Co, a company listed on the Vietnam stock exchange. In 2015, she received dividends worth VND250 million from VCI Co. 20% of these dividends were paid in cash, and the remaining 80% in the form of VCI Co.'s shares. Ms. Nguyet Truong had no other stock transactions in 2015.

**What is Ms. Nguyet Truong's personal income tax (PIT) liability on the dividends received from VCI Co. in 2015?**

- A VND0 million
- B VND12.5 million
- C VND2.5 million
- D VND10 million

This question tested the personal income tax (PIT) treatment of dividends – which can be paid in the form of cash or scrip dividend (dividend by shares). This is an important issue that candidates are expected to clearly understand due to differences in tax treatments.

According to Article 10 (point 3.c) of Circular 111/2013, dividends received in cash by individuals are subject to 5% PIT upon payment of the dividend. Dividends received in the form of shares are only subject to PIT at the time the shares are sold.

The question asked for PIT liability in 2015 of Ms. Nguyet Truong from the dividends. As she had no other stock transaction in 2015 apart from the dividends, the only PIT liability she would be subject to came from cash dividends.

Accordingly, the correct answer would be C: VND2.5 million (calculated as 250 million \* 20% in cash \* 5% tax rate). In 2015, she cannot be exempt from PIT as in answer A. It would also be incorrect for the whole dividend to be taxed in 2015 (as in answer B) or only the dividends in form of shares were taxed in 2015 (as in answer D).

## Section B

### Question One

This 10-mark question covered the topics of loss carry forward in the context of a company with incentivised and non-incentivised activities. The Company in question HVNV Co had two activities, software development (incentivised) and trading (non-incentivised), with some years of losses in software development (and especially, one year of 2011 with non-separable loss).

Part (a) for nine marks required candidates to calculate the assessable income and tax rate for CIT in the years 2012 – 2015. Candidates were expected to understand the principles of loss carry forward set out in CIT Circulars. Candidates' performance was unsatisfactory – in various cases candidates did not follow the instructions (and examples) in the Circular 96 and its subsequent revisions.

Some common mistakes made by candidates include:

- As it is inseparable, the loss of 2011 must first be allocated to incentivised activities. Various candidates apportioned such loss to both activities.
- For 2013 and 2015, the loss of software development should be offset with profit of trading activities first (as instructed in the examples 17, 18 and 19 of Circular 96). Instead, some candidates did not perform any offset between the activities within the year.
- The incentivised tax rates (50% reduction) only applies to software. Various candidates applied the 50% reduction to trading activities (so that the tax rates for 2012 – 2013 and 2014 – 2015 was 12.5% and 11%, respectively).

Part (b) for one mark required candidates to perform an allocation of the loss in 2015 to the respective shareholders of the company in the shareholding ratio of 65% - 35%. Most candidates who attempted this question made the allocation appropriately.

## Question Two

This 10 mark question required an understanding of the tax implications of various share award schemes to individual employees, and a normal calculation of personal income tax (PIT) liability on employment income.

As usually seen from recent exams, candidates' performance on PIT calculations in part (b) was satisfactory. However, it appeared that most candidates did not read the question in part (a) carefully and therefore did not directly answer the question.

In part (a), many candidates mixed up the incentives received by Mr. Nghia Phan in 2014 with the scheme offered to him in 2015. The question asked for a description (and effectively a comparison) of the tax treatments between the "cashing share award" in 2014 versus the "share award" in Option (2) of 2015. Most candidates who attempted this question actually compared:

- Option (1) (cash bonus) versus Option (2) (cash bonus plus share award), or
- The offer in 2014 (cashing share award) versus the offers in 2015

Some candidates viewed the cashing share award and actual share award as investment income being subject to 5% PIT. The correct answer would be both the cashing share award and share award were a form of bonus and should be treated as employment income (although the taxing time is different).

Part (b) was answered satisfactorily. A few candidates nevertheless performed a gross up calculation, despite it clearly stating in the question that Mr Nghia Phan received gross income. In some cases, candidates did not show a working / formula for the PIT calculations. It should be noted that marks were awarded mainly based on the workings (including formulae) rather than the final results. Accordingly candidates who show appropriate workings would get full credit despite that the final result may deviate from the standard answer.

## Question Three

This 10-mark question covered the topics of foreign contractor tax (FCT). It was the first time when the tax implications of treasury bills were questioned, but the performance of candidates was satisfactory, especially in parts (a) and (b).

Most candidates correctly addressed the number of bills held on the maturity date in part (a) with a simple comparison between volume bought and volume sold.

In part (b), despite that some few candidates applied a simple weighted average to estimate the buying price of treasury bills held on the maturity date, most candidates who attempted this part correctly arrived at the FIFO weighted average price as required by the question, and got the full five marks.

Although many candidates got more satisfactory marks for part (c), only a few scored the full four marks for this part, because of the following mistakes:

- The sales of treasury bill were taxed at 5% instead of the correct 0.1% for securities sales
- Various candidates applied the rate of 0.1% for the redemption of treasury bills without reading the note in the question, that redemption of treasury bills should be viewed as interest (and subject to 5% FCT rate)

#### Question Four

This 10-mark question covered the topics of value added tax and particularly invoicing. The performance were mixed: answers for part (a), b(i) and c(i) were good while the answers for the remaining parts were unsatisfactory.

Part (a) for two marks required candidates to determine and select the date to issue invoice amongst: delivery date, title transfer date and payment date. Most candidates correctly selected 2 April 2015 (being the title transfer date), although a few still thought that invoice should only be issued upon payment date – which was later than requirements under invoicing regulations.

Part (b) (i) asked “when it is compulsory” for a company to issue an invoice to customer with a purchases valuing less than VND200,000. The correct answer would be “when it is specifically requested by the customer”. In fact many candidates stated that “it is not compulsory unless required by customer”. They still received full credit as the answer was not incorrect, although it should be noted that such an answer does not specifically and directly address the question as expected.

Many candidates left part b(ii) unanswered, or gave the same answer for both cases, for example:

- no invoices are required in both cases if customer do not request (this is incorrect because invoices are always required for purchases in excess of VND200,000)
- the seller can issue one invoice at the end of the month for both cases (this answer is incorrect because the seller can only issue one invoice at the end of the day for the sales of petroleum, not items sold in the convenient stores)

Contrary to part (a), many candidates who attempted part (c) incorrectly determined the date for issuing invoices for services provision. The question asked for the date of issuing invoices for the “set up services”. It should be noted that service providers are required to issue invoices upon collection of money or completion of services, whichever is earlier. In this case, the earliest date for the set up service would be 15 June when HGV collected the fee, and it should be the date of invoice issuance. Many candidates selected 20 June which was later than required under regulations. Various candidates also provided the date for issuing invoices for the internet subscription fixed fee which was not required.

#### Question Five

This question, with 15 marks, was generally a familiar question with candidates who practised with past year questions thoroughly.

Some candidates attempted this question without showing the workings and this should be avoided because marks were awarded mainly based on workings rather than final results. Some other candidates gave lengthy

explanations about the reasons why they made an adjustment, which was also not recommended because time was wasted for things that were not required. Most candidates showed that they had a generally good understanding about tax-related adjustments, but some still showed confusions when making the adjustments, especially for issues that look complicated such as the accrued bonus.

Common mistakes noted from this question include:

- No adjustment was made for the accruals of VND11,000 million in the 2015 audited financial statements. As the actual payment of VND12,500 million was made before the deadline for tax declaration, the company would be allowed to deduct this actual payment amount in 2015, and thus should have an additional deduction of VND1,500 million compared with the financial statements.
- Various candidates did not make adjustment for the income received from Singapore, and did not take into account the foreign tax credit from such income. In fact, as this is an offshore investment, the whole profits (before Singapore tax) would be taxed in Vietnam and the tax paid in Singapore should be accounted for as foreign tax credit (at the lower of the tax actually paid and the tax that should be paid at the Corporate Income Tax rate in Vietnam).
- The whole rental income (of VND26,400 million inclusive of VAT, or VND24,000 million exclusive of VAT) was adjusted (either as addition or deduction) in 2015. This was not a correct adjustment, because only the portion amortised in the financial statements (i.e.  $26,400 / 1.1 / 4$  years) should be adjusted, and it should be deducted as a non-taxable income.
- Many candidates made adjustment for the VND600 million depreciation without really understanding that no adjustment was required (because the company qualified for accelerated depreciation in this case).
- Various candidates stated that the tax rate was 20% (it should be noted that the CIT rate for 2015 was 22%, and 20% would only be applicable for 2016).

## Question Six

As with the previous question, this 15-mark question was also a familiar question to candidates. This question was generally well answered by most candidates.

In part (a)(ii) which requires calculation of taxable income and non-taxable income, most candidates separated the taxable income and non-taxable income into two columns (as suggested in the standard answers in past exams) – which was a sound and clear form of presentation for this type of question. This made it easier for them to arrive at the answer. One issue for this part would be that many candidates still perform calculations in USD without converting into VND million, despite that it was clearly requested in “Note” of part (a) question.

In part (a)(ii) about tax calculations, It should be noted that “remuneration” without specifying whether it is gross or net would usually means the employee bears tax (i.e. the package is gross of tax), according to the practice and regulations in Vietnam. Some candidates however performed gross up calculations without making any assumptions that the package is net. They still got credit for the relevant parts (such as deduction, tax calculations etc.), but lost precious time performing unnecessary calculations. Certainly those who made the assumptions that the package is net, and performed the calculations accordingly still got full credit.

Similar to other questions, some answers from candidates did not show workings – which were the most important determination of marks.

Part (b) was generally well answered by candidates.

Some other common mistakes by candidates in this question include:

- Various candidates were confused of the taxability of the tuition fees of Jennifer and Lewis. As Jennifer was in university, her university tuition fees would be taxable, while the school fees of Lewis were non-taxable. Various candidates treated both fees as non-taxable, or reversed the correct treatments.
- Many candidates treated taxable airfares costs as only one round trip. There were four trips, of which three round trips were taxable (one of Mr. Tommy Morning and two of his wife), and only one trip from him can be treated as non-taxable.
- The car expenses should be non-taxable under the new provision in Article 11.4 of Circular 92/2015. Various answers treated the expenses as taxable.
- Many candidates made the accumulation insurance as taxable – while it should only be taxable when being paid (not in 2015).