



# Examiner's report

F6 Taxation (VNM)

June 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 and focus on some of the noteworthy issues for each question.

## Specific Comments

### Section A

A majority of candidates attempted all questions in this section, which is very encouraging given they were a new form of testing. This Section A covers a broad range of the syllabus and requires candidates to illustrate not only understanding of the issues but also carefulness to avoid potential distractions.

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

Which of the following statements are correct?

- i. The Vietnamese language shall be the official language used in tax-related documents to be submitted to tax authorities.
- ii. Documents in foreign language must be translated into Vietnamese. All translations must be performed or certified by an authorised public notary.
- iii. In case the documents in foreign language are more than 20 pages (of A4 size) long, the taxpayer is allowed to translate key provisions relating to the determination of tax obligations (plus a written explanation to tax authorities).

- A. i only
- B. ii and iii only
- C. i and iii only
- D. i, ii and iii

The question tested the candidate's knowledge of the requirements regarding tax-related documents in Vietnam from both regulations and practical perspective. It is expected that candidate should know that all the tax-related documents must be in Vietnamese, translation will be required in case the documents are in foreign language, and the taxpayer is allowed to make a "summary translation" in case the documents are too long.



Public notary of the translation is required in certain cases, however, it should be noted that not “all”, but only some translation documents must be performed or notarized by public notary. Accordingly, statement (ii) is not correct, making B and D inappropriate choices.

As explained above, the correct answer is C (i and iii only).

## Example 2

**What is the late payment penalty rate per day in the case of a company which settles its outstanding tax within 90 days from the time the liability arose, before 1 July 2014 and from 1 July 2014 to 31 December 2014?**

	<u>Before 1 July 2014</u>	<u>From 1 July to 31 December 2014</u>
A	0.05%	0.05%
B	0.05%	0.07%
C	10%	10%
D	10%	20%

This question tested the candidate’s knowledge of the penalty applicable in case of late tax payment. Many candidates in prior sittings did not answer well on questions in this area.

Generally from 1 July 2014, in case the taxpayer makes a late tax payment within 90 days, the penalty rate for late payment would still be 0.05% per day, the same rate as the period before 1 July 2014. The rate will only be increased to 0.07% for that period if the late period is in excess of 90 days. It should be noted that the question asked for the rate “within 90 days”. Accordingly the correct answer should be A (0.05% in both period).

The 10% and 20% rate in C and D are penalty rates for shortage of tax payment, not late tax payment.

## Section B

### Question One

This 10-mark question is about the tax treatments for depreciation of a luxury car, repair costs of the car and disposal of the car. Some of them are newly regulated issues in the Circular 78.

In Vietnam, it is important to determine car depreciation based on the number of seats. For cars which have less than 9 seats, the depreciable amount for tax is normally capped at VND1.6 billion (excluding VAT). It should be noted that the question did not specifically mentioned the number of seats of the car, however the point mentioned in the question “luxury car for the chairman” – which provides a hint that it should have less than 9 seats and the cap would be applicable.

Various answers for all 3 parts were however based on the actual purchase amount (even some answers did not exclude the VAT portion). These answers were given full credit in the case where the candidates clearly stated an assumption in the answer that the car had more than 9 seats.

Various candidates forgot to time apportion the depreciation expenses for the car in 2014 for CRU, and in 2015 for CRS. Some also deducted the non-deductible repair costs arising in 2015 in 2014, which is inappropriate.

## Question Two

This question tested candidate's knowledge on Personal Income Tax in the case where an individual earns income from investments.

Various candidates attempted this question but the question was not well answered. In part (a), there were two taxable incomes at the time of the share sale:

- Capital investment income being the script dividend (paid in the form of shares), and
- Gain from transfer of capital

Typically a majority of candidates only accounted for the gain from transfer of capital. The provisional rate should be 0.01%, however in many scripts the rates of 2%, 5% or even 20% were used. The application of 20% in part (a) was surprising because it was clearly required in the question part (b) for a calculation of final PIT "under the 20% regime".

For 5 marks in part (b), many candidates simply multiplied the selling considerations with 20%. Some other used a First-In-First-Out approach for the calculation of the purchase price - the correct approach should however be the average purchase price.

Combined with the good results from the question 6 (also about PIT but on employment income, a frequently tested area), the poor performance in this question indicated that many candidates were not well prepared for questions about a common area but on unfamiliar issues. This should be improved in the subsequent sittings.

## Question Three

This question tested candidate's ability to calculate Foreign Contractor Withholding Tax in the case where the contract price is quoted as a lump sum or separate value. There has been a reversion of the calculation mechanism in the newly issued Circular and thus candidates were expected to show that they were familiar with the change.

The question was generally well answered. Most candidates performed perfect "gross-up" calculations and in correct order (CIT portion, and then VAT).

While the "gross-up" was satisfactory, the application of tax rates were not. In various cases the tax rates applicable to the lump sum contract were 5% CIT plus 5% VAT, or 3% CIT plus 2% VAT (the correct rate should be 2% CIT plus 3% VAT). Meanwhile for the separate value contract, services were in many candidates scripts imposed a rate of 2% CIT.

The imported machinery and equipment should be exempted from VAT, but some candidates still applied 1% or 5% VAT rate.

Despite the common mistakes about the rate, the fact that most candidates attempted this question with satisfactory performance showed significant improvements from candidates with regard to FCWT, traditionally viewed as one of the most challenging area of the syllabus.



#### Question Four

This question was a theory question focused on VAT and the requirements to issue VAT invoices in a number of promotion campaigns. The area examined tested candidate's understanding of the complicated changes in the tax treatments in this regard under recent newly issued regulations.

Despite the fact that the changes are complicated, the answer showed most candidates were well prepared. Generally the answers about VAT treatments and invoices, especially in Campaign (1) were quite satisfactory – most candidates correctly answered that in the case where the campaign is registered the company should not charge VAT and can issue a VAT invoice with 0 taxable value, while charging full VAT in the case where the campaign is not registered.

The only important frequent omission in the answers of all three parts (a), (b) and (c) would be the creditability of the input VAT.

#### Question Five

This question is the first amongst two 15-mark long questions. It is a condensed version of the 30-mark question on Corporate Income Tax from the prior exam format.

As its predecessor in recent sittings, candidates' performance to this question was very mixed. While most candidates attempted this question, not all of them followed the appropriate methodology as set out in various prior past exams. Many candidates reproduced the Income Statements and adjusted the Sales revenue, costs of sales and expenses with the items given. This inappropriate approach not only cost candidates various inefficient time reproducing the items (which earns no mark), but also made it very difficult for them to determine the correct adjustments (add back or deduct?).

Common mistakes from this question also included:

- Adjustments of VND400 million for the under-provided bonus in 2013 (there should be no adjustment as the additional costs actually paid would be both accounting expenses and deductible expenses for tax in 2014)
- No adjustment for the reimbursement for tuition and exam fees (these should be non-deductible and be added back because these were paid in cash, and the invoices were issued to the name of the employees, not the company)
- No adjustment for the reversal of the over-provision (this reversal was accounted for as income in 2014, but it should not be taxable because the original provision has never been deductible in 2008)
- No adjustment for tax recollection and penalty (these should be adjusted with an add-back as these are non-deductible expenses).

#### Question Six

This question is a condensed version of the 25-mark question two about Personal Income Tax in the prior exam format.

This question was generally well answered. Personal Income Tax on employment income has often been a favourite area for candidates and this sitting was not an exception. Many candidates got maximum marks from this question.

Some minor mistakes were made by candidates, but these would not materially affect the generally satisfactory answers:

- Various candidates converted the taxable and non-taxable income into VND from part (a), despite that the question clearly required “Calculate, in USD” of the amounts.
- Many candidates forgot to time apportion the salary and bonus of Mr. Kwon to 10 months (whereas his remuneration in the question is stated for “annual” terms, i.e. 12 months).
- Some candidates classified the air fares for the family as non-taxable, which is not correct
- Likewise, the university fee for the daughter was in certain scripts classified as non-taxable income. Conversely in some other scripts the school fee for the son was classified as taxable.
- Performance bonus in some answers was treated as non-taxable.
- Many candidates correctly performed a comparison of actual housing vs. 15% of gross income for taxable housing calculation, however the comparison was made in part (b) instead of part (a)
- Various candidates performed a “gross-up” calculation despite that it was clearly indicated in the question that Mr. Kwon’s income is “gross of Vietnam” tax. This would make the calculations not only unnecessarily complicated but also incorrect.