

Examiner's report

F6 (VNM) Taxation

June 2017

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

All candidates attempted almost all of the questions in this Section. 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 results of the attempts 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

In the year ended 31 December 2016, SCP Co, a Vietnamese-based company having no tax incentives, purchased materials valued at VND2,000 million for its production activities. 60% of the purchased materials were issued for production before the remaining 40% was seriously damaged in a fire. SCP Co can only sell the leftover for scraps for VND500 million. The company's insurer agreed to compensate it VND200 million for the damage.

What is the corporate income tax (CIT) implication on SCP Co for the year ended 31 December 2016 due to the damaged materials (ignore value added tax (VAT))?

- A Taxable income increased by VND200 million
- B Deductible expenses increased by VND100 million
- C Deductible expenses increased by VND300 million
- D Taxable income increased by VND700 million

According to the revised Article 6 of Circular 78/2014, the deductible expenses for damages due to force majeure shall be the remaining amount after deducting compensation by insurance companies.

Thus the correct treatment would be that the remaining non-compensated damages are deductible.

Non-compensated damages = actual losses – insured amount

- Actual losses = Damages (40% of the materials value, i.e. $2,000 \times 40\% = 800$ million) minus Scrap proceeds (500 million) = 300 million
- Insured amount = 200 million

Thus the deductible uninsured amount would be $300 - 200 = 100$ million (i.e. answer B).

A number of candidates stopped at actual losses of 300 million (answer C). Others only accounted for the insured amount, which are not sufficient as the question requires “corporate income tax implication” which covers both taxable income and deductible expenses.

Example 2

AZM Pte is a UK company providing express delivery services. AZM Pte has an agent in Vietnam, Bate Co, who supports AZM Pte by collecting fees from its clients in Vietnam. In 2016, Bate Co allocated a fee of USD250,000 (net of all taxes) to AZM Pte for the services delivered. Of this amount, USD150,000 is revenue allocated to AZM Pte for shipping from overseas to Vietnam, and the remaining USD100,000 for shipping from Vietnam to overseas.

What is the corporate income tax (CIT) portion (in USD) of the foreign contractor tax (FCT) liability which Bate Co should declare in its FCT return in 2016 for the above transactions?

- A USD0
- B USD13,158
- C USD7,895
- D USD5,263

This question is about Foreign Contract Withholding Tax (FCWT), a tricky area of tax in Vietnam requiring careful consideration from candidates for tax treatments.

According to Example 22 of Circular 103/2014, foreign contractor’s revenue from express delivery services from Vietnam to overseas would be subject to CIT portion of FCT, while the delivery from overseas to Vietnam would not be subject to FCT. Accordingly, the taxable income would be USD100,000, and since the contract is net of tax, CIT would be $100,000 / (1 - 5\%) * 5\% = \text{USD}5,263$ (thus the correct answer would be D).

Certainly answer A would be incorrect because the activities are subject to tax in Vietnam. Answer B and C would also be incorrect because only one side (from Vietnam to overseas) are subject to tax.

Section B

Question One

This 10-mark question covered a fundamental issue for corporate income tax, deductible depreciation.

Part (a) for seven marks required candidates to determine the deductible expenses from depreciation of various assets, many of which are for staff and even for residents nearby. Candidates were expected to understand the principles of depreciable expenses as set out in CIT Circulars, including some special cases when the qualified assets are arguably used not for business purposes. Candidates’ performance in this question was not satisfactory, given this is a fundamental area of corporate tax treatments.

Some common mistakes made by candidates include:

- The library, kindergarten and sport centre for staff (including equipment) were treated as non-deductible. In fact those assets for the use of staff are fully deductible under Article 6.2.2 of Circular 78/2014 as revised by Circular 96/2015.
- The water tank were either fully depreciable or not depreciable. It should be noted that the portion used by residents are not for business and thus non-deductible.

- No time apportionment, or incorrect time apportionment of the depreciable period;
- The depreciable expenses for finance lease equipment was calculated as $(1,000 - 500 \text{ interest}) / 5 \text{ years} = 100$.

Part (b) for three marks required candidates to explain and calculate depreciation for “luxury” assets (yacht and car). Most candidates who attempted this question applied the correct treatment for the yacht (non-deductible as not used for business) but forgot to apply the cap on the car or to apportion for the period of actual usage (only from 1 April to 30 September 2016, i.e. six months).

Question Two

This 10 mark question was about personal income tax (PIT) treatments from inheritance, land sales tax filing and capital contribution and respective sales of capital contributions by individuals. These are not frequently tested areas but the performance from candidates was satisfactory, except part (a).

For part (a), most candidates answered that the date for filing would be either 30 March (registration of ownership) or 1 April (payments made). The correct answer would however be the date when the contract is effective, according to Article 17 of Circular 92/2015 amending Article 12 of Circular 111/2013.

In part (b), most candidates determined the taxable income correctly (being 50% of proceeds received (with proper assumption that the taxable income would be divided equally)) and used the correct tax rate of 2%. A few candidates however answered that PIT would be born solely by Hung Duong as he was the one who registered the change of ownership, but this would not be a correct treatment.

Part (c) and (d) were also answered satisfactorily. Most candidates correctly treated that the capital contribution would not be taxed until it is sold. However some candidates applied a simple treatment that the sale of capital contribution of HD Co would be subject to 0.1% tax rate – which is only applicable to joint stock companies. The question requires tax treatment for the sale of “capital contribution” (not shares) of HD Co (a limited liability company, not the listed company ABC Co). Thus the correct treatment would be 20% tax rate applicable on the income from sales of HD Co.

Question Three

This 10-mark question was about taxable and non-taxable scenarios for Foreign Contractor Tax (FCT). The performance of candidates was satisfactory, especially in part (b).

In part (a), most candidates correctly pointed out that OCL and MBN would be subject to FCT in Vietnam because they either have the right to determine the selling price for products in Vietnam (OCL) or because they bear advertising costs in Vietnam. However not many candidates got full marks, because some forgot to mention about the possible tax rates, or others stated the incorrect CIT rate of 5% and/or VAT rate of 3% (the correct answer would be 1% CIT and exempt VAT, same as trading activities).

In part (b), a majority of candidates successfully determined that advertising and training via internet would be subject to FCT (while training conducted overseas not subject to FCT). Some would even go the extra mile to discuss about the applicable tax rates - however please note that this was not required.

Question Four

The questions about value added tax (VAT) and invoicing requirements in this 10-mark question were generally well answered.

Part (a) required the candidates to calculate creditable and non-creditable input VAT in various cases for seven marks. The most common mistake, if any, in this part would be the last point about damages of the inventory,

when various candidates either treated input VAT for the whole damages (800 million) as either creditable or non-creditable without proportioning for the 40% covered by the insurer (non-creditable).

Part (b) required candidates to explain VAT treatment of the payments on behalf of the branch where the bank account has not been registered as the company's bank account. Most candidates answered correctly that that input VAT from payments using a non-registered bank account in 2016 would be non-creditable. It should be noted that there was a change in the regulation at the very end of 2016, that companies are no longer required to register bank account for the input VAT creditability under Circular 173/2016 (effective from 15 December 2016). Accordingly, those candidates who treated the input VAT as creditable with the correct assumption that payments were made after 15 December 2016, would still get full credit.

Question Five

This question, with 15 marks, was generally a familiar question with candidates who practised with past exam questions thoroughly. However this question was not well answered, especially with regard to note (1) which have appeared in a number of previous examinations.

Many candidates only attempted notes (2) and (3) and left note (1) unanswered. 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 the recognition of revenue and accrued costs.

Common mistakes noted from this question include:

- Some candidates only took into account the revenue and invoiced amount in 2016 (e.g. adjusted only 800 (= 3,800 recognised in I/S – 3,000 invoiced in 2016 for job A)
- Some candidates performed a margin calculation (i.e. treated profits as 60% of revenue), instead of mark-up as required (profit should be 60/160 of the revenue)
- Many candidates forgot to adjust for the VND 1,000 million (i.e. 1,600 – 600) non-welfare expenses
- The 10% welfare expenses paid in cash was treated as non-deductible even though these do not exceed the VND20 million threshold

Question Six

Part (a) of this 15-mark question about personal income tax (PIT) would have been familiar to candidates, and accordingly this part was well answered by most candidates.

In part (a) which requires calculation of taxable income from net employment income from two sources, most candidates correctly performed separate “grossing-up” calculations for each income source. Some candidates however applied two times deductions, which was against the fundamental principles of personal deduction for PIT purposes.

For part (b) about taxable income and tax treatments of investment income, the answers were mixed. Most candidates applied treatments of bond interest and cash dividends correctly, but only a few got the correct answer for scrip dividends and sales of shares.

The most common mistakes included:

- Receipt of scrip dividends were subject to tax (these should only be taxed at sales, not at receipt)
- The scrip dividends were only subject to 0.1% capital gain tax at the time of sales (while these should also be subject to 5% tax for the investment income)
- The determination of number of shares are incorrect

