

Examiner's report

F6 Taxation (VNM)

December 2013

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General Comments

The examination consisted of five compulsory questions and followed a similar format to previous exams. The exam could be divided into 2 sections. Section 1 was about Income Tax section (with Question 1 for 30 marks concerning Corporate Income Tax ("CIT") and Question 2 for 25 marks was about Personal Income Tax ("PIT")). Section 2 was about various other issues, consisting of Question 3 for 20 marks on Foreign Contractor Withholding Tax ("FCWT"), Question 4 for 15 marks on Value Added Tax ("VAT") and Question 5 on tax administration issues for 10 marks.

Many candidates attempted all questions (at least a part of each question), although time-management still appeared to be an issue. An increasing number of candidates attempted question 5 first, and questions 1 and 2 last, which was surprising because question 1 and question 2 should be in a format familiar to candidates. While this strategy is acceptable, it may need some consideration for proper time management since candidates may spend excessive time on the lower mark questions and leave insufficient time for the higher mark ones.

As expected, Question 3(a) regarding FCWT principles was generally not as well answered as the others. Many candidates, meanwhile, scored high marks with Question 2 on PIT. Question 1 brought mixed feelings – some candidates answered particularly well, while some others attempted it without a clear understanding of what they should do and how to do.

A number of common issues arose in candidates' answers:

- Some candidates demonstrated that they had not practised enough past exam questions and this was reflected in the standard of their performance in the exam.
- The format applied by some candidates in some questions was not well thought out and caused them a lot of difficulties.
- Various candidates still answered the question they wished that they had been asked rather than what they were actually asked.

Specific Comments

Question One

This 30 mark question was a traditional question requiring a reconciliation from accounting profits before tax to taxable income. It did not require a "tax return form" reconciliation unlike some past exam questions and it gave candidates some flexibility in how they attempted their answer. Similar requirements have appeared in previous exam papers.

Despite the above, some candidates did not perform a reconciliation, as requested. Instead they reproduced the Financial Statements ("F/S") with tax adjustments to each item in the F/S. It should be noted that this is not a suitable approach to this question. Other candidates only provided explanations of the treatments of / proposed adjustments to the items but did not produce a reconciliation – again, this approach did not address the requirements of the question (although such candidates would have got some credit for relevant workings).

The most common mistakes made by candidates were as follows:

- Picking up the correct number, but making the wrong adjustment with it (e.g. adding back interest income from the tax-exempt bond instead of deducting it, or deducting the cash discount instead of adding it back etc.)
- Arriving at incorrect amounts of revenue and cost of sales for the service invoices in 2011 and 2012, due to a wrong markup method or failure to mark up.
- Not taking into account a part of the rental received in advance which has been recognized in the Income Statement
- Not amortising the tools and instruments over 2 years according to Circular 123
- Not doubling the “official per diem” (the deductible per diem should be twice the amount allowed for Government officials given in the question)
- Forgetting to make a full adjustment for the trade fair expenses (which were not supported by proper documents)
- Making adjustments for the profits from exempt bonds (which had been included in the Income Statement)
- Making adjustments for the penalty for violation of contracts (which should be deductible)
- Calculating A&P cap at 10% (the Company is entitled to 15% rate of cap during its first 3 years)

Question Two

The question was a typical question on PIT calculations.

Many candidates scored high marks on this question, especially in part (b). However, many candidates made minor mistakes during their calculations and consequently did not arrive at the right answer, although they were still adequately awarded marks / credit for the parts they did correctly.

The following mistakes were common:

- Not adding back the pension (of a salary-nature) contributed by Thomas to his salary
- Not taxing the voluntary pension contribution by the employer
- Treating the incentive as non-taxable income (it is at Thomas' discretion whether to receive it in cash or in kind, and thus it should be taxable income at the time of receipt, no matter how he selected to receive it)
- Not apportioning the bonus income of Ngoc Huong
- Treating the refund from the share purchase as Ngoc Huong's taxable income (it is only a refund of her own money so the refund is not taxable, even if it was received from her employer).
- Giving a reduction of Social and Unemployment insurance contribution to Thomas, despite the fact that he did not make the contribution
- Treating Ngoc Huong as a dependant of Thomas for the months she was unemployed

Question Three

This question consisted of two parts: part (a) for 14 marks about the FCWT taxation principles, and part (b) for 6 marks regarding determination of FCWT.

Part (a) was not well answered by many candidates. Various answers showed that candidates were not equipped with sufficient understanding of the basic principles for the taxation and exemption of FCWT on foreign contractors in various cases.

Some typical mistakes made by candidates included:

- Forgetting to explain which party should be responsible for withholding and declaring tax;
- Making comments on the tax implications of Contract B, even though it was not required by the question;
- Treating on-the-spot export activities by foreign contractors as exempt from FCWT in Contracts A and D, though it is stated in the Circular 60 that the transaction is subject to tax;
- Treating the processing activities by FASH as taxable, despite the fact that it is pure processing activities and the foreign company did not have any business activity in Vietnam;
- Commenting that the DDP arrangement by GEP was not subject to FCWT, while it is apparently subject to tax under Circular 60;

Part (b) was generally well answered. Some candidates forgot to gross up the net contract amount to derive at the taxable income, or failed to treat the expenses paid on behalf of the contractor's employees as taxable income for FCWT purposes, but these did not materially impact on the marks achieved.

Question Four

After various exams with theoretical questions regarding VAT, the “calculation question” returned this sitting.

Most candidates provided the correct treatment of some items. However, very few candidates provided correct calculations for all items. The most common incorrectly treated items included the following:

- Treating input VAT from damaged goods as non-creditable;
- Incorrectly apportioning, or not apportioning at all, the input VAT for normal loss vs. abnormal loss;
- Denying input VAT for the excess over VND1,600 million for the 50-seater bus (it should be noted that the VND1,600 million cap is not applicable to the bus);
- Treating input VAT for overseas supplies as fully creditable (despite the fact that some expenses were not supported by proper documents), or non-creditable (the correct treatment should be partly creditable, partly non-creditable);

Question Five

Some items in Part (a) of this 10-mark question were very well answered. For example, most candidates correctly provided the deadlines for the declarations of the monthly VAT return, quarterly provisional CIT return and annual CIT finalization. However, many candidates believed that 90-day deadline for finalization also applies to a corporate transformation, and did not know that the allowable period is only 45 days. Likewise, a foreign contract is only given 45 days for FCWT finalization once the contract is completed, instead of 60 days or 90 days as provided in various scripts.

Many candidates did not answer part (b) – which appeared to be due to their over-estimation of the difficulty of the question. In fact, most candidates who attempted this question achieved a satisfactory mark for their answers.