

Examiner's report

F6 Taxation (VNM)

June 2012

The ACCA logo is a black square with the letters "ACCA" in white, bold, sans-serif font.

General Comments

The exam consisted of five compulsory questions:

- Question 1 for 30 marks about Corporate Income Tax ("CIT")
- Question 2 for 25 marks about Personal Income Tax ("PIT")
- Question 3 for 20 marks about Foreign Contractor Tax ("FCT")
- Question 4 for 15 marks about Value Added Tax ("VAT")
- Question 5 for 10 marks about tax administration

Overall performance on this paper was poorer than expected. Many candidates only attempted 30% - 40% of the questions with generally acceptable answers and then appeared to give up. It is disappointing, because if they tried harder to continue they would likely have gained more marks.

Examination techniques of many candidates, meanwhile, are greatly improved. It was a great pleasure to see many candidates used short, precise and straight-forward answers to fundamental questions, without long and time-consuming (while less effective) explanations. The use of proper format (such as table for comparison etc.) is also more appropriate.

Time management is a different story. Candidates who managed to attempt at least four or all five questions (despite that they may miss some marks here and there) have a much better chance to pass than those who only focused on two or three questions. Unfortunately, many candidates appeared to run out of time after completing only two or three questions, or perhaps were unprepared for the other questions.

The principle for marking is still the same – marks are awarded to answers which demonstrated reasonable understanding of key principles, not only to answers which resemble the examiner's guideline answers.

Specific Comments

Question One

Part (a) was a 26-mark question, the format of which was quite similar to Question 1 June 2011. Given the precedent, I would expected performance to be better.

Many candidates were confused with the relevant adjustments to be made to tax returns from the accounting treatments that were made and/or not made in Profit and Loss (P/L) accounts given in the notes in the questions. Most common mistakes included:

- Most candidates did not correctly adjust for the VND5,000 million invoice issued on 31 March 2012 as an increase in income statements, and the corresponding costs of goods sold of VND4,000 million as an *"expenses related to revenue to be taxed in the period"*. Some candidates only adjusted for the profits of VND1,000, which is acceptable.
- Depreciation of fixed assets which were temporarily unused is still deductible under new Circular 18, while various candidates adjusted for this item.
- The interest expenses of VND750 million could not be deductible because these are (i) for capital contribution, and (ii) not supported by proper documents. Despite these facts, many candidates thought that the expenses were allowable.
- It is true that the recollected under-declared foreign contractor tax (FCT) of VND2,000 million should not be deductible that year, however no adjustments should be made because it was not booked in that P/L this year.

- Many candidates still adjusted for special occasional payments to employees, despite that these were clearly allowed in Circular 18 (and that the question provided a hint that “the entitlement conditions are specified in the company’s Financial Policy”).
- Various answers contained adjustments of warranty provision, which were not correct because the allowable provision is 5% of sales, sufficient to cover the company’s 4%.
- All given items of non-taxable profits need adjustments, however many candidates only adjusted for interest from tax-exempt Government bond, or dividend from securities held for trading.

Performance in part (b) was generally good. Many candidates correctly specified the basis period of two years, however almost none of them are aware of the new 12-month cap for a tax year stipulated in Circular 18.

Question Two

Part (a) was generally well answered. Most candidates correctly stated the taxing point for share awards (i.e. at sales), although not all of them could refer to the “dual taxability” characteristic of that point (i.e. both employment income and capital transfer income are subject to tax).

The performance of part (b) (i) and (ii)) was mixed:

- Part (i): many candidates forgot that day-in and day-out will be counted as one day. Accordingly the most popular number of days is 134. Also, many candidates forgot the “90 days leased house” horizon in determining Mr Nam’s residency.
- Part (ii): most candidates correctly specified the responsibilities of AXM, VSC and Mr Nam. The deadlines given were however incorrect in certain answers (for example, suggesting that Mr Nam could finalise his tax within 90 days after leaving Vietnam).

Part (iii), being a 10-mark personal income tax (PIT) calculation question had varied results. The performance for this part was particularly good, except for those who fell into the following (minor) problems:

- Annual allowance was multiplied by 4 months, while Mr Nam only worked for 3.5 months and it was clearly stated that it is only available for full month workings.
- Air fares were treated as taxable, while relocation allowance non-taxable (the correct situation was reversed)
- Share awards as an employment income were not taken into account.
- Training fee from VSC was wrongly grossed-up at 35% (instead of the temporarily withheld flat rate of 10%)
- Tax on capital transfer (at 0.1% of sale proceed) was forgotten in the total tax liabilities
- Personal relief was deducted before benefits in kind (such as relocation allowance, shares awards etc.) were taken into account.

Question Three

A majority of candidates failed to answer this question satisfactorily, despite that the question this session focused mostly on fundamental issues of Circular 134 (taxability of income).

In part (a), it was stated in various scripts that only the fees from overseas senders were subject to Foreign Contractor Tax (FCT) and the fees from domestic senders were exempt from tax. The reasons were correctly identified (services consumed in Vietnam), only the point of service consumption was not correct. The correct situation is reverse (i.e. fees from domestic senders were taxed in Vietnam as services were treated as being consumed in Vietnam, while the fees from overseas senders were not subject to FCT).

The calculation parts were generally well answered, with various candidates correctly applying the “gross-up” formula for part a(ii) and deducting the VAT portion from CIT-taxable revenue in part a(iii). For some reasons



(such as wrong tax rates), not many answers provided the correct tax liabilities. However, it was acceptable to me and credit was still given for the correct formulae.

Most candidates who answered part (b) provided correct treatments of the FCT for Delivered Duty Unpaid (DDU) situation, which was practically a “hot” and well-known issue in Vietnamese tax system recently.

The tax treatments of equipment supply, penalty and interest were also generally well provided. However some candidates still performed a gross up of the revenue, despite it was clearly stated in the question that “*assuming both parties agree that Ginie Ltd bears FCT in Vietnam*” (i.e. the revenue was gross already).

Question Four

In part (a), most candidates:

- Either forgot to use the deemed 2% to allocate payable VAT to factories in Hai Duong and Vinh Phuc in case (i), or
- Did not allocate VAT payable based on revenue of the respective factories in case (ii) when aggregate VAT payables to the provinces exceeds total VAT payable by Headquarter, as required in Circular 28.

For part (b), those who correctly understood that the materials were damaged could also provide correct answers. Some candidates, however, misunderstood that the invoices were damaged and provided inappropriate treatments.

Part (c) was mostly satisfactorily answered.

Question Five

“Transfer Pricing” was always viewed as a very (or most) difficult area in the syllabus, so a common action by many candidates was to skip any question on this issue.

I was pleasantly surprised with the achievements in this question. Many candidates successfully earned almost full marks by correctly defining “independent transactions”, disclosure requirements of TDV, and power of tax authorities in determining taxable income of TDV in worst cases. This shows that the awareness for transfer pricing is increasing, which is necessary for a fledgling tax system like Vietnam.

A few common mistakes in this question included:

- In part (a): arm’s length price was interpreted as the “transfer price between related parties”. In fact, an acceptable definition of arm’s length price is “market price” or “price of non-related parties transactions”.
- In part (c): TDV was required to disclose many things to tax authorities, such as the products information, selling and financial strategies and information etc. Various other candidates also stated that TDV should provide information about 5 methodologies for determining transfer price under Circular 66. In fact, the disclosure requirements focus mainly on information about the related parties transactions, and the specific method to determine arm’s length price.