

Examiner's report

F6 Taxation (VNM)

June 2013

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General Comments

The examination consisted of five compulsory questions. As usual, question 1 about Corporate Income Tax (CIT) for 30 marks and question 2 on Personal Income Tax (PIT) for 25 marks, are very heavily based on calculation. Question 3, for 20 marks, is about Foreign Contractor Tax and contains a mix of theory and calculation. Question 4 on Value Added Tax (VAT) and question 5 on various matters, including tax administration, for 15 and 10 marks, respectively, have a theory focus.

This year the main part of the CIT question (Question 1) was set differently to the “traditional-style” Question 1. Although this form of question (i.e. loss-carry forward) has been set before in a few previous exam (although on a slightly more miniature scale), many candidates appeared to be reluctant to deal with this change (proven by the fact that they left this question until last). The question was however not as difficult as it looked, and many candidates realized that they could attempt many more than 50% of the marks once they got going in the question. This would show that candidates were not well equipped to deal with surprises in the exam, despite the fact that it was an easy surprise, which can be improved in future sittings.

Many candidates attempted all five questions, but not all parts. It was a pleasant surprise to me that the long-existing time management issue was remarkably improved in this sitting. Many candidates performed well in a question which was always poorly answered, such as Question 3 on Foreign Contractor Withholding Tax. Many candidates quickly identified the easy marks and tackled the question in a very suitable order to get clear pass marks.

Candidates performed particularly well on questions 2, 3, and 4. As discussed, the question that most candidates were reluctant to attempt was question 1 (a), although it was not as tough as it appeared.

A number of common issues arose in candidate's answers:

- Candidates invested little time in planning a suitable format for the answer. They could have saved a lot of time if they used, for example, table form, instead of writing pages of words.
- Various candidates still explained what they knew about an issue in a lengthy manner without focusing on what the question asked.
- Many candidates even provided completely inappropriate answers to the questions asked. For example, some candidates prepared a long reconciliation from accounting profits to taxable income when the question requested preparation of a loss-carry forward schedule.

Specific Comments

Question One

Part (a) required candidates to calculate tax liabilities in the context of loss utilisation. Candidates are required to apply some fundamental knowledge about offsetting the loss between activities in a year and offsetting loss carry forward from previous years.

In fact, given that the regulations give the taxpayer the choice to offset loss with profits in the same year, acceptable answers for this question are flexible provided that these are within the constraints of the regulatory framework. *(Note: the taxpayer is given the choice of offsetting between activities, however it would often be optimal to offset loss with profits of the activities with highest tax rate. However such “planning” factors were not required in marking scheme. The examiner's answer only gave one option amongst possible loss offsetting approaches).*

Despite this “style” of question having been examined before, some candidates left this question to the end of the script (perhaps due to a feeling of unfamiliarity), when they had not much time left for successfully attempting this question in full.

The most common issues encountered by candidates who did attempt this question included:

- Various candidates utilized loss carry forward from previous years for offsetting and did not offset losses and profits amongst activities in the year
- Many candidates offset the real estate losses with profits from non-real estate. It is not in accordance with the regulations (losses and profits of real estate activities must be offset separately, except for project transfer from 2012 onward).
- Most candidates did not know that losses from real estate activities can be offset with capital gain from project transfer in 2012.
- In many scripts, for the year 2012, losses in previous years which were not separately accounted were offset with other income / capital gain from project transfer / infrastructure etc. It should be noted that these inseparable losses must be offset with the activities with lowest tax rate (or highest incentive) first, according to the new provision in Circular 123/2012 on CIT.

Even less candidates attempted part (b) of question 1, most likely due to insufficiency of time. However those candidates who attempted this part generally performed well because it is a more “familiar” question. Despite that, few candidates achieved full marks, because of the following:

- It was clearly stated in the question that Capcon registered for amortising gain from Land-Use-Right (LUR) over 10 years, but many candidates did not amortise the gain;
- To the contrary, the gain from equipment and intangible asset must be taxed in the year of arising, and many candidates amortised those gains over remaining depreciable life;
- The contribution value of shares of FPT caused a loss but prudently such loss cannot be offset with gains from the contribution of other assets. Most candidates still recognized the loss despite the question requiring the “most prudent approach”.
- Time-apportionment in determining deductible expenses of Caprec was in many cases omitted (note: Caprect can only use the assets for six months, not a full year, in the year ended 31 December 2012)

Question Two

This 25-mark question on PIT is familiar with most candidates (except that it is a story about two persons, not one as commonly set). Therefore, it came as no surprise that most candidates performed very well in this question, especially the calculation section in part (b).

Minor issues that should be noted by candidates include:

- Business income was separately calculated, while it should be grouped into employment income for tax calculation;
- A wedding gift given by the employer was treated as a “lottery award” with VND10 million deduction, or was treated as “tax-free”. In this case, it should be treated as a taxable employment income because it was offered by employer to employee.
- The cost for one-time return air fares should be exempt from PIT (home leave passage), and divided to both of them equally because it was incurred before Marty left the company. Some candidates mistakenly treated them as taxable income, and/or wholly taxed in the hands of Dion.
- Various candidates treated the severance allowance of Marty as fully taxable or fully exempt. Those candidates may have not read the question carefully, because it was clearly stated in the note to the

question that severance allowance for the period before 2009 is exempt from PIT. Some other candidates correctly understood that severance allowance must be separated into taxable and exempt, but failed to allocate the taxable severance allowance correctly (i.e. 4.5 months).

- Many candidates ignored the fact that school fees for Marty's son were his (exempt) income for only 4.5 months and would become Dion's exempt income in the rest of the year.
- Another common mistake by many candidates was to treat the kindergarten fees in respect of Dion's five-year-old daughter as exempt income.

Question Three

In this sitting, I was surprised by candidate's performance in this question. Foreign Contractor Withholding Tax (FCWT), regardless of easy or tough questions, has often been poorly answered in previous exams, but became an important cow for milking marks by various candidates this time. Many candidates attempted this question first (showing their high confidence) and got most of the marks available, setting up a good base for passing the exam.

Most of candidates who failed to achieve full marks in this question faced the following issues:

- For Approach 1: the whole contract value in case SMTM carry out all construction, supply and service activities would be subject to 2% CIT plus 3% VAT (rather than each activity subject to different CIT and VAT rates), despite the fact that the value of each activity can be separated in the contract. This is a new change in Circular 60/2012 and I hope that most candidates should have been aware of this important update;
- For Approach 2: if SMTM sub-contracts all the works except the service parts, the taxable revenue should be the service value only, not the whole contract value. The tax rate would be 5% CIT plus 5% VAT, not 2% CIT plus 3% VAT as mistakenly answered by some candidates.
- Some candidates did not perform "gross-up" despite it being a "net-of-tax" case.

Question Four

The majority of candidates scored high marks on this question. The only notable issue here was that many candidates tried to perform a calculation of VAT output and input, which was not required in the question.

Other minor issues noted from this question are:

- The sales of goods by Na Huong (a Vietnamese company) to Investinla (a Vietnamese company) in Laos should not be treated as an export (it is a transaction when VAT declaration and payment is not required).
- Internal transfer of assets at book value is not subject to VAT, while a transfer at revalued amount is subject to VAT. Some candidates thought that these should both be subject to VAT.
- Similarly, commissions in both cases are not subject to VAT, while some candidates mistakenly believed otherwise.

(Note: in Circular 06/2012 on VAT, interest from loans would be subject to VAT. However at the time of the exam, there were various pieces of guidance from the Government authorities that interest would be exempt from VAT. Accordingly, answers setting out treatments in both directions were equally acceptable).

Question Five

For part (a), various candidates were not aware of a new provision in the VAT regulations (Circular 06/2012) that at anytime, the taxpayer can supplement the evidence of payments via bank to tax authorities to claim credit for the input VAT. Accordingly, they did not score full marks for the question, but still got sufficient marks if they correctly mentioned conditions for creditability of input VAT for payment via bank with amount over VND20 million.

Many candidates attempted to answer part (b), but failed to correctly name the method of determining arm's length price according to Circular 66/2010. The correct names were: "Comparable unit price" ("CUP"), and "Cost Plus" ("CP"). Some candidates refer to non-existent methods such as "Unrelated Parties Price", "Market Price", "Comparable Unrelated Price". Many candidates wasted time calculating the arm's length price, which was not required in the question.