

Examiner's report

F6 Taxation (VNM)

June 2014



General Comments

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

Many candidates attempted all five questions (although only a few did attempt all parts of 5 questions), and there was little evidence of time pressure from well prepared candidates.

Time management and poor examination techniques did appear to be serious issues in this sitting. Many candidates attempted question 3, but gained very few marks. Many candidates focussed too much on question 1 and question 2, leaving no time for the other (equally productive) questions.

Marks from Question 1 and question 2 were not as good as expected.

As expected, Question 3 regarding FCWT was generally answered slightly poorer than others, despite that it was a calculation question with no new issues.

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

- Many candidates did not practise the past year questions – the results would have been much improved if they did.
- Many candidates did not read the questions carefully and provided irrelevant answers to the questions.
- Presentation in some questions is irrelevant; however some candidates caused themselves a lot of difficulty by not putting enough thought into how to lay out their answers.

Specific Comments

Question One

This 30-mark question was a very typical question requiring a reconciliation from accounting profits before tax to taxable income. This form of question did give candidates more flexibility compared with the "tax return reconciliation" seen from some previous sittings. There have been many questions with similar requirements.

Various candidates however 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 although it may not necessarily be wrong, it does not correspond to requirements from the question and is not a relevant approach to answer this question. Some others provided only explanation of the treatments of / proposed adjustments to the items but did not produce a reconciliation – that means they still failed to conform the requirements of the question (although they would still get credit for some relevant workings).

Below are some common mistakes by many candidates:

- Not many candidates could correctly determine that no adjustment was required for money collected in advance and invoiced in 2012 and 2013.
- Many candidates did not make any adjustment for the free-of-charge villas to employees, which should have been treated effectively as a sale.

- Very few candidates showed calculations for construction costs of the villa or depreciation of the apartment (it was specified that the candidate should show even a 0 adjustment for any item)
- The calculations for non-deductible provision for salary payment were often based on the regulated 17% instead of 15% as selected by the Company.
- Various candidates were not aware that the gains from contribution of land-use right should be deferred
- Most candidates forgot the time apportionment for the bond issuing costs.
- Many candidates forgot to convert the USD consulting expenses into VND.

Question Two

The question was a traditional question on PIT calculations with some minor new factors (e.g. investment income by a resident in Vietnam, royalty and dividend income of non-residents).

Many candidates scored well (although not high) marks on this question. Most candidates could not get a correct determination of the taxable income from remuneration and investment, and often combined these into a single taxable income amount.

The following mistakes were common:

- Royalties received by Khue should have been classified as remuneration (Article 2 of Circular 111 states that receipts from independent services (such as writing newspaper articles) should be treated as remuneration (salaries, wages). The definition of royalties did not refer to translation and writing of articles. However, credit will be given to classification of royalties as royalties.
- Capital transfer was calculated at 0.1% on the proceeds which is not correct but may still get a partial credit (should be 20% on the gain)
- Many candidates did not deduct the costs of the shares sold.
- Very few candidates correctly identified that Aman also received a dividend (same as Khue) to calculate his taxable income accordingly.

Question Three

This 20-mark question consisted of two parts: part (a) for 13 marks about the FCWT taxation under the deemed method on the three contracts with different activities, and part (b) for 7 marks regarding the hybrid method of FCWT.

Part (b) was answered poorly by many candidates. Many candidates understood that they were required to calculate output and input VAT of ATX, but did not get both items correctly.

Some typical mistakes made by candidates include:

- Many candidates calculated VAT on the import of contract 1 (while it should be exempt)
- Many candidates did not perform gross-up calculations for contracts 1 and 2, although it is stated that “all tax incurred in Vietnam is to be borne by TMXT (the Vietnamese company)” (i.e. net contract).
- Meanwhile, many other candidates grossed up CIT portion of contract 3 despite that it is to be borne by LS (the foreign contractor).
- Many candidates thought that for contract 2, the CIT calculations were identical for both part (a) and part (b). It should be noted that part (a) required FCT calculation in 2013 and part (b) required FCT calculation of the whole contract (2013 and 2014).
- Very few candidates recognised that the question requested for a calculation of FCWT liabilities for 2013 only, not the whole contract.

Question Four

This 15-mark question was a theory question regarding VAT treatments in various cases based on recent developments of the VAT regulations.

This question was generally well answered. Some issues that need further attention include:

- For contract with ANX Co, many candidates forgot that the Customs declaration is an important document for input VAT creditability.
- For contract with TIS Co, many candidates said that the Customs declaration was required for export of software. In fact, it is NOT required, instead TIS needed to obtain confirmation from the buyer that they received the software.
- For contract with ESS Co., many candidates thought that if the documents were not available, the local company could claim credit for input VAT. In fact, the consequence was that they would have to charge VAT at 10% rather than 0% (and this may not be accepted / recoverable from foreign clients).

Question Five

Candidates who answered part (b) often provided generally good answers with regard to the requirements for submitting declaration form for related party transactions. Many also referred to the documentation, which was not required but would be acceptable as a replacement for the time of submission.

Various candidates correctly specified the penalty rate for late tax payment before 1 July 2013 but did not mention the rate after 1 July 2013.

Many candidates knew that the statute of limitation for penalty is 5 years but did not know that the statute of limitation is unlimited before 1 July 2013 for tax collection in case of tax evasion.