Answers

Section A

1 The correct answer is VND2,600 (100 * (6 + 12) + 100 * (6 + 2))

According to Article 6, point 2.2(e) of Circular 78/2014 as amended by Circular 96/2015, where non-current assets used for seasonal production are temporarily unused for less than nine months, the enterprise is allowed to depreciate the assets during idle time. In 2019, A was unused for seven months so can be depreciated over 12 months for CIT purposes and B was unused for ten months so can be depreciated for only two months.

Monthly depreciation for each: 12,000/2 items of equipment/5 years/12 months = 100

Accumulated depreciation: [A = 100 * (6 + 12)] + B = [100 * (6 + 2)] = 2,600

2 The correct answer is VND153 million creditable input VAT (1,980 million * 85%/1·1 * 10%)

According to Article 14.3 of Circular 219/2013, the taxable amount for creditable input VAT for the purchase of a car with fewer than nine seats is capped at VND1,600 million. In this case, the quoted price net of VAT exceeds VND1,600 million (1,980/1·1). However, the actual price net of VAT after discount was VND1,530 million (1,980 * 85%/1·1), therefore input VAT is fully creditable.

3 The correct answer is VND122 million

[((300*16/12 – 9 – (3·6 * 3) – (29·8 * 10·5%)) * 35%) – 9·85] = 122 million

4 The correct answer is USD0

According to Circular 103/2014 (Article 2.2), supplies of goods by a foreign contractor without attached services (even when a guarantee is attached) where the risks are transferred before or at the border gate of Vietnam are exempt from foreign contractor tax (FCT).

5 The correct answer is option 2: 25 July 2019 by TLC Co

According to Article 12.7(b) of Circular 156/2013 as amended by Circular 151/2014, 26/2015 and 130/2016, the deadline for the tax declaration of the capital gain is 10 days from the date of approval by the competent authority, or from the date of the transfer agreement where no approval is required. In cases where both buyer and seller are overseas companies, the company in Vietnam would be responsible for the declaration.

6 The correct answer is option 1:

Taxable revenue VND0 million Deductible expenses VND2,500 million

According to Article 5 and 6 Circular 78/2014 as amended by Circular 96/2015, there is no requirement to recognise taxable revenue in respect of the purposes listed in this case. There is also no restriction on deductibility of expenses for internal consumption. Accordingly, the full expense (500 million + 200 million + 1,800 million) is deductible.

7 The correct answer is VND93 million (((1,870 – 10 million) * 10%) * 50%)

According to Article 15.1(b) of Circular 111/2013, the taxable value of the promotional prize shall be the excess of the value of the prize over VND10 million before deducting any expenses. The personal income tax (PIT) rate is 10%.

Tutorial note: *Acceptable alternative calculation: ((1,870 * 50%) – 10 million) * 10% = 92·5 (rounds up to 93 million) due to ambiguity in regulations.*

8 The correct answer is option 4: CIT: USD32,500 (650,000 * 5%) VAT: USD34,211 (650,000/95% * 5%)

According to Circular 103/2014, purchases of goods in Vietnam are not deducted from the taxable price for foreign contractor tax (FCT) purposes.

9 The correct answer is (1), (2) and (3)

According to Article 4.3 of the Decree 20/2017, all of the transactions fall within the definition of related party transactions.

10 The correct answer is VND12,000 million ((4 million shares * 15,000 – 0) * 20%)

According to Article 8.6 of Circular 78/2014 as amended by Circular 96/2015, dividends received by corporate shareholders from local companies shall be exempt from CIT (including all forms of distribution such as bonus shares). Subsequent sales of bonus shares would be subject to 20% CIT (historical costs of the bonus shares are zero).

11 The correct answer is VND300 million (1,500 * 10 million * 2%)

According to Article 12.1 of Circular 111/2013 as amended by Circular 92/2015, in the case of real estate transferred by an individual, if the contract price is lower than the price determined by The People's Committee at the time of sale, the taxable income shall be determined using the price determined by The People's Committee.

12 The correct answer is USD30,303 (USD600 * 5,000/(100% – 1%) * 1%)

According to Article 1.3 of Circular 103/2014, a foreign company which determines the selling price or bears advertising costs for products sold to a Vietnamese company would be subject to foreign contractor tax (FCT) in Vietnam (as trading activities, subject to 1% CIT).

13 The correct answer is VND4,000 million (10,000 million/(3 * 2 + 4) parts * 4 parts paid to non-active members)

Non-active members' salaries are non-deductible (Article 6, point 2.6(d) of Circular 78/2014 as amended by Circular 96/2015).

14 The correct answer is VND75 million (0·5 million * (100 hours * (150% – 100%)) + (100 hours * (200% – 100%)))

Tutorial note: *The exempt income is the excess paid over the normal rate, e.g. overtime paid at 150% of salary, the exempt part would be 50% and the taxable part 100%.*

15 The correct answer is option 3:

Both real estate and non-real estate companies are required to file ad-hoc tax declarations for each transfer and tax finalisation, but only the real estate company is required to make provisional quarterly payments for real estate transfer.

According to Article 16 of Circular 151/2014 amending Article 12 of Circular 156/2013 (point 4 about tax declaration of real estate transfer).

2 marks each **30**

Section B *Marks*

1 SVN Co

(a) Tax treatment of capital gain arising on transfer of capital contribution

According to Article 14 point 2 of Circular 78/2014 as amended by Circular 96/2015:

– The income from the transfer of a capital contribution in a Vietnamese limited liability company is subject to corporate income tax (CIT) in Vietnam at the time of transfer.	1
– Capital gains tax shall be determined by: taxable income * 20% (taxable income = selling price – historical costs – transfer expenses).	1
– The selling price shall be the actual transfer price received according to the transfer agreement. Where the tax authorities determine that the contractual transfer price is not in line with the market value, the tax authorities shall have the right to impose a taxable transfer price based on the value of the enterprise.	1·5
– Historical costs shall be the original capital contribution or the purchase price of the capital contribution.	0·5
– Where both the buyer and seller are foreign companies, the company whose capital contribution is transferred is responsible for making the capital gains tax declaration on behalf of the seller.	1
	5

(b) CIT liability, assuming tax authorities accept transfer price

	Amount (VND million)	
Selling price *(USD25 million * 80% * 23,500)*	470,000	1
Historical costs *(500,000 * 80%)*	400,000	1
Taxable gain	70,000	0·5
CIT liability *(70,000 * 20%)*	14,000	0·5
		3

Tutorial notes:

(1) As SVN Co's functional currency is VND, the selling price must be converted into VND using the exchange rate at the time of the transfer.

(2) FHC Co contributed 80% of SVN Co's capital.

(c) CIT liability, assuming tax authorities impose transfer price

	Amount (VND million)	
Selling price *(equity value 1,250,000 * 80%)*	1,000,000	1
Historical costs *(from (b) above)*	400,000	
Taxable gain	600,000	0·5
CIT liability *(600,000 * 20%)*	120,000	0·5
		2
		10

Tutorial note: *The basis for determining the selling price for the taxable gain, based on the available information, is the value of equity (share capital plus retained earnings).*

Marks

2 Mr Ha Nguyen

(a) Transfer of securities and investment income

	VND million	
Tax on transfer of securities		
Gross proceeds from sale of actual share award *(30,000 * 50,000 shares)*	1,500·00	1
Personal income tax (PIT) liability *(1,500 * 0·1%)*	(1·50)	0·5
Net proceeds	1,498·50	0·5
Tax on investment income (dividend)		
Number of shares purchased by exercising options *(1,498·5 million/10,000) = 149,850 shares*		1
Dividends received *(100,000 awarded – 50,000 sold + 149,850 exercised) = 199,850 shares * VND5,000/share*	999·25	1
PIT on cash dividend *(999·25 * 5%)*	49·96	1
		5

Tutorial notes:

(1) The cashing share awards are employment income.

(2) The bonus shares received in March are not taxable in 2019 (the tax is deferred to the time of sale).

(b) Income from employment

	Amount (VND million)	
Salary *(100 million * 12 months)*	1,200·0	0·5
Employment income: upon sale of actual share award *(50,000 shares * 25,000)*	1,250·0	1
Cashing award *((28,000 – 25,000) * 500,000 shares)*	1,500·0	1
Annual taxable income	3,950·0	
Self-deduction *(9 * 12)*	(108·0)	0·5
Insurance deduction *(29·8 * 10·5% * 12)*	(37·5)	0·5
Annual assessable income	3,804·5	
Monthly assessable income *(3,804/12 months)*	317·0	0·5
Annual tax liability *((317 * 35% – 9·85) * 12 months)*	1,213·2	1
		5
		10

Marks

3 TCC Co

(a) Option 1: Itemised price

	Corporate income tax (CIT) – taxable value	CIT	Value added tax (VAT) – taxable value	Unit: USD VAT	Marks
Machinery and equipment	30,303,030 *(30/(100% – 1%))*				0·5
Tax at 1% CIT and VAT exempt		303,030		0	0·5
Construction and installation	6,122,449 *(6/(100% – 2%))*		6,311,803 *(6,122,449/ (100% – 3%))*		1
Tax at 2% CIT and 3% VAT		122,449		189,354	0·5
Services	5,263,158 *(5/(100% – 5%))*		5,540,166 *(5,263,158/ (100% – 5%))*		0·5
Tax at 5% CIT and 5% VAT		263,158		277,008	0·5
Software	11,111,111 *(10/(100% – 10%))*				0·5
Tax at 10% CIT and VAT exempt		1,111,111		0	0·5
Training (overseas)					
Exempt from tax		0		0	0·5
Total foreign contractor tax (FCT)		1,799,748		466,362	
					5

(b) Option 2: Lump sum price

	CIT – taxable value	CIT	VAT – taxable value	Unit: USD VAT	Marks
Lump sum price *(30 + 6 + 5 + 10 + 1) = 52 million*	53,061,224 *(52/(100% – 2%))*		54,702,292 *(53,061,224/ (100 – 3%))*		2
Tax at 2% CIT and 3% VAT		1,061,224		1,641,069	1
					3

Tutorial note: *Training overseas is taxable under the lump sum option.*

(c) Conclusion and advice

– Option 1, to itemise the price, has total foreign contractor tax (FCT) of USD2,266,110 (1,799,748 + 466,362), which is USD436,183 lower than the total FCT of USD2,702,293 (1,061,224 + 1,641,069) of option 2, the lump sum price. 1

– However, as TCC Co can claim full credit for the VAT portion of FCT, it should only take CIT into account when considering the price. Therefore option 2, the lump sum price, would be more tax efficient for TCC Co. 1

2

10

Marks

4 CLE Co

(a) Value added tax (VAT) treatment of natural resources which are sourced domestically

According to Article 4.23 of Circular 219/2013 as revised by Article 1.1(c) of Circular 130/2016, and Article 1 of Circular 25/2018:

(i) The export of unprocessed natural resources or natural resources which are sourced domestically with a total value plus energy costs accounting for 51% or more of total production costs are exempt from VAT (not zero rated). Accordingly, input VAT for such cases is neither creditable nor refundable. 2

(ii) For calculating whether the ratio of

$$\frac{\text{(value of natural resources + energy costs)}}{\text{total production costs}}$$

exceeds the 51% threshold, it should be noted that total production costs only include direct costs, i.e. direct material costs, direct labour costs and direct overheads.

All indirect expenses (e.g. selling costs and finance costs) are not included. 2

(iii) The ratio is determined based on the finalisation report of the previous year. 1

5

(b) Refundable input VAT

	Amount (VND million)	Marks
Value of exploited natural resources (direct material costs)	500,000	0·5
Energy costs	15,000	0·5
Value of natural resources + energy costs	515,000	
Total production costs *(direct materials costs 500,000 + direct labour costs 200,000 + direct overheads 175,000)*	875,000	1·5
Costs excluded (selling costs, general and administration costs, interest expenses)	0	1
	875,000	
Ratio (515,000/875,000)	58·86%	0·5
Refundable input VAT – nil, because the ratio exceeds 51%	0	1
		5
		10

Marks

5 NCC Co

			VND million	
		Draft profit before tax	138,000	
Adjustments:				
(1)	*Add*	Accrued gross profit margin from 30% of contract provided to LTC Co not yet invoiced, paid or recognised *(21,000/70% * 30% * 25%)*	2,250	2
(2)	*Add*	Lease payment for 27 months paid in advance *(4,500/36 months * 27 months)*	3,375	2
(3)	*Add*	International school fee paid for daughter of general director	720	1
(3)	*Deduct*	Other income to be collected from the general director *(720 – 500)*	(220)	1
(4)	*Add*	Non-deductible damage covered by insurer (W1)	2,500	W1
(5)	*Add*	Non-deductible amortisation of licence (W2)	2,000	W2
(6)		Realised net loss on cash	0	0·5
(6)	*Add*	Unrealised loss on cash	800	0·5
(6)		Unrealised loss on trade payables	0	0·5
(6)	*Deduct*	Unrealised gain on trade receivables	(1,300)	0·5
Total adjusted taxable income			148,125	
Corporate income tax (CIT) liability *(148,125 * 20%)*			**29,625**	0·5

Workings

(W1) Damaged equipment

	VND million	
The equipment should have been recorded as follows in the draft income statement:		
– Selling price	45,000	1
– Cost of goods sold	(50,000)	1
– Repair expenses	(1,000)	0·5
Loss from sale	(6,000)	
Deductible expenses: repair	1,000	
Deductible expenses: uninsured cost of flood damage *((45,000 – 50,000) * 50%)*	2,500	
Non-deductible loss (covered by insurer) to be added back	(2,500)	1

(W2) Licence

	VND million	
Current terms of the licence (15,000/3,000) = 5 years		0·5
Total amortisable period (5 years + 10 years) = 15 years		0·5
Annual tax amortisation (15 million/15 years)	1,000	0·5
Amortisation expense in draft income statement	(3,000)	0·5
Non-deductible amortisation expense to be added back	(2,000)	1
		15

Tutorial notes:

(1) Lease payment in advance: only nine months from April to December 2019 can be claimed as deductible expenses for fiscal year 2019. The remaining 27 months' rent should be added back.

(2) International school fee of the general director of VND500 million covered by the company: this expense is not deductible because his daughter is a Vietnamese citizen. The excess of VND220 million is also non-deductible because it is a payment made on behalf of the general director. Accordingly, the other income of VND220 million receivable from the general director is not taxable.

Marks

6 Mr Bert Walsh

(a) **Taxable income, non-taxable income and non-income items in 2019**

	Taxable income USD	Income not taxable USD	Non-income items USD	
Annual salary (25,000 * 9 months)	225,000			0·5
Incentives (25,000 * 2/12 * 9)	37,500			1
Incentives received in 2020		50,000		1
Tuition fee (1,500 + 1,000) * 9 months	22,500			1
Bus and meals (400 * 2 * 9 months)			7,200	1
Air fares borne by LDT for Bert and Jane in excess of non-taxable fare (3,500 * 3 trips)	10,500			1
Air fare for Bert (3,500 * 1 trip)		3,500		1
Air fare from Bert's income (3,500 * 4 trips)			14,000	1
Medical insurance (1,000 * 9 months * 3)	27,000			1
Medical insurance for Bert – exempt (1,000 * 9 months)		9,000		1
Utilities, etc received in cash (2,000 * 9)	18,000			0·5
Total taxable employment income	340,500	62,500	21,200	
				10

(b) **Personal income tax (PIT) liability in 2019**

	USD	USD	VND million	
Taxable housing				
– 15% of gross income (340,500 * 15%)	51,075			0·5
– Actual housing (600,000/50 years/12 * 9 months)	9,000			1
Taxable housing (lower of: 51,075 and 9,000)		9,000		
Taxable income from (a)		340,500		
Total taxable income *(340,500 + 9,000)*		349,500		
Taxable income in VND(349,500 * 23,500)			8,213·3	0·5
Self-deduction *(VND9 million * 9 months)*			(81·0)	0·5
Dependent deduction *(VND3·6 million * 2 grand children * 9 months)*			(64·8)	1
Annual assessable income			8,067·5	
Monthly assessable income (8,067·5/9)			896·4	0·5
Monthly tax liability (896·4 * 35% – 9·85)			303·9	0·5
Annual tax liability (303·9 * 9 months)			**2,735·1**	0·5
				5
				15

Tutorial notes:

(1) The tuition fees for Bert's grandchildren are taxable in full (the exemption only applies to children).
(2) Bert's wife is not a dependant because she is less than 55 years old.