# Answers

Section A

**1** **B** VND2,520 million (792/(1 + 10%)/2*7 months)

The monthly rental expenses net of value added tax (VAT) would be 792/(1 + 10%)/2 months = 360 million per month. Total rent period in the year would be seven months (not nine months).

**2** **A** VND440 million [4,840 /1·1*10%]

According to Example 13 of Circular 219/2013, the interest for deferred payment would not be subject to value added tax (VAT).

**3** **C** VND303 million [((96*14 months/12 months – 9) – (26*(8% + 1·5% + 1%))*35%) – 9·85]*12 months

**4** **D** USD5,263 ((USD200,000/2 instalment/(1 – 5%)*5%)

**Note:** *The instalment paid in March 2018 would not be subject to foreign contractor tax (FCT) in 2017.*

**5** **D**

According to Article 18.3.b of the Circular 219/2013 (as amended in Article 1.3 of Circular 130/2016), the input value added tax (VAT) from investment projects where the project is located in the same province or different provinces of the headquarter must be offset with the net output VAT of the headquarter (before claiming any refund). The company can only claim a refund for the input VAT if the residual input VAT after all the offset is more than or equal to VND300 million.

**6** **A** VND8,000 million ((120,000 million – (100,000 million*80%)*20%)

Where the shares transferred were purchased (not the original capital contribution), the purchase price shall be the value of the shares purchased based on share purchase agreement (Article 14.2 of Circular 78/2014 as amended by Circular 96/2015). Note that VND120,000 million were the proceeds from sales of 80% of the shares only.

**7** **B** VND250·8 million (USD10,000*22,800*20%*5·5 months) = 250·8 million

Mr Mohammad Taqi spent only 5·5 months in Vietnam for the first tax year (12 months from first arrival) and therefore was non-resident – accordingly he would be subject to 20% flat rate on the Vietnam-sourced income (i.e. income from secondment).

**8** **C** Related parties in 2016 | Not related parties in 2017

According to Article 5.1(a) of Decree 20/2016 regarding Transfer Pricing (effective from 1 May 2017), 'one enterprise directly or indirectly holds at least 25% of the contributed capital of the owner of the other enterprise …' would be related parties. Before Decree 20/2016, the ratio was 20% according to Circular 66/2010.

**9** **A** USD95,000 [100,000 – (100,000*5%)]

The training fee (both online courses and courses organised in Vietnam) would be subject to foreign contractor tax (FCT) as services, corporate income tax (CIT) rate 5%, as can be interpreted from Example 8 of Circular 103/2014.

**10** **C** VND8,000 million [(180,000 – 100,000)/10 years]

According to Article 7.14 of Circular 78/2014 as amended by Circulars 151/2014 and 96/2015, the revaluation gain from capital contribution in the form of non-amortisable (indefinite term) land use right (LUR) shall be allocated up to ten years to other income.

*Marks*

**11 D** VND108 million [(9 million self-relief*12 months)

Ms Allanda Beath is 50 years old and would not qualify for the dependant deduction. The cash support is taxable income in this case, but not a deduction.

**Tutorial note:** *Cash support for fatal diseases is non-taxable; however, in this case cash support is taxable because it is not for a fatal disease.*

**12 B** USD238,000 (250,000 – 5,000 – 7,000)

According to Example 20 of Circular 103/2014, the full revenue would be taxable, after deducting airport charges and refunds, collected on behalf of the airport.

**13 B** VND3,920 million ((8,000 – (1,200 persons * 5 million/person)) + ((12,800 – 8,000)*40%))

According to Article 6.2.6 of Circular 78/2014, as amended by Circular 96/2015, uniform expenses in cash can be deductible up to VND5 million/person/year, while uniform expenses in kind can be deductible in full subject to proper documents.

**14 D** VND65·54 million [(10,000*22,800) = (228 million – 9 (personal relief) – 3·6 (son relief))*35% – 9·85]

According to Article 2.2.g.7 of Circular 111/2013 as amended by Circular 92/2015, overseas tuition fees for children of Vietnamese assignees working abroad would be exempt from personal income tax (PIT).

**15 C**

According to Article 10.3 of Circular 156/2013 (revised by Circular 26/2015), the deadline for:

– Monthly tax payment – value added tax (VAT): 20th of the next month,
– Quarterly tax payment – provisional corporate income tax (CIT): 30th of the next quarter
– Yearly tax payment, except CIT finalisation (business registration): 30th of the next year

2 marks each **30**

Section B *Marks*

1 LMK Co

**(a)** Loss carry forward principles

According to Article 9 of Circular 78/2014 as amended by Circular 96/2015:

– The enterprise is required to carry forward the tax losses FULLY and CONSECUTIVELY to offset against taxable income in subsequent years. 1

– The loss can be carried forward up to five years from the year following the loss-making year. 1

2

**(b)** Tax incentives for 2015–2016

According to the corporate income tax (CIT) regulations from 2011 to date:

– The tax holiday (exemption, reduction) period shall commence from the first year of taxable income. Where the company makes a loss in the first three years, the tax holiday commences from the fourth year of revenue generation. 1·5

– For LMK Co, the tax exemption period started from 2014 (fourth year of revenue generation). 2015 would be the second year of exemption. 1

– 2016 is the first year of 50% reduction. 0·5

3

**(c)** Tax loss carry forward to 2018

| Years | Revised tax losses | Latest year | 2015 | 2016 | 2017 | Remaining to 2018 | |
|---|---|---|---|---|---|---|---|
| Income | | | 8,000 | 14,000 | 22,000 | | |
| 2011 | (35,000 – 6,000) = (29,000) | 2016 | (8,000) | (14,000) | | | 1·5 |
| 2012 | (20,000 – 6,000) = (14,000) | 2017 | | | (14,000) | | 1 |
| 2013 | (15,000 – 5,000) = (10,000) | 2018 | | | (8,000) | (2,000) | 1·5 |
| 2014 | (5,000 – 1,000) = (4,000) | 2019 | | | | (4,000) | 1 |
| | Total loss carry forward to 2018 | | | | | (6,000) | |
| | | | | | | | 5 |
| | | | | | | | 10 |

2 Mr Dung Tien

**(a)** Tax treatments of prize

According to Article 2.2.e.1.7 of Circular 111/2013 as amended by Circular 92/2015: A prize in cash accompanied by a certificate of reward granted by the Government shall be free of personal income tax (PIT). 1

The prizes in kind can be treated as prizes/gifts. According to Article 2.10 of the Circular 111 above: prizes/gifts shall be taxable if these are securities, capital contribution, real estate or registrable assets such as a car. 1

Accordingly, the car would be subject to PIT (at 10% of the excess over VND10 million) while the free-of-charge flights would be non-taxable. 1

3

**Tutorial note:** *Candidates who had other valid arguments regarding the tax treatment of the flights received full credit.*

*Marks*

**(b) Personal income tax (PIT) liability on employment income for 2017**

| | VND million | Taxable income VND million | Marks |
|---|---|---|---|
| Salary (45*12) | 540 | | 0·5 |
| Performance incentive (45*3) | 135 | | 0·5 |
| Allowances (15*3) | 45 | | 0·5 |
| Sign-on payment | 2,400 | | 1·5 |
| Total taxable employment income | | 3,120 | |
| Monthly taxable income *(3,120/12 months)* | | 260·0 | 0·5 |
| Self-deduction *(VND9 million)* | (9·0) | | 0·5 |
| Dependent deduction *(VND3·6 million*2 parents)* | (7·2) | | 0·5 |
| Compulsory insurance *[VND26 million*(8% + 1·5% + 1%)]* | (2·7) | (18·9) | 0·5 |
| Monthly assessable income | | 241·1 | |
| Monthly tax liability *(241·1*35% – 9·85)* | | 74·5 | 0·5 |
| Annual employment tax liability *[74·5*12 months]* | 894 | | 0·5 |
| Prize from car *(800 million – 10 million)*10%* | 79 | | 1 |
| Total tax liabilities from all sources | | 973·0 | |
| | | | **7** |
| | | | **10** |

**Tutorial note:** *Sign-on payment: since the tax authorities instructed this payment should be treated as employment income, the income would be taxed at the time of payment from employer to employee according to Article 8.2 of Circular 111/2013 as amended by Circular 92/2015 (and as confirmed in Official Letter 2151/TCT-TNCN issued by the General Department of Taxation on 10 June 2014 – candidates are not required to know this ruling). Accordingly, despite the fact that the payment is for two years' term, it would be taxed in the year of payment by employer.*

## 3 Agado

**(a) Foreign contractor tax (FCT) on the service agreement**

| | VND million | VND million | Marks |
|---|---|---|---|
| Domestic room charges collection | 45,600 | | |
| Referral fee from domestic collection *(45,600*15%)* | | 6,840 | 1 |
| Overseas room charges collection before deducting referral fees *(2·38*22,800)/(1 – 15%)* | 63,840 | | 1 |
| Referral fee from overseas collection (63,840*15%) | | 9,576 | 0·5 |
| Total referral/service fees to Agado | | 16,416 | 0·5 |
| Gross up for CIT *(16,416/(1 – 5%))* | 17,280 | | 1 |
| CIT portion of FCT *(17,280*5%)* | | 864 | 0·5 |
| Gross up for VAT *(17,280/(1 – 5%))* | 18,189 | | 1 |
| VAT portion of FCT *(18,189*5%)* | | 909 | 0·5 |
| Total FCT | | 1,773 | |
| | | | **6** |

**(b) Double tax agreement (DTA) exemption**

Agado would be exempt from the corporate income tax (CIT) portion of the foreign contractor tax (FCT) in Vietnam if the business activities of Agado are categorised as 'business profits' and Agado did not carry on business in Vietnam through a permanent establishment (P/E). 2

Within 15 days from the deadline for the FCT declaration, the Vietnamese party in the contract (i.e. TSQR Co in this case) is required to submit a notification dossier about the DTA exemption to the tax authorities (including, for example, a notification form, copy of service agreement, certified copy of residency certificate of Agado in Hong Kong, etc). 2

**4**

**10**

Marks

## 4 FNF JSC

**(a) Creditable input value added tax (VAT)**

**Creditable/refundable input VAT from purchase of non-current assets**

| | VND million | Marks |
|---|---|---|
| Total input VAT from purchases of non-current assets | 80,000 | |
| *Less:* input VAT from assets specifically for exempt activities | (20,000) | 1·5 |
| Total input VAT for taxable and exempt activities | 60,000 | |
| Provisional allocation to exempt activities (based on estimated revenue) (60,000*65%) | (39,000) | 1·5 |
| Provisional creditable activities | 21,000 | **3** |

**Tutorial note:** *This question is based on Example 61 of Circular 219/2013 as amended by Circular 26/2015 and 130/2016.*

**(b) Adjustments**

**(i)** According to Example 61 of Circular 219/2013 as amended by Circular 26/2015 and 130/2016 (in Article 14.4):

During the construction period (from January 2013 to August 2014), as the company has both exempt and taxable activities, the company can claim creditable/refundable input value added tax (VAT) incurred from non-current assets during the construction period based on the provisional revenue allocation (i.e. under the feasibility study). 1

The provisional creditable/refundable input VAT shall be adjusted based on the actual revenue ratio between taxable revenue and total revenue over three years from the year of first revenue. 1

**Adjustments to creditable/refundable input VAT from purchase of non-current assets after three years (as at 31 August 2017)**

| | VND million | Marks |
|---|---|---|
| Total revenue from taxable activities, i.e. other transportation activities (32 + 41 + 77) | 150,000 | 0·5 |
| Total revenue (150 + (80 + 120 + 150)) | 500,000 | 0·5 |
| Actual ratio of taxable revenue/total revenue (150/500) | 30% | 0·5 |
| Creditable/refundable input VAT based on actual revenue ratio (60,000*30%) | 18,000 | 0·5 |
| Provisional creditable/refundable input VAT claimed in 2014 | (21,000) | 0·5 |
| Adjustments: to reduce creditable/refundable input VAT as at 31 August 2017 | (3,000) | 0·5 |
| | | **5** |

**(ii) Penalty**

The current rate of annual late tax payment interest is 0·03% per day. 1

According to Example 61 of Circular 219/2013 as amended by Circular 26/2015 and 130/2016 (in Article 14.4), the company is not required to pay any late payment interest on the reduction adjustment of input VAT from non-current assets. 1

**2**

**10**

*Marks*

**5** HTM Co

| Item | | VND million | VND million | Adjustment VND million | |
|---|---|---|---|---|---|
| | Profit before tax as per draft financial statements | | | 80,000 | |
| 1 | **Depreciation** | | | | |
| | Machine value | 96,000 | | | |
| | Original depreciation per year *(96/8 years)* | | 12,000 | | 0·5 |
| | Total depreciation from April 2015–September 2017 *(12*2·5 years)* | (30,000) | | | 1 |
| | Residual value before change | 66,000 | | | 0·5 |
| | New depreciation per year (66/4 years) | | (16,500) | | |
| | Additional allowable depreciation per year due to change in useful life | | (4,500) | | 0·5 |
| | *Deduct: [4,500/12 months*3 months from October–December 2017]* | | | (1,125) | 1 |
| 2 | **Rent** | | | | |
| | *Add back:* 2 months deposit (not an expense) *(100*2 months)* | | 200 | | 1 |
| | Rent payment (no adjustment as correct) | | 0 | | 0·5 |
| | Individual tax on rent (no adjustment as being clearly provided in contract) (1) | | 0 | | 1 |
| | | | | 200 | |
| 3 | **Provisions** | | | | |
| | *Add back:* provision in 2016 not fully utilised within first six months of 2017 (2) | | | 2,000 | 1·5 |
| | Provision in 2017: | | | | |
| | Salary funds of 2016 *(8,500/17%)* | | 50,000 | | 1 |
| | Salary funds of 2017 *(50,000*1·5)* | | 75,000 | | 1 |
| | *Deduct:* allowable provision in 2017 *(75,000*17%)* | | | (12,750) | 1 |
| 4 | **Pension** | | | | |
| | Total monthly salary funds for 2017 (75,000/12) | 6,250 | | | 0·5 |
| | Number of employees *(6,250/6·25 million per employee)* | 1,000 persons | | | 1 |
| | Maximum deductible pension expense (1,000 persons*1 mil/month*12 months) | | (12,000) | | 1 |
| | Total amount actually paid | | 16,000 | | |
| | *Add back:* non-deductible pension | | | 4,000 | 1 |
| | Total taxable income | | | 72,325 | 0·5 |
| | Tax (20%) | | | 14,465 | 0·5 |
| | | | | | **15** |

**Tutorial notes:**

(1) *Individual tax on rent: if the contract provides that the company will bear individual taxes, the individual taxes would be deductible expenses (Article 6.2.5 of Circular 78/2014 as amended by 96/2015).*

(2) *According to the same Circular, Article 6.2.5, if the company does not utilise the provision within six months from the year end, the company is required to add back the difference in non-deductible expenses of the next year.*

*Marks*

**6** Mr Nobi Nobita

**(a)** Taxable and non-taxable income for the year 2017

| | Non-taxable income VND million | Taxable income VND million | |
|---|---|---|---|
| **Annual income** | | | |
| Annual salary (USD25,000*22·8*12 months) | | 6,840·0 | 0·5 |
| Fixed bonus (USD25,000*22·8) | | 570·0 | 0·5 |
| Performance bonus (USD80,000*22·8) – *to be taxable next year* | 1,824·0 | | 1 |
| Air fares: | | | |
| – For Nobi to Japan (1,000*22·8) | 22·8 | 22·8 | 1 |
| – For family to Japan (1,000*3 persons*2 trips*22·8) | | 136·8 | 1 |
| – For Nobi to visit Australia (1,500*22·8) | | 34·2 | 1 |
| – Family to visit Australia (not borne by company) | 0 | 0 | 0·5 |
| Tuition fees: | | | |
| – Nobijaiko (USD12,000*22·8) | 273·6 | | 0·5 |
| – Nobisuke (USD12,000*50%* 22·8) | | 136·8 | 1 |
| Car | | | |
| – From home to work and vice versa (15*40%*12 months) | 72 | | 1 |
| – Family usage (15*60%*12 months) | | 108·0 | 1 |
| Relocation allowance (10,000*22·8) | 228·0 | | 1 |
| | 2,420·4 | 7,848·6 | |
| | | | **10** |

**(b)** Personal income tax (PIT) liability for the year 2017

| | | VND million | VND million | |
|---|---|---|---|---|
| Monthly taxable income (7,848·6/12 months) | *A* | | 654·1 | 0·5 |
| – 15% of gross income (654·1*15%) | *B* | 98·1 | | 0·5 |
| – Actual housing cost (USD2,800*22·8) | *C* | 63·8 | | 0·5 |
| Monthly taxable housing | *D = min(B,C)* | | 63·8 | |
| Total taxable income | *E = A + D* | | 717·9 | |
| Deductions | | | | |
| – Self deduction | *F* | (9) | | 0·5 |
| – Family deduction (3·6*2 persons) | *G* | (7·2) | | 1 |
| – SHUI (26*10·5%) | *H* | (2·7) | (18·9) | 0·5 |
| Monthly assessable income | *I* | | 699·0 | |
| Monthly tax liability | *K= (I*0·35 – 9·85)* | | 234·8 | 1 |
| Annual tax liability | *L = K*12* | | 2,817·6 | 0·5 |
| | | | | **5** |
| | | | | **15** |