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# Answers

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Section B

Marks

1 EDM JSC

(a) Deductibility of expenses

According to Article 6, point 2.4 of Circular 78/2014, as amended by Circulars 96/2015 and 130/2016, the following principles apply to the deductibility of the cost of purchases from business individuals with revenue below VND100 million per year for tax purposes:

- |   |          |
|---|----------|
| – The buyer is required to prepare the list of purchases according to Form 01/TNDN (signed by an authorised person).  | 1        |
| – The expenses are not required to be supported with documents in the case of non-cash payments ( <i>in other words, for payment-via-a-bank, evidence is NOT required</i> ).            | 1        |
| – If the tax authorities view that the price in the list is higher than the market price, then the tax authorities can re-calculate the deductible expenses based on such market price. | 1        |
|   | <u>3</u> |

(b) Corporate income tax (CIT) adjustments for the year ended 31 December 2017

Item	Adjustment VND million	
1. Payments to freelance lecturers <i>Add back:</i> cash payments to individual lecturers with revenue in excess of VND100 million (60%*VND600 million)	360	1
2. Free of charge courses for employees <i>Add back:</i> market price of free-of-charge courses offered to employees <i>Deduct:</i> work-related course costs (70%*VND180 million)	180 (126)	1 1
3. Investor negotiation and share issue costs <i>Add back:</i> negotiation and share issue costs (non-deductible)	160	1
4. Allowance payments to shareholders No adjustment: payment to founding shareholders (deductible) <i>Add back:</i> payment to angel investor (non-deductible)	0 150	0.5 1
5. Donations No adjustment: donations to schools (deductible) <i>Add back:</i> donation to private fund (non-deductible)	0 80	0.5 1
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		<u>10</u>

Tutorial notes:

1. *Free-of-charge goods/services to employees are taxable at market price.*
2. *Training expenses to improve employees' skills for work are deductible (Article 6, point 2.30 of Circular 78/2014 as amended by Circular 96/2015).*
3. *Allowances to non-participating shareholders, such as an angel investor not involved in the day-to-day management of the company, are not deductible.*

## 2 Mr Think Phan

## (a) Personal income tax (PIT) liability on employment income for 2017

	From TAC Co VND million	From KNT Co VND million	
Annual salary (55*12)/(10*12)	660	120	1
Training allowance	96	360	1
Total taxable employment income	<u>756</u>	<u>480</u>	
Monthly taxable income (756/12 months)	63		0.5
(480/12 months)		40	0.5
Self-deduction (VND9 million)	(9.0)	0	0.5
Dependent deduction (VND3.6 million*1 son)	(3.6)	0	0.5
Compulsory insurance [VND26 million*(8% + 1.5% + 1%)]	(2.7)	0	0.5
Monthly assessable income	<u>47.7</u>	<u>40</u>	
Monthly grossed-up income [(47.7-5.85)/0.7]	<u>59.8</u>		0.5
[40-3.25]/0.75]		49	0.5
Total monthly assessable income (59.8 + 49)		<u>108.8</u>	0.5
Annual tax liability [(108.8*35% - 9.85)*12 months]		<u>338.8</u>	1
			<u>7</u>

## (b) Sale of apartment

According to Article 12 of Circular 111/2013 as amended by Circular 92/2015:

Where the contract provides that the buyer is responsible for declaring and paying the tax on behalf of the seller, the taxing time is the time when the registration procedures for the change in ownership are carried out. 1.5

Accordingly, the time when Mr Think Phan would be subject to tax would be 20 December 2017. 0.5

Mr Think Phan's PIT liability on the sale is VND104 million (5,200 million\* 2%). 1

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**Tutorial note:** The purchase price is not relevant because PIT on a real estate transfer is calculated at 2% of sales proceeds.

## 3 INTSP Co

## (a) Transaction 1: Leasing contract with LSPC Co

Corporate income tax (CIT) portion of foreign contractor tax (FCT):

	USD	
Rental income	900,000	0.5
Less: deductible expenses (according to Article 13, point 1(b.4) of Circular 103/2014)		
- Negotiating contract	(0)	1
- Insurance (USD24,000/12*9 months)	(18,000)	1
- Transportation costs	(30,000)	0.5
- Expert costs (USD10,000*6 months)	<u>(60,000)</u>	1
Net taxable income	792,000	
Gross up (792,000/(1 - 5%))	<u>833,684</u>	0.5
CIT (833,684*5%)	<u>41,684</u>	0.5
		<u>5</u>

## (b) (i) Transaction 2: Shipping contract with D-Line

According to Article 13, point 1(b.6) of Circular 103/2014:

For shipping lines, taxable revenue shall be the total freight costs (and surcharges) received from customers from a Vietnam port to the destination port (including inland transportation in Vietnam). 1

The taxable revenue can be reduced by any freight costs already subject to CIT in Vietnam in the hands of either a foreign transporter or a local transporter for shipping the goods from a port in Vietnam to a connecting port (hub).

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**(ii) FCT to be deducted on order from MCT Co**

	USD	
Freight income (including surcharge) (120,000 + 40,000)	160,000	1
Less: shipping costs to Singapore	(30,000)	0.5
Taxable income	<u>130,000</u>	
VAT ( <i>international transportation is subject to 0% VAT</i> )	(0)	1
CIT (130,000*2%)	2,600	0.5

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**Tutorial note:** *The question was based on Example 21 of Circular 103/2014.*

**4 (a) EMRT Co invoicing requirements**

According to Articles 16 and 18 of Circular 39/2014 as amended by Circular 26/2015:

**Case 1:** The supplier is still required to issue an invoice for purchases over VND200,000 even if the customer does not require it. In such circumstances the invoice should clearly state 'Invoice not required by buyer' or 'Buyer did not provide information' (Article 16.2(b)). 1.5

**Case 2:** For purchases of less than VND200,000 where the customer does not require an invoice, the supplier is required to prepare a list of goods/services sold without invoices issued. At the end of the day, the supplier is required to issue an invoice showing the total amount of the sales according to the list, and keep a copy of the invoice (Article 18.2, 18.3). 2

**Case 3:** A revised invoice is not required provided the customer's tax code is correct. However, the parties are required to issue a minute for correction. 1.5

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**(b) RETM Co value added tax (VAT) payable**

Area of land allocated to each villa (3,750m<sup>2</sup>/15 villas) 250m<sup>2</sup> 0.5

**VAT charge on each invoice for the sale of one villa**

	VND million	
Revenue from sale of one villa (net of VAT)	13,800	0.5
Less: allocated land-use-right per villa as charged by TTN Co (VND22 million per m <sup>2</sup> *250m <sup>2</sup> )	(5,500)	1
Less: allocated infrastructure per villa as charged by TTN Co (30,000 million/3,750m <sup>2</sup> *250m <sup>2</sup> )	(2,000)	1
VAT-taxable revenue	<u>6,300</u>	
VAT charge at 10%	<u>630</u>	0.5

**VAT declaration for June 2017**

Output VAT (630*15)	9,450	0.5
Creditable input VAT (from development costs only)	(4,500)	1
VAT payable	<u>4,950</u>	5

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**Tutorial note:** *This question was based on Example 39 of Circular 219/2013 as amended by Circulares 26/2015 and 130/2016. Note that as RETM Co selected to deduct the infrastructure cost from taxable revenue for VAT, it is not allowed to claim any input VAT for infrastructure costs as creditable in its input VAT declaration.*

## 5 IVX Co

## (a) Principles for determining selling price and historical costs

## (1) Foreign currency is the functional currency

The selling price is the total proceeds in the foreign currency. 1

The historical costs can be determined in the foreign currency, based on the original capital contribution or contractual purchase price. 1

## (2) VND is the functional currency

The selling price is the amount in foreign currency converted into VND using the **commercial bank's buying exchange rate** at the time of transfer. 1

For the original capital contribution, the historical cost is determined based on the value in the accounting books as certified by the parties or specified in the audited financial statements. 1.5

For the purchased capital, the historical cost is determined based on the purchase price. 1

In each case, the amount should be converted into VND using the exchange rate at the time of contribution or purchase. 0.5

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## (b) Corporate income tax (CIT) liability on the transfer of the IVX-TCL Ltd capital contribution

	VND million	
<b>Selling price</b>		
Sales proceeds ( <i>USD6 million*22,800 (buying exchange rate)</i> )	136,800	1.5
<b>Historical costs</b>		
Original in USD converted into VND at VND 16,000 ( <i>USD10 million*40%*16,000</i> )	(64,000)	1.5
<b>Transfer expenses</b>	(200)	0.5
Taxable capital gain	<u>72,600</u>	
Tax at 20%	14,520	0.5
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## (c) CIT liability on the transfer of IVS JSC shares

	VND million	
<b>Selling price</b>		
Sales proceeds	150,000	0.5
Late payment interest	0	1
	<u>150,000</u>	
<b>Historical costs (first-in-first-out (FIFO) basis)</b>		
Original contribution ( <i>VND100,000 million*45%</i> )	(45,000)	1
Remaining 15% from additional purchases ( <i>VND70,000 million*15%/30%</i> )	(35,000)	1.5
<b>Transfer expenses</b>	(150)	0.5
Taxable capital gain	<u>69,850</u>	
Tax at 20%	13,970	0.5

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## Tutorial notes:

- The sales proceeds are the whole of the selling price under the contract, regardless of the payment schedule. However, interest for late payment should not be included in the taxable sales proceeds for capital gains tax purposes (Article 14.2 of Circular 78/2014).
- Under the FIFO mechanism, the 60% of the shares sold consist of: the 45% original contribution and 15% from the additional purchase in January 2017.

## 6 Mr Narmey Lukuka

## (a) Residency status

Tax year	2016	2017	
Basis period	1 August 2016 to 31 July 2017	1 January to 31 December 2017	1
Mr Lukuka is tax resident in Vietnam in both the tax years 2016 and 2017 because he is present in Vietnam for more than 183 days in the basis period for each of those years as follows:			1
1 August 2016 to 31 July 2017 (80 + 125)		205 days	0.5
1 January to 31 December 2017 (125 + 135)		260 days	0.5
			<u>3</u>

## (b) Personal income tax (PIT) liability

		VND million	
<b>Tax year 2016 (1 August 2016 to 31 July 2017)</b>			
Monthly income:			
Salary paid by PGS Co (gross amount)	(USD18,000*22,800)	410.4	1
Allowances from PGSVN Co		50.0	0.5
Housing benefits: lower of – actual	(USD3,200*22,800) = 73.0		0.5
– 15% of income	(410.4 + 50)*15% = 69.1		0.5
		<u>69.1</u>	0.5
Total monthly taxable income		529.5	
Deduction (self)		(9.0)	0.5
Monthly assessable income		<u>520.5</u>	
Monthly tax	(520.5*35% – 9.85)	172.3	0.5
Annual PIT liability	(172.3*12)	<u>2,067.6</u>	0.5
<b>Tax year 2017 (1 January 2017 to 31 December 2017)</b>			
Annual income:			
Salary paid by PGS Co	(410.4*12)	4,924.8	0.5
Allowances from PGSVN Co	(50*12)	600.0	0.5
Bonus	(USD50,000*22,800)	1,140.0	0.5
Housing benefits: lower of – actual	(USD3,200*22,800)*12 = 875.5		0.5
– 15% of income	(4,924.8 + 600 + 1,140)*15% = 999.7		0.5
		<u>875.5</u>	0.5
Total taxable income		7,540.3	
Self-deduction	(9*12)	(108.0)	0.5
Dependant deduction	(3.6*4)	(14.4)	1
Annual assessable income		<u>7,417.9</u>	
Monthly assessable income	(7,417.9/12)	618.2	0.5
Monthly tax	(618.2* 35% – 9.85)	206.5	0.5
Annual PIT liability	(206.5*12)	<u>2,478.0</u>	0.5
Tax applicable to the overlap period (1 January to 31 July 2017)	(172.3*7 months)	1,206.1	1
Remaining PIT payable for the 2017 tax year	(2,478 – 1,206.1)	<u>1,271.9</u>	0.5
			<u>12</u>
			<u>15</u>

## Tutorial notes:

- The deduction of tax in New Zealand has no implications to the tax treatment in Vietnam (however, he may be able to claim credit for the tax paid in Vietnam in his home country if this is allowed under the New Zealand tax regulations).
- Thien Nam was adopted on 20 September, and a full month's dependant deduction is available for that month (i.e. a total four months in 2017).