
Answers

Marks

1 Heads Up Limited

(a) Personal income tax finalisation for Minh, Tam, Thuy and Ly

Name	Net payments (VND)				Total employed	Months	Net per month (VND)
	Basic salary	Uniform allowance	Children allowance				
Minh	300,000,000	400,000	4,000,000		304,400,000	12	25,366,667
Tam	30,000,000	400,000	5,000,000		35,400,000	4	8,850,000
Thuy	67,500,000	400,000	3,000,000		70,900,000	9	7,877,778
Ly	60,000,000	400,000	0		60,400,000	12	5,033,333
Total	457,500,000	1,600,000	12,000,000	471,100,000			47,127,778

Name	Net per month VND	Grossed up per month VND	Fixed deduction VND	Dependent deduction VND	Total gross income VND	Tax payable VND			Total tax payable VND
						0-5	5-10	10-18	
Minh	25,366,667	29,645,833	4,000,000	6,400,000	19,245,833	250,000	500,000	1,200,000	2,199,167
Tam	8,850,000	9,805,556	4,000,000	8,000,000	(2,194,444)	0	0	0	0
Thuy	7,877,778	8,725,309	4,000,000	4,800,000	(74,691)	0	0	0	0
Ly	5,033,333	5,564,815	4,000,000	0	1,564,815	78,241	78,241	0	156,482
Total	47,127,778					78,241	78,241	0	156,482

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(b) Mr Khanh

- (i) Khanh is a Vietnamese citizen and his residence is registered pursuant to the Law on Residence. 1·5
 This meets the definition of residential location which satisfies the test for a resident individual. 1·5
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(ii) Personal income tax liability

	Foreign currency	Foreign currency amount	General Department of Tax ratio	Exchange rate	VND	
Salary					720,000,000	0·5
Housing allowance	NZD	8,000		9,000	72,000,000	1
Children allowance					16,000,000	0·5
Personal travel	NZD	8,970		9,000	80,730,000	1
Non-compulsory pension	NZD	800		9,000	7,200,000	1
House rental	NZD	18,000	15%	9,000	24,300,000	1·5
Sub total for four months					920,230,000	
Per month (1/4)					230,057,500	0·5
Gross up			G = (N – 9,850,000)/0·65		338,780,769	0·5
Fixed deduction					(4,000,000)	0·5
Children deduction					(3,200,000)	0·5
Total gross for business and salary					<u>331,580,769</u>	
Tax payable:						
First VND	5,000,000	5%		250,000		
Next VND	5,000,000	10%		500,000		
Next VND	8,000,000	15%		1,200,000		
Next VND	14,000,000	20%		2,800,000		
Next VND	20,000,000	25%		5,000,000		
Next VND	28,000,000	30%		8,400,000		
Balance VND	251,580,769	35%		88,053,269		
Total monthly tax payable – business and salary				106,203,269		0·5
Total tax payable – business and salary (4 months)					424,813,076	
	Foreign currency	Foreign currency amount	Exchange rate	VND	Tax rate	
Interest income	NZD	1,000	9,000	9,000,000	5%	450,000 1
Sale of shares	NZD	0		0	5%	0 0·5
Sale of residential property	AUD	38,000	10,000	380,000,000	25%	95,000,000 1·5
Total tax payable						<u>520,263,076</u> 11

- (iii) (1) There are no tax consequences as a result of the sale of the shares, which resulted in a loss; even if there had been a gain, no tax would have been payable as income tax is temporarily not payable on purchase/sale differences. 1
- (2) Assessable income from the sale of property is the selling price of the transfer of the land less the purchase price less relevant reasonable expenses. The purchase price can be determined therefore the gain less relevant expenses is taxed at 25%. 1

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2 PMF Limited

(a) Corporate income tax liability for the year ended 31 December 2009

Net accounting profit		237,250,000	0.5
Sales of goods	0		0.5
Income from securities transactions	0		0.5
Fines for breaches of commercial contracts	0		0.5
Income omitted from previous years	0		0.5
Foreign sourced income	0		0.5
Salaries, wages and benefits	0		
Cash uniform allowances paid to staff	0		1
Founding member remuneration who do not participate	150,000		1
Other expenses	0		
Compensation assistance	0		1
Advertising and promotion	0		0.5
Receptions and formal occasions	50,000		1
Cost of hired services	0		
Lease payments for assets	0		1
Cost of goods sold	0		
Total tax adjustments		200,000	
Net taxable profit		237,450,000	
Tax rate	25%		0.5
Tax payable		59,362,500	9

(b) The five transfer pricing methodologies are:

– comparison of prices in independent transactions (comparable uncontrolled price – CUP);	1
– reselling prices;	1
– prime cost plus profits;	1
– profit comparison; and	1
– profit division.	1
	<u>5</u>

(c) Cougar Investments Ltd would be subject to either capital assignment tax (CAT) or foreign contractor tax (FCT). CAT is payable at 25% on the gain. The gain is calculated as the selling price less the cost price of the investment less the transaction costs.

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FCT is payable at 0.1% on the sales value (selling price) of the securities.

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Note: it is not clear from the question which tax regime would apply in this case.4

(d) (i) Interest is not deductible where:

– the interest is not related to the business;	1
– the interest payments or obligations are not accompanied by invoices or supporting vouchers;	1
– the interest is greater than the 150% cap calculated pursuant to the official SBV rate;	1
– the interest payment is equivalent to the unpaid portion of the company's charter capital; or	1
– the interest payment is on loans to commence prospecting, exploration or mining of petroleum.	1
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(ii) The criteria to be satisfied for a tangible asset to be deemed a fixed asset for depreciation purposes are:

– It is certain that in the future economic benefit will be derived from use of the fixed asset.	1
– The historical cost of the asset has been fixed in a reliable way.	1
– The duration of use of the asset is one year or more.	1
– The value of the asset is VND 10,000,000 or more.	1
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(e) (i) The tax assessment period is the period of 12 months, normally equivalent to the calendar year. However, the 12 month period can also commence on 1 April, 1 July or 1 October.

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(ii) As the first tax year can be up to 15 months long, the first tax period of DE Ltd will be 1 October 2008 to 31 December 2009.

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3 (a) The following payments made by Vietnamese parties to foreign entities are not subject to foreign contractor tax (FCT):

- Payments made to foreign organisations conducting business activities under:
 - the Law on Foreign Investment;
 - the Law on Petroleum; and
 - the Law on Credit Institutions.
- Payments made to foreign entities or individuals for:
 - the delivery of goods at a foreign border gate;
 - the delivery of goods at a Vietnamese border gate; and
 - services performed and consumed outside of Vietnam.
- Payments to foreign organisations or individuals providing the following services for Vietnamese organisations or individuals when such services are performed overseas:
 - the repair of transportation means (aircraft, aircraft engines, aircraft spare parts and sea-going vessels) and machinery and equipment (including sea cables and transmission equipment) with or without replacement spare parts and equipment;
 - advertising and marketing services;
 - investment and commercial promotion services;
 - brokerage services for sale of goods; and
 - training services.
- Payments for:
 - the sharing of freight charges paid for international post or telecommunications services in accordance with the Ordinance on Post and Telecommunications as between the Vietnamese party and foreign parties where such services are performed outside Vietnam; and
 - services of leasing transmission lines and satellite bands from overseas parties.

ANY ten items 1 mark each – maximum 10

(b)	(1) Loan interest payable would be subject to corporate income tax at 10%.	1
	(2) Income from investment and securities would be subject to corporate income tax at 0.1%.	1
	(3) Fines and penalties received would be subject to corporate income tax at 10%.	1
	None of the items would be subject to value added tax (VAT).	1
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(c)	Taxable turnover for corporate income tax = $(300,000 + 23,000)/(1 - 0.05) = \text{USD } 340,000$	4
(d)	Taxable turnover for corporate income tax = $100,000 - 20,000 = \text{USD } 80,000$	2
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4 (a) Apple-a-Day Limited

	Expenses VND	Income VND	VAT Rate	Input VAT VND	Output VAT VND	
Sale of fruit to inner-city supermarkets		48,000,440,000	10%	0	4,363,676,364	0.5
Fertiliser supplied to selected producers	50,000,000		5%	2,380,952	0	0.5
Fruit processing activities (cleaning, packaging)	87,000,000		10%	7,909,091	0	0.5
Purchase of hygiene packaging	45,000,000		10%	4,090,909	0	0.5
Salaries	93,700,000		n/a	0	0	0.5
Mineral water sales		23,500,000	10%	0	2,136,364	0.5
Electricity bill	2,900,000		10%	263,636	0	0.5
Rent	19,000,000		10%	1,727,273	0	0.5
Repair of vacuum-packing machine	1,800,000		10%	163,636	0	0.5
Sale of old computer in local market		5,000,000	5%	0	238,095	0.5
Provisional personal income tax	21,000,000		n/a	0	0	0.5
Purchase of new computer	15,000,000		5%	714,286	0	0.5
Nutritional training course conducted in Ho Chi Minh City	25,000,000	300,000,000	5%/10%	1,190,476	27,272,727	1
Gift of educational computer software programme	15,000,000		10%	1,363,636	0	0.5
Nutritional training course conducted in Thailand (convert from USD to VND)		2,550,000,000	0%	0	0	1
Telephone and internet	21,000,000		10%	1,909,091	0	0.5
Interest on loan	1,300,000		0%	0	0	0.5
Bank charges	55,000		10%	5,000		0.5
Totals				<u>21,717,986</u>	<u>4,393,323,550</u>	
Total payable					4,371,605,564	10

(b) The requirements for obtaining a VAT credit in addition to having an invoice for the purchase of the goods and services or a receipt for the payment of VAT at the import stage are having:

- evidence of payment via a bank for the purchased goods or services, except where the value is less than VND 20,000,000; 1
- a contract signed with the foreign party regarding the sale or processing of the goods or for provision of the services; 1
- an invoice for the sale of the goods and services; 1
- proof of payment for the goods or services via a bank; 1
- a customs declaration in the case of exported goods, certifying the actual physical export of the goods. 1

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		Marks
5 (a)	A preferential (reduced) corporate income tax rate of 10% for 15 years is applicable to business establishments and enterprises which are:	
	– Newly established enterprises from investment projects	
	– must be a newly established enterprise	1
	– the enterprise must be established in the socialisation sector operating in areas with difficult or specially difficult socio-economic conditions as listed in the Appendix of the Decree.	1
	– Newly established enterprises from investment projects in the sectors of:	
	– high-tech as stipulated by law; scientific research and technological development;	1
	– investment in development of water plants, power plants and water supply systems; in bridges, roads and railways; in airports, seaports and river-ports; in air fields, stations and other specially important infrastructure works as decided by the Prime Minister of the Government; and	2
	– computer software products.	1
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(b)	With regard to a tax inspection:	
	(1) Within five working days of its signing, the decision must be sent to the taxpayer.	1
	(2) Examination must be conducted within 10 days (maximum length of examination is five days from commencement of examination).	1
	(3) At least one day before the end of the examination, the tax inspector can extend the examination up to a maximum of five additional days.	1
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