Answers

Marks

1 Drucinex Sp. z o. o.

(a) (i) Initial tax value of the land and constructed building

			PLN	Marks
Land				
Purchase price			12,000,000	0·5
Notary fee			12,500	0·5
Real estate tax			0	0·5
Finance costs:				
Arrangement fee	10,000,000 * 4·1 * 0·5% * 12/40	61,500		1·0
Forex	12/40 * (4·1 – 4) * 10,000,000	300,000		1·5
Interest	10% * 12/40 * 10 000 000 * 2/12 * 4·15	207,500		1·5
			569,000	
			12,581,500	
Factory building				
Construction cost			32,000,000	0·5
Architect design fee			1,000,000	0·5
Salaries of personnel detached			800,000	0·5
Fire inspection fee			30,000	0·5
General management			0	0·5
Finance costs:				
Arrangement fee	10,000,000 * 4·1 * 0·5% * 28/40	143,500		0·5
Forex	28/40 * (4·1 – 4) * 10,000,000	700,000		1·0
Interest	10% * 28/40 * 10,000,000 * 6/12 * 4·2	1,470,000		1·5
			2,313,500	
			36,143,500	
				11

(ii) Tax depreciation for the year 2013

Factory building	(36,143,500 – 4,000,000) x 2·5% x 6/12 x 1·2	482,152	2

Tutorial note: *The model answer is based on the prevailing opinion of the tax authorities that only the forex differences realised (cashed) before the completion of a fixed asset should be capitalised. However, students who calculated the forex capitalised according to the literal wording of the relevant tax provision which refers to the accrued forex were granted equal marks.*

Marks

(b) **Corporate income tax (CIT) payable for the year 2013**

		PLN	PLN	Marks
Income per accounts			16,900,000	
Goods sold in the Czech Republic (through a permanent establishment (PE))	4,800,000 * 20%	960,000		1·0
Goods sold in Italy (through a PE)			0	0·5
Goods sold to France (exported)			0	0·5
Goods sold in Germany	3,800,000 * 20%	760,000		1·0
January service invoiced in December	50% * 400,000	200,000		0·5
Increase in share capital of subsidiary	5% * 14,000,000		700,000	1·0
Interest received	40,000 – 210,000	170,000		1·0
EU grant		4,000,000		0·5
Additional depreciation	482,152 – 200,000	282,152		0·5
Salaries and inspection costs capitalised	800,000 + 30,000		830,000	0·5
Donation to municipal school			300,000	0·5
Donation to foundation			400,000	0·5
Loan to employee			150,000	0·5
Unpaid sales invoice			0	0·5
Contribution in kind by owner			100,000	0·5
Financial costs capitalised	569,000 + 2,313,500		2,882,500	1·0
Year end forex adjustment	10,000,000 (4·25 – 4·1)		1,500,000	1·0
Sum of adjustments		6,372,152		
			(6,372,152)	
Taxable income			17,390,348	
Donation	400,000		(400,000)	0·5
Tax loss brought forward (50% allowed)			(1,400,000)	1·0
Tax base			15,590,348	
Tax at 19%			2,962,166	0·5
Credit for foreign tax:				
France (not applicable)		0		0·5
Germany	700,000 * 20% * 19%	26,600	(26,600)	1·5
			2,935,566	
Tax instalments paid in year	400,000 * 19% * 12/18		(50,667)	1·5
Tax due			2,884,899	
				17
				30

Marks

2 Halina Łebska

(a) **Personal income tax (PIT) for the year 2013**

		PLN	
Gross salary	9,000 * 4 + 10,000 * 3	66,000	0·5
Mobile phone: Cost		0	0·5
Private calls		400	0·5
Excess *per diem*	300 – 30 * 4	180	1·0
Reimbursements:			
Hotel		0	0·5
Conference fee		0	0·5
Business suit		3,200	0·5
Safety uniform		0	0·5
Medical package	400 * 3 – 300	900	1·0
Total salary plus benefits		70,680	
Social security (employment)	70,680 * 13·71%	(9 690)	1·0
Health service contribution (HSC) base (employment)		60 990	
Employment costs	111,25 * 4 + 139,06 * 3	(862)	1·0
Business income	230,000 * 20% – 5 * (1,200 + 1,000) + (6,000 – 7,500)	33,500	2·0
Social security (business)	1,600 * 30% * 31·9% * 5	(766)	1·5
Sale of car 1		0	0·5
Sale of car 2	35,000 – (12,000 + 6,000)	17,000	1·0
Insurance (private)		0	0·5
Insurance (business)		2,000	0·5
Rent of apartment	(3,000 – 600) * 12 – (988 * 80 * 1·5%)	27,614	2·0
Total income		139,476	
50% of income		69,738	
Tax at 18%		12,553	
		(556)	
		11,997	
	x2	23,994	1·5
Less HSC: employment	60,990 * 7·75%	(4,727)	0·5
business	3,500 * 75% * 7·75% * 5	(1,017)	1·5
Tax due		18,250	
			19

Marks

(b) Use of flat rate taxation

The effective tax rate on Halina's income is 17·2% (23,994/139,476). 1

Thus in the case of Halina's business income, opting for the 19% flat rate tax on income would not be beneficial. 1

The flat 3% rate tax on revenues would also result in a higher amount of tax payable than the standard income tax attributable to her business income, as follows:

		PLN	Marks
Flat rate tax on revenues	(230,000 – 766) * 3%	6,877	
Standard income tax basis	33,500 * 17·2%	5,762	
			2

However, in the case of the rent of the apartment, the flat 8·5% rate tax on revenues would result in less tax being payable than the standard income tax attributable to the rental income, as follows:

		PLN	Marks
Flat rate tax on revenues	3,000 * 12 * 8·5%	3,060	
Standard income tax basis	27,614 * 17·2%	4,750	
			2
			6
			25

3 Datex

(a) Output and input value added tax (VAT) for June 2013

	Taxable value PLN		VAT PLN	Marks
Output VAT				
Sales of goods Poland	4,500,000	* 23/123	841,463	0·5
Insurance services Poland	190,000	exempt	0	0·5
Sales of goods USA	2,200,000	0%	0	0·5
Insurance services USA	80,000	0%	0	0·5
Free of charge insurance	20,000	exempt	0	0·5
Goods given away (VAT deductible)	45,000	* 23/123	8,415	0·5
Snacks and sweets given away (VAT not deductible)	3,500		0	1·0
Intra community acquisition of services	430,000	* 23%	98,900	0·5
Total			948,778	
Input VAT				
Goods purchased	8,200,000	* 23/123	1,533,333	0·5
Snacks and sweets purchased to give away	3,500		0	0·5
Passenger car purchased	65,000	6,000 * 90% (maximum)	5,400	1·0
Passenger car leasing instalment	1,500	* 23/123 * 60% * 90% (total VAT to date <6,000)	151	1·5
Polish acquired services	380,000	(380,000 – 200,000) * 23/123 * 90	30,293	1·0
Intra community acquisition of services	430,000	* 23% * 90%	89,010	1·0
Total			1,658,187	
				10

(b) Treatment of excess input VAT

(i) If vatable sales in the month of July will exceed purchases, the most effective solution will be to carry forward the excess input VAT and decrease the amount of VAT payable by 25 August. 1·5

(ii) If vatable sales in the month of July will be lower than purchases, it would be more effective to ask for a VAT refund as this will be granted within 60 days (or 25 days if the invoices have been paid). 1·5

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Marks

(c) Effect of sales of insurance services on the exempt/vatable sales ratio

Financial (insurance) services rendered in Poland are VAT exempt and so decrease the ratio of vatable to total supplies. Where such services are rendered outside the EU, e.g. to the USA, they constitute 'exported' services and are treated as vatable supplies at the zero rate, with a right to recover VAT on any related purchases. Thus, there will be no negative effect on the ratio. 2

15

4 Zenon Włochacz

(a) Social security contributions and tax due using the tax card method for the year 2013

Tax card classification	Employee	Anciliary	No effect	% decrease	Marks
Zenon *(owner)*			V		1·0
Alfred *(partially disabled employee)*	V			V	1·0
Gryzelda *(wife living together in the same household)*			V		1·0
Pakosław *(son living in a different household)*	V				1·0
Wiesław *(sales only, disability does not count)*		V			1·0
Kacper, Melchior and Baltazar *(graduated terminators)*			V		1·0
Atanazy, Teofil and Sybiliusz *(unemployed graduates)*		July to December	January to June		1·0
	2	1 (4)	8 (5)	1	

Tax per the tax card:			
January to June	(873 * 120%) * 90% * 6	5,657	1·0
June to December	873 * 180% > 1,139, thus 1,139 * 90% * 6	6,151	1·5
Total tax due		11,808	
Social security due	3,500 * 60% * 34·35% * 12	8,656	1·5
			11

(b) Use of the tax card method in 2014

Graduated terminators do not count as employees for the first 12 months only. Thus if nothing changes, starting from 2014 the count of employees would go up to four which exceeds the limit for this type of activity. Hence Zenon would not be able to continue the tax card method in 2014. 2

(c) Effect of wife opening a separate business on the use of the tax card method

According to the law regulating the tax card system, spouses cannot run two independent activities of the same type. Thus, if Gryzelda opens an identical workshop, then she and Zenon would not both be able to use the tax card system. However, if the shop Gryzelda opened was not identical, but a general tailoring shop *(krawiectwo)* or fur making workshop *(kuśnierstwo)*, this would be treated by the tax card law as a different type of activity and the tax card method would be allowed for them both. 2

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Marks

5 Rashid

(a) **Polish thin capitalisation regulations**

Based on the Polish tax law, the deductibility of interest on a qualifying loan from related parties is restricted if the total indebtedness exceeds a debt to equity ratio of 3:1. This debt to equity ratio is accounted for at the moment the interest payment is made. 1

The financing entities which qualify for the limitation of interest deduction are: direct shareholders owning at least 25% of the shares in the company; and sister companies where a common shareholder directly owns a shareholding of at least 25%. 1

Total indebtedness (including trade receivables) to qualifying entities and grandparent entities is taken into account. The equity used is restricted to the registered share capital, with further deductions for capital contributed in the form of know-how and as a debt to equity swap. 1

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(b) **Equity loan split necessary for full interest deductibility**

Adopting a conservative approach, the interest is included in the total amount of debt for the purposes of calculating the thin capitalisation restriction.

Thus, for an investment of EUR 100 million with intended interest of 10%, the equity will be calculated as: e = (100 million – e) * (1+ interest rate)/3.

Therefore, the required equity is: EUR 26,829,268 (1·1 * 100 million/4·1); and the maximum debt is EUR 73,170,732 (100 million – 26,829,268).

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(c) **Most tax efficient financing structure**

(i) **Financing via VC (thin capitalisation restriction, no withholding tax (WHT))**

		EUR	
Tax saving in Poland	73,170,732 * 10% * 19%	1,390,244	0·5
WHT		0	1·0
Tax in Luxembourg	73,170,732 * 10% * 17%	(1,243,902)	0·5
Tax credit in Luxembourg		0	0·5
Total tax saving		146,342	

Tutorial note: *Based on CIT regulations adopting EU I&R Directive, there is no WHT levied on payments of interest (and royalties) towards a parent company provided that the shareholding is at least 25% and continues for at least two years (period post payment is also accounted for).*

(ii) **Financing via FCS (no thin capitalisation, treaty WHT)**

		EUR	
Tax saving in Poland	100 million * 10% * 19%	1,900,000	0·5
WHT	100 million * 10% * 5%	500,000	1·0
Tax in Luxembourg	100 million * 10% * 17%	(1,700,000)	0·5
Tax credit in Luxembourg		(500,000)	0·5
Total tax saving		200,000	

(iii) **Direct financing by Rashid (no thin capitalisation, no double tax treaty, WHT at full rate)**

		EUR	
Tax saving in Poland	100 million * 10% * 19%	1,900,000	0·5
WHT	100 million * 10% * 20%	(2,000,000)	1·0
Total tax cost		(100,000)	

The most tax efficient structure is financing via FCS, resulting in an overall tax saving of EUR 200,000. 0·5

7

	Marks
(d) Compliance obligations of a remitter of interest	
The remitter of the interest must obtain a certificate of tax residency from the recipient in order to apply the reduced treaty rate of withholding tax to the payment.	1
Within three months after its year end, the remitter of the interest has to file a separate tax return (CIT-10(z)). In addition, if requested in writing by the interest recipient, within 14 days, information about each payment made (IFT (2r/1r)).	1
	2
	15