Fundamentals Level – Skills Module

Taxation (Poland)

Tuesday 12 June 2012

Time allowed
Reading and planning: 15 minutes
Writing: 3 hours

ALL FIVE questions are compulsory and MUST be attempted.
Tax rates and allowances are on pages 2–3.

Do NOT open this paper until instructed by the supervisor.

During reading and planning time only the question paper may be annotated. You must NOT write in your answer booklet until instructed by the supervisor.

This question paper must not be removed from the examination hall.

The Association of Chartered Certified Accountants

Paper F6 (POL)

ACCA

SUPPLEMENTARY INSTRUCTIONS

1. Calculations and workings need only be made to the nearest PLN.
2. All apportionments should be made to the nearest month.
3. All workings should be shown.

TAX RATES AND ALLOWANCES

The following tax rates and allowances for 2011 are to be used in answering the questions.

Personal income tax (PIT)

	Tax amounts to
Up to PLN 85,528	18% of the base minus PLN 556·02
PLN 85,528 and above	PLN 14,839·02 plus 32% on the excess over PLN 85,528

Flat rate monthly cost

The basic flat rate monthly cost of earning income from employment is PLN 111·25.

Various PIT limits

	PLN
Internet connection	760
Rehabilitation relief – maximum earnings	9,120
Rehabilitation relief medicines – monthly limit	100
Rehabilitation relief – motor car travel	2,280
Rehabilitation relief – guide dog for the blind	2,280
Competition prizes	760
Child deduction	1,112
Daily meal allowance (*dieta*)	23
Motor car allowance (per km)	1
Donation rate	6%

Flat rate tax (*ryczalt*)

Revenue limit €150,000	
Free professions	20·0%
Services and rent	8·5%
Production	5·5%
Trade	3·0%

Health service contribution (HSC)

The rate of health service contribution is 9·00% of the base, and 7·75% of this is deductible for personal income tax purposes.

Corporation tax (CIT)

Corporate income tax rate 2007 to 2011	19%

Dividend withholding tax

Basic dividend withholding tax rate	19%

Tax depreciation rates

Buildings – Residential	1·5%
– Other	2·5%
General machinery	14·0%
Transport means	20·0%
Computer equipment	30·0%
Office and other equipment, furniture	20·0%

Residential property deemed value of PLN 988.

Social security contributions (ZUS)

	Employer	Employee
Insurance (*Ubezpieczenie*)		
Retirement pension	9·76%	9·76%
Disability pension	4·50%	1·50%
Sickness benefit	–	2·45%
Accident benefit	1·67%	–
Work fund (*Fundusz pracy*)	2·45%	–
Guaranteed workers' benefit (*Fundusz gwarantowanych swiadczen pracowniczych*)	0·10%	–
	18·48%	13·71%

Upper earnings limit	PLN 100,770

Average and minimum monthly salary

	PLN
Minimum salary	1,300
Average salary	3,000
Average private sector salary	3,100

Value added tax (VAT)

Normal rate	23%
Registration limit	PLN 150,000

This is a blank page.
Question 1 begins on page 5.

ALL FIVE questions are compulsory and MUST be attempted

1 Three Stripes and a Bat Sp. z o.o. (TSB) is a company active in the business of debt collection, debt trading and the provision of security systems. While it is involved in a number of financial operations, TSB is not a bank or other regulated financial institution.

TSB's corporate income tax (CIT) results for the four years 2007 to 2010 were as follows:

Year	**CIT result PLN**	
2007	5,400,000	profit
2008	2,300,000	profit
2009	(90,000)	loss
2010	(180,000)	loss

In December 2010, TSB decided to change its accounting year from a calendar one to a new tax year ending on 30 June. The following information relates to TSB's transitional tax period commencing 1 January 2011 and ending 30 June 2012 (the tax year).

Income statement based on TSB's accounting records:

	Additional information	**PLN**	**PLN**
Trade and service revenues	1 & 2		9,300,000
Dividend	3 & 4		2,100,000
Loan interest	5		5,700,000
Foreign exchange gains	6		400,000
Other revenue	7		150,000
Revenue total			17,650,000
Cost of goods sold	8	6,700,000	
Impaired receivables	9	4,300,000	
Depreciation	10	450,000	
Other expenses	11 & 12	2,370,000	
Interest	13	280,000	
Foreign exchange losses	14	780,000	
Costs total			14,880,000
Gross income			2,770,000

Additional information:

(1) During the tax year TSB continued a long-term project for the implementation of a new security system for Client A. Since it is a long-term contract, the revenue for accounting purposes is proportional to the completion of the contract. The accounting revenue recognised on this contract during the tax year was PLN 740,000. However, Client A only formally accepted one milestone of the contract during the period and was invoiced for this in the amount of PLN 470,000.

(2) Revenue of PLN 300,000 received instead of a loan repayment, from the sale of a house taken over from a debtor in a foreclosure procedure, had been recognised for accounting purposes in 2010 when the foreclosure procedure ended. However, the notary deed on the sale of the house was not signed until 15 January 2011.

The costs of acquisition of the house totalling PLN 230,000 were recognised for accounting purposes also in 2010.

(3) From its debt collection proceedings, TSB has gathered a large number of minority shareholdings in a number of Polish companies. In the tax year it received PLN 560,000 of dividends from companies in which it holds less than 5% of the shares and PLN 430,000 from a company in which it holds 45% of the shares. Since the number of companies in which shares are held is quite large, the accountant of TSB made his life easier and accounted only for the net amounts of the dividends, as they were all received in cash.

(4) Apart from the shares in Polish companies, TSB holds 50% of the shares in a human resources (HR) agency resident in Czelabinsk in Russia. The agency, which provides staff when needed for TSB's debt collection

activities, operates as a limited liability company. The agency company declared a dividend in the amount of PLN 1,110,000 for its year ended 2011 and this revenue has been reflected in TSB's accounts. However, the dividend had not actually been paid at the end of TSB's tax year. The Polish–Russian double tax treaty provides for a 10% withholding tax on dividend payments.

(5) TSB has granted a number of high risk, high interest bearing loans to other companies and individuals. The opening balance of the interest due account at 1 January 2011 was PLN 8,900,000. The closing balance on this account at 30 June 2012 was PLN 12,100,000.

(6) The foreign exchange gain results from the valuation of loans granted in a foreign currency. None of these loans was repaid to TSB during the tax year.

(7) Other revenue corresponds to an insurance payment owed to TSB as a result of damage to TSB's insured equipment, which occurred during one of its debt collections. The insurance claim was not paid until after the end of the tax year.

(8) Cost of sales includes the full nominal value of non-performing loan receivables sold at a loss to other parties. The nominal value of the loans sold was PLN 4,200,000. These loans were all sold at 10% of their value.

(9) The impaired receivables cost is made up as follows:

- PLN 2,000,000 increase in the general bad debt provision;
- PLN 1,200,000 of small loan receivables written off as the individual cost of collection of the debts was higher than the value of the individual loans;
- PLN 700,000 of an unpaid trade receivable written off as the court execution had formally ended with no payment. PLN 700,000 is the gross amount of the receivable including 23% value added tax (VAT); and
- PLN 400,000 of an unpaid trade receivable written off. In this case the court execution had not ended, but the debtor had died. The value written off was also the gross receivable amount including 23% VAT.

(10) Depreciation costs were calculated according to the tax regulations. However, these costs include depreciation for the full period on the equipment destroyed during the debt collection attempt referred to in item (7) above.

The initial value of equipment when bought on 20 December 2010 was PLN 160,000. The equipment was destroyed in March 2011. The depreciation rate for the equipment is 20%.

(11) While tracing debtors, TSB's employees spend a lot of money on secret informers. For obvious reasons no receipts are collected. The non-documented costs included in 'Other expenses' in the tax year amounted to PLN 340,000.

(12) The other expenses account includes PLN 43,000 of expenses on meals and lunches with the clients.

(13) The interest cost account represents the interest accrued but not yet paid on TSB's unpaid trade liabilities.

(14) The foreign exchange loss was incurred on the repayment of a loan drawn in Euro. The loss in the accounts is calculated as a result of the difference between the PLN/EUR exchange rate of 4·1 PLN per EUR on 31 December 2010 and the value of the loan at its repayment date of 4·5 PLN per EUR. When the loan was first granted to TSB the exchange rate was 4·2 PLN per EUR.

TSB paid simplified CIT advances throughout the tax year.

Required:

(a) Calculate the corporate income tax (CIT) payable to the tax office by Three Stripes and a Bat Sp. z o.o. (TSB) for the tax year ended 30 June 2012.

Note: You should list all of the items referred to in the additional information in your computation, indicating by the use of '0' any for which no adjustment is required. (20 marks)

(b) Explain the difference in the CIT treatment of interest accrued but not paid/received, interest paid/received, and interest compounded (interest capitalised to loan principal). (3 marks)

(c) One of TSB's marketing specialists has suggested that TSB offer loans with compounded interest. The nominal interest rate would be lower (hence the marketing effect) but the compound interest formula would ensure that the ultimate amount of interest charged would be the same as for a higher priced, straight-line interest accruing loan.

Required:

Considering that a significant number of the loans granted by TSB are not recovered state, giving reasons, whether or not it would be tax efficient for TSB to apply a compounded interest mechanism to its loans.

(2 marks)

(25 marks)

2 Edyta is a highly skilled IT specialist and programmer working for IT Solutions Sp. z o.o. (ITS). Her monthly gross salary is PLN 23,000.

Edyta is employed under a labour law contract. Part of her work is creating computer programs and part is managing the IT team. Her labour agreement provides for the transfer of all newly created program copyrights to ITS. The labour agreement also states that 60% of her work time is devoted to software development and 40% to IT team management.

The following additional information is available for 2011:

(1) In February Edyta attended an advanced software development course run by an external firm, which cost ITS PLN 4,000.

(2) In May Edyta went to Poznań to present ITS's products during a two-day conference.

- She received PLN 200 from ITS to cover the cost of her meals. Receipts were presented to ITS's accounting department.
- She also received PLN 1,000 to cover her hotel room bill for the two nights. She has the invoice but forgot to present it to ITS's accounting department, so the money was refunded based on her email statement that the cost was incurred.
- Just before the conference, Edyta realised that she had no suit to wear as a speaker at the conference. Since she was the only ITS representative at the conference able to publicly present their products, ITS's chief financial officer (CFO) had no choice but to refund her PLN 3,200 expense claim to buy a Prada suit. The invoice was presented to ITS's accounting department.

(3) On 21 February Edyta bought a car for PLN 110,000, which she used entirely for private purposes. She was not entirely satisfied with the car, and she had a minor traffic accident in it, so she sold it on 15 July for PLN 95,000.

(4) In October Edyta received a payment of PLN 5,000 from the insurance company in relation to the traffic accident mentioned in item (3) above.

(5) During a visit to a casino in November, Edyta won PLN 1,000.

(6) In December Edyta gave a donation of PLN 15,000 to a charity. The recipient was a public-benefit organisation which she supports.

(7) During the year Edyta paid PLN 800 for an internet connection at her home, which she used for private purposes.

(8) Edyta is married. Her husband Marek is employed in a different company Przypadkowa Sp. z o.o. (Przypadkowa). During 2011 he earned PLN 53,700 of taxable income after social security and cost deductions. Przypadkowa withheld health service contributions of PLN 4,953 from his salary.

(9) Edyta and Marek have two children, aged 12 and 16.

(10) Edyta and Marek chose to jointly calculate their personal income tax (PIT) for 2011.

Required:

(a) Calculate the personal income tax (PIT) of Edyta and Marek for 2011.

Note: You should list all the items referred to in the question as part of your computation, indicating by the use of '0' any item which is not taxable/not deductible. (16 marks)

(b) At the end of the year, Edyta discussed with IT Solutions Sp. z o.o.'s CFO the possibility of doing her work as a self-employed person. She would establish an individual business activity and enter into a service contract with IT Management Sp. z o.o. (a different company within the ITS group).

Required:

Based on the 2011 data provided in respect of part (a) above, prepare calculations to determine whether such an individual business activity arrangement would be beneficial for tax and social security purposes for Edyta and Marek.

You should make the following assumptions:

- **the net fees to be invoiced to IT Management Sp. z o.o. by Edyta are the same as her annual gross salary;**
- **Edyta would receive the same extra payments as she did during 2011, and as detailed in the additional information for part (a), items (1) and (2); and**
- **any particular reliefs, relevant claims and, where applicable, underlying payments being ground for reliefs that Edyta is now unable to make will be made (if allowed) by Marek instead.** (14 marks)

(30 marks)

3 Sergiusz Gryń is an entrepreneurial student of informatics at Politechnika Warszawska, who combines his studies with a business activity. Recently, he has developed some competitive IT data processing software and a service system.

Sergiusz's services are purchased both by individuals who are not conducting economic activity and companies involved in business. He has clients all over the world and services individuals and companies from Poland, the European Union (EU) and the United States of America (USA). Some of his Polish company clients are financial institutions (banks and insurance companies).

Sergiusz's forecast sales and purchases for 2011 are:

Sales	**PLN**
Services to Polish individuals	35,000
Services to Polish companies	25,000
Services to Polish financial institutions	14,000
Services to EU companies	31,000
Services to EU individuals	8,000
Services to US companies	15,000
Services to US individuals	12,000
Total	140,000
Purchases	
External IT hosting services	70,000
Payroll	24,000
Total	94,000

Notes:

(1) Sergiusz is not yet registered as an active value added tax (VAT) payer. Thus, the sales and purchases forecasts listed above present the gross amounts he expects to receive or pay.

(2) In the case of Sergiusz's sales:

- none of the customers who are individuals conduct any business activity,
- the companies all perform business activity and their sales are fully VATable, and
- the financial institutions all perform business activity but their sales are 100% VAT exempt.

(3) Sergiusz's purchases are:

- IT hosting services purchased from a major provider, being a Polish VAT registered company, and
- payroll costs, comprising the total salary costs paid to another Polish student who is employed by Sergiusz under a labour contract.
- where applicable, purchase figures include 23% VAT.

Considering the expansion of his business, Sergiusz wonders if it would be beneficial for him to be registered as an active VAT payer. However, the market he supplies is highly competitive and price sensitive, so those clients who are not able to deduct input VAT will not accept an increase in price by the amount of any VAT that Sergiusz would have to charge. Thus for these clients, Sergiusz would need to assume that the gross (VAT inclusive) price will be the same as the sales figure he expects to receive now, when he is not registered for VAT.

You should assume that the clients who are able to deduct input VAT will accept an increase in price by the amount of any VAT that Sergiusz would have to charge.

The services provided by Sergiusz are all subject to the 23% standard rate of VAT, where applicable.

Required:

(a) Assuming that Sergiusz will operate as a registered active value added tax (VAT) payer in 2011:

(i) List the sales made by Sergiusz that will be subject to VAT; (2 marks)

(ii) List the types of customer who will not be able to recover any input VAT charged by Sergiusz; (2 marks)

(iii) Calculate Sergiusz's output VAT and input VAT, based on his forecast activities for 2011. (8 marks)

(b) Determine whether it would be profitable for Sergiusz to register for VAT, or whether he would be better off financially to continue to operate without registering. (3 marks)

(15 marks)

4 Ekspansja Sp. z o.o. (Ekspansja) is a company producing and servicing industrial machinery. It is active in both domestic and foreign markets.

Ekspansja produces equipment, which is sold in Poland as well being exported to country A, which is situated outside the European Union (EU), and intra-community delivered to countries B, C and D, all of which are situated within the EU.

All orders for the products are made by the clients directly to Ekspansja's Polish headquarters (HQ).

The equipment is installed and serviced by the four service branches of Ekspansja which operate in Poland, country A, country B and country D.

Ekspansja has established a marketing office in country C that helps in the advertising of Ekspansja's products sold in country C. Since sales to country C are limited, there has been no need to establish a full service branch there. Instead, products are installed and serviced by the Polish branch.

The accounts of Ekspansja and its branches show the following sales and operating costs for 2011:

	Polish HQ PLN	Polish service branch PLN	Country B service branch PLN	Country A service branch PLN	Country D service branch PLN	Country C marketing office PLN
Sales	3,700,000	1,500,000	800,000	1,200,000	2,200,000	0
Operating costs	(3,330,000)	(1,425,000)	(768,000)	(1,140,000)	(1,980,000)	(80,000)
Income	370,000	75,000	32,000	60,000	220,000	(80,000)
Local (non-Polish) tax paid	0	0	8,000	21,000	22,000	0

The following additional information is available:

(1) Ekspansja HQ's product sales are 30% Poland (domestic), 12% country B, 19% country A, 34% country D and 5% country C.

(2) The above sales and cost figures were calculated in line with the tax regulations in force in the particular jurisdictions involved. In principle, the foreign regulations are similar to those for Polish corporate income tax (CIT), however, the following should be noted:

– the branch in country A calculated depreciation on its equipment according to the tax rules of country A. The depreciation of this equipment calculated according to the Polish tax regulations would result in a cost that is lower by PLN 90,000.

– the costs of country C's marketing office include PLN 40,000 of representation costs (meals and espressos with potential clients).

(3) The costs of the Polish HQ include PLN 20,000 of management costs related to the operations of the branches in country B (PLN 15,000) and country D (PLN 5,000). All other management costs are incurred and accounted for directly by the branches.

(4) The double tax treaties concluded by Poland with countries A, B and C provide for the credit method for the elimination of double taxation, while the treaty with country D provides for the exemption method.

(5) The following CIT and dividend withholding tax (WHT) rates are applicable:

Country A: 35% CIT, 10% WHT
Country B: 25% CIT, 5% WHT
Country C: 20% CIT, 5% WHT
Country D: 10% CIT, 10% WHT

Required:

(a) Calculate the Polish corporate income tax (CIT) of Ekspansja Sp. z o.o. for 2011. Clearly identify any income that is exempt or where no tax credit is due. (9 marks)

(b) You are to assume that Ekspansja Sp. z o.o.'s (Ekspansja) installation and services business is performed by subsidiaries (rather than by service branches and the marketing office in country C), that each subsidiary is a limited liability company, wholly owned by Ekspansja, which distributes 100% of its net income as a dividend each year, and that any management work done by Ekspansja for its subsidiaries is charged to such subsidiary as a management fee with a 10% mark up on the actual costs incurred by Ekspansja.

Required:

Calculate the revised Polish CIT of Ekspansja Sp. z o.o. for 2011. Clearly identify any income that is exempt or where no tax credit is due. (6 marks)

(15 marks)

5 Vulture Capital Sp. z o.o. (Vulture Capital) intends to acquire the shares of a small but promising company, Zielonka Sp. z o.o. (Zielonka). The transaction date is set at 30 August 2012.

As Vulture Capital's managers wanted to minimise the transaction costs, they employed a small tax firm, Forest, Grandpa & Partners (Forest G&P), to perform the tax due diligence for the years 2008 to 2011 inclusive.

The tax review report from Forest G&P is given below. It is unlikely that Forest G&P will send anything more.

Dear Sirs,

– Zielonka Sp. z o.o. (Zielonka) has been registered as a corporate income tax (CIT) taxpayer since 1999. It has always used the calendar year as its tax year.

– Zielonka's CIT results have been as follows:

	PLN	
2008	(50,000)	loss, fully utilised in January 2009 and 2010
2009	2,580,000	
2010	1,734,000	
2011	3,200,000	

Since 2011 simplified tax advances have been paid.

– In 2008 Zielonka paid PLN 30,000 for advisory services to one of its supervisory board members and treated this amount as tax deductible. There is no evidence that any services were actually rendered, and the company's staff have admitted that it was an 'extra' payment to the board member.

– Zielonka granted a loan to one of its shareholders. Zielonka received interest at 3% on this loan in the amount of PLN 350,000 on 30 March 2010 and of the same amount on 30 March 2011. Both payments were recognised as taxable revenue when received. The usual market benchmark for this type of loan is 7% per annum.

Formal transfer pricing documentation was prepared by Zielonka's accountant for the transactions above, but it does not prove that any services were actually rendered or justify the interest rate applied. The documentation does possess the formal elements necessary to protect the transactions from the application of a penalty CIT rate.

Yours faithfully,

Forest, Grandpa and Partners

Required:

(a) Based on the data provided by Forest, Grandpa & Partners' report:

(i) Calculate the corporate income tax (CIT) understatement of Zielonka Sp. z o.o. (Zielonka) as at the transaction date of 30 August 2012; (5 marks)

(ii) Calculate the penalty interest of Zielonka Sp. z o.o. (Zielonka) as at the transaction date of 30 August 2012; (6 marks)

(iii) Calculate the total tax risk of Zielonka Sp. z o.o. (Zielonka) as at the transaction date of 30 August 2012. (1 mark)

Note: The rate of penalty interest is to be taken as 12% per annum.

For ease of calculations you may assume that each month is 30 days long and each year is 360 days long.

(b) (i) Explain the term 'statute of limitation'; (1 mark)

(ii) Explain the statute of limitation for the CIT liabilities of Polish companies and state which years of operation of Zielonka will still be open for tax authority audit on 30 August 2012. (2 marks)

(15 marks)

End of Question Paper