Fundamentals Level – Skills Module

Taxation (Poland)

Tuesday 2 December 2014

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.

Paper F6 (POL)

The Association of Chartered Certified Accountants

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 and ZUS rates for 2013 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 cost

Monthly deduction	Annual deduction	Employer no >1	Commuting
111·25	1,335	x	x
(150%)	2,002	v	x
139·06	1,668	x	v
(150%)	2,502	v	v

Various PIT limits

	PLN
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*)	30
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% of the base, and 7·75% of this is deductible for personal income tax purposes.

Corporation tax (CIT)

Corporate income tax rate 2013 — 19%

Dividend withholding tax

Basic dividend withholding tax rate — 19%

Tax depreciation rates

Buildings – Residential	1·5%
– Other	2·5%
General machinery	14%
Transport means	20%
Computer equipment	30%
Office and other equipment, furniture	20%
Licence/software	50%
Own R&D products	100%
Other intangibles	20%

Residential property deemed value of PLN 988

Social security contributions (ZUS)

	Employer	Employee
Insurance (*Ubezpieczenie*)		
Retirement pension	9·76%	9·76%
Disability pension	6·50%	1·50%
Sickness benefit	–	2·45%
Accident benefit	1·93%	–
Work fund (*Fundusz pracy*)	2·45%	–
Guaranteed workers' benefit (*Fundusz gwarantowanych swiadczen pracowniczych*)	0·10%	–
	20·74%	13·71%

Upper earnings limit PLN 111,390

Average and minimum monthly salary

	PLN
Minimum salary	1,600
Average salary	3,500

Value added tax (VAT)

Normal rate	23%
Registration limit	PLN 150,000

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Question 1 begins on page 5.

ALL FIVE questions are compulsory and MUST be attempted

1 Drucinex Sp. z o.o. (Drucinex) has been involved in the business of machine manufacturing and servicing for several years.

The company's recent corporate income tax (CIT) results are as follows:

Year ended	**PLN**
30 June 2009	3,000,000
30 June 2010	(2,800,000) loss
31 December 2011	400,000
31 December 2012	900,000

Drucinex's financial accounts for the year ended 31 December 2013 show the following:

	PLN
Revenues	
Trade and service revenues	22,600,000
Financial revenue	250,000
Other income	4,800,000
Revenue total	27,650,000
Costs	
Operating costs	2,100,000
Other expenses	1,700,000
Financial costs	6,950,000
Costs total	10,750,000
Gross income	16,900,000

The following additional information is available. All amounts are stated net of any applicable value added tax (VAT).

(1) In 2013 Drucinex acquired land and constructed a new factory building, which is used in conditions which are classified as worse than normal.

The notary deed for the purchase of the land was signed on 28 February 2013. The purchase price for the land was PLN 12,000,000 and the notary fee of PLN 12,500 was also capitalised to the cost of the land value for accounting purposes.

The factory building was completed and put into use on 30 June 2013. The construction cost invoiced by the general developer was PLN 32,000,000 and the architect design fee of PLN 1,000,000 was also capitalised to the cost of the building for accounting purposes.

In addition, although for accounting purposes they were not capitalised, for management purposes it was calculated that the following costs were also associated with the construction:

– the salaries of workers diverted from regular duties to help with the construction of PLN 800,000;
– the cost of the fire inspection needed to receive the administrative permit for the use of the building of PLN 30,000;
– a pro-rata assessment of general management costs of PLN 600,000;
– the real estate tax paid during the construction process of PLN 87,000.

The purchase of the land (purchase price) and construction cost (upfront payment for general construction services) was, in large part, financed initially with a loan of EUR 10,000,000 on 1 January 2013 from a related party. Once the building permit was received, this related party loan was refinanced on 10 February 2013 with a bank loan of the same amount (also in EUR). Both the related party loan and the bank loan bear interest at 10% per annum, compounded every 24 months.

(2) Drucinex sells goods and services both in Poland and abroad. During 2013 the following foreign sales were completed:

- PLN 4,800,000 of goods sold by the department store owned by Drucinex in Praha, in the Czech Republic. The double tax treaty (DTT) between Poland and the Czech Republic provides for the elimination of double taxation by the exemption method.
- PLN 700,000 of goods sold by the department store owned by Drucinex in Milan, in Italy. The DTT between Poland and Italy provides for the elimination of double taxation by the credit method.
- PLN 900,000 of goods sold in France. All these goods were shipped from Poland directly to the French recipients based on orders filed on Drucinex's Polish website. Drucinex has no shop or other establishment in France. The DTT between Poland and France provides for the elimination of double taxation by the credit method.
- PLN 3,800,000 of goods sold in Germany. All these goods were shipped from Poland direct to the German recipients based on orders signed with an agent employed by Drucinex in Germany. Drucinex has no shop or other establishment in Germany, however, the agent operates there regularly and signs agreements at clients' premises. The DTT between Poland and Germany provides for the elimination of double taxation by the exemption method.

Drucinex makes an income margin, after all costs, of 20% on the value of all of its foreign country sales.

(3) In December 2013, Drucinex issued an invoice for PLN 400,000 for a recurring monthly maintenance service covering services for both December 2013 and January 2014. The whole of this revenue was accounted for in 2013.

(4) Drucinex holds 5% of the shares in Władex Sp. z o.o. (Władex). In 2013 Władex had PLN 14,000,000 of accumulated profits available for distribution. However, rather than receive the dividend, the shareholders decided to increase the statutory share capital (*kapitał zakładowy*) of Władex by this amount.

(5) The financial revenue consists of interest on a loan granted to another (unrelated) company. The opening and closing balances on the interest receivable account for 2013 were PLN 40,000 (ob) and PLN 210,000 (cb) respectively.

(6) Other income includes an EU grant of PLN 4,000,000 for the construction of the new factory (as in (1) above).

(7) Operating costs include PLN 200,000 of depreciation for the newly constructed factory building (as in (1) above).

(8) Other expenses include:

(i) Donations of:

- PLN 300,000 to a local school (municipality owned);
- PLN 400,000 to 'Have a nice day', a foundation established by Drucinex, which is registered as a public benefit organisation.

(ii) Bad debt provisions for:

- a loan to an employee of PLN 150,000;
- a trade receivable for an unpaid sales invoice of PLN 200,000;
- a trade receivable in respect of a contribution in kind by the owner of Drucinex of PLN 100,000.

The irrecoverability of all three debts was confirmed by a court bailiff.

(9) The financial costs include the following in respect of the EUR 10,000,000 loan used to finance the purchase of the land and construction of the factory building (as in (1) above):

- interest accrued for the year 2013;
- forex valuation adjustments;
- an arrangement fee of 0·5% of the loan amount, paid on the granting of the bank loan.

No capital repayments were made other than for the refinancing (as in (1) above). The remaining amount of the financial costs represents interest on PLN bank loans financing operating activity. Interest on all loans is paid at the end of each month.

Required:

(a) (i) Calculate the initial value of the land and constructed building for tax purposes, indicating by the use of zero (0) any item referred to in point (1) which is not included. (11 marks)

(ii) Calculate the tax depreciation available for 2013 on the tax values calculated in (i) above. (2 marks)

(b) Calculate the corporate income tax (CIT) due to be paid by Drucinex Sp. z o. o. for 2013. You should start your computation with the accounting gross income figure and indicate by the use of zero (0) any item referred to in points (2) to (9) which does not require adjustment. (17 marks)

Notes:

(1) You should assume that the local corporate tax rate in all of the foreign countries referred to in point (2) is 25%.

(2) Relevant PLN:EUR exchange rates for 2013 are:

1 January	4·00
10 February	4·10
28 February	4·15
30 June	4·20
31 December	4·25

(30 marks)

2 Halina Łebska was employed by a local hospital from 1 January to 30 April 2013, earning a salary of PLN 9,000 per month.

After the termination of her employment, Halina started her own business activity (for the first time in her career) trading medical products on 1 May 2013. She bought store furniture for use in this business activity for PLN 7,500 on this date.

During the five months from 1 May to 30 September 2013, Halina sold goods for PLN 230,000 at a gross profit of 20%. Her monthly expenses comprised: rent of store space of PLN 1,200 per month and other overheads (accounting, business insurance, etc) of PLN 1,000 per month.

Halina ceased trading at the end of September, as she was offered an interesting employment opportunity with a pharmaceutical company. She sold the store furniture on that date for PLN 6,000.

Starting from 1 October 2013, Halina earned PLN 10,000 per month with her new employer and in addition received the following benefits:

– the unlimited use of a company cell phone. The phone had cost her employer PLN 2,100 and the amount billed for Halina's private calls for the three months was PLN 400;
– *per diem* allowances of PLN 300 for a four-day business trip;
– reimbursement of PLN 2,200 for the hotel invoice related to her business trip (as above);
– reimbursement of the PLN 1,500 fee for her attendance at a pharmaceutical conference;
– reimbursement of PLN 3,200 for the purchase of an business suit;
– reimbursement of PLN 1,000 for the safety uniform needed for her to visit the pharmaceutical production line; and
– a private family medical package worth PLN 400 per month, including a total of PLN 300 for the cost of a work health and safety examination package.

The following additional information is also relevant:

(1) On 9 April 2013, Halina sold a car for PLN 24,000. She had bought the car for PLN 36,000 on 1 June 2012.

(2) On 28 July 2013, Halina sold another car for PLN 35,000. She had bought this second car on 10 January 2013 for PLN 12,000 and the car had been renovated by her husband, who had spent PLN 6,000 on the necessary parts and materials.

(3) In December 2013, Halina received two insurance payments:

– PLN 3,000 from her car insurance as a result of a small accident which occurred to the car sold in July (as in (2) above); and
– PLN 2,000 for goods stolen from Halina's store when she ran her business activity.

(4) Halina inherited a 80 square metre apartment several years ago. The apartment was rented to a tenant throughout 2013 for a monthly rent of PLN 3,000. The monthly maintenance costs for the apartment amounted to PLN 600.

Halina did not opt for flat rate taxation on any part of her income in 2013.

Halina is married and her husband is unemployed and earned no income in 2013. They opt for joint taxation.

Required:

(a) Calculate the personal income tax (PIT) due on Halina Łebska's 2013 income. You should list all of the items referred to in the question, indicating by the use of zero (0) any item which does not affect the PIT calculation.

Note: You should assume that the work fund contribution has no minimum threshold. (19 marks)

(b) Explain whether or not it would have been beneficial for Halina to have opted to tax any of her income to flat rate taxation in 2013. Support your conclusions with relevant calculations. (6 marks)

(25 marks)

3 Datex is a Polish-based online store selling computer equipment to individual consumers in Poland and the USA. Datex also provides an insurance service for the equipment sold in both jurisdictions.

The following transactions relate to Datex for the month of June 2013:

(1) Sold computers to Polish consumers for PLN 4,500,000 and to US consumers for PLN 2,200,000.

(2) Sold insurance contracts for PLN 190,000 to Polish buyers and for PLN 80,000 to US buyers.

(3) As an incentive, provided additional insurance services to some buyers free of charge, worth a total of PLN 20,000.

(4) Attended a computer show in Poznan and gave out various promotions as follows:

- computer equipment out of its own stock, all of which had been purchased locally in the previous three months at a cost of PLN 45,000; and
- snacks, sweets and beverages purchased for PLN 3,500.

(5) Purchased computer equipment for resale for PLN 8,200,000.

(6) Purchased a passenger car for PLN 65,000. The car will be used by the management of Datex.

(7) Paid the 20th leasing instalment for another passenger car, also used by the management of Datex. The lease is an operating lease and the contract provides for 36 instalments of PLN 1,500 each.

(8) Paid local suppliers for various services (lease of premises, accounting, services of contractors) totalling PLN 380,000. Included in these payments is PLN 200,000 for insurance services made to the insurance company which provides the reinsurance on the equipment insurance sold by Datex.

(9) Paid PLN 430,000 to a German hosting firm for IT services.

Except where stated otherwise, all of Datex's purchases were made from Polish suppliers registered for value added tax (VAT) and all figures are stated including VAT where applicable.

Datex's ratio of vatable to total sales for 2013 (year to date) is 95% and for 2012 was 90%.

Required:

(a) Calculate the total amounts of Datex's output and input value added tax (VAT) for June 2013. You should list all of the items referred to in the question, indicating any item which does not give rise to any output or input VAT by the use of zero (0).

Note: You are not required to provide a net VAT figure. (10 marks)

(b) State how Datex may effectively deal with its excess input VAT for the month of June 2013, if its July vatable sales are expected to be:

(i) significantly higher than its July purchases; or
(ii) significantly lower than its July purchases.

Note: Your answer should include any relevant deadlines. (3 marks)

(c) Briefly explain the effect of the sales of insurance services to customers both in Poland and in the USA on Datex's exempt/vatable sales ratio. (2 marks)

(15 marks)

4 Zenon Włochacz is a tailor, for many years making and repairing sheepskin coats (*usługi kożuszkarstwa*) in a small town.

Zenon is 58 years old and is partially disabled.

Zenon employed the following staff in his workshop throughout the year 2013:

– Alfred, a tailor, is 55 years old and also partially disabled.

– Gryzelda, Zenon's wife, who helps him with the tailoring work. Gryzelda, who is 65 years old, is not disabled.

– Pakosław, Zenon's son, who is 30 years old and also a tailor. Pakosław lives in a separate household from Zenon and Gryzelda, with his own wife and children.

– Wiesław, who handles the orders and payments but does no actual tailoring because he is severely disabled.

– Kacper, Melchior and Baltazar – all three of whom graduated as sheepskin coat tailors in January 2013 and work for Zenon as tailors.

– Atanazy, Teofil and Sybiliusz – all three of whom are unemployed graduates of the local Higher School of Business and Sociology, delegated to Zenon by the local unemployment office. They worked as tailors until the end of June 2013 but as they had no aptitude for the trade Zenon was forced to requalify all of them as marketing agents starting from the beginning of July.

Zenon settles his income tax via the tax card and has made a voluntary election for sickness benefit.

The taxcard for Zenon's town and profession is as follows:

Number of employees	Rate PLN	Anciliary worker increase
0	325	40%
1	633	30%
2	873	20%
3	1,139	15%

Required:

(a) Calculate Zenon Włochacz's social security contributions and the tax due using the tax card method of tax payment for the year 2013.

Note: You should ignore health contributions. (11 marks)

(b) Assuming there is no change in the workshop's employment structure, state, giving reasons, whether Zenon will be able to continue to use the tax card method of tax payment for the year 2014. (2 marks)

(c) State, giving reasons, whether Zenon would be able to retain the tax card method of tax payment if his wife decided to open her own, separate, sheepskin coat tailor's shop. (2 marks)

(15 marks)

5 Vulpture Capital Sarl (VC) and FinCo Sarl (FCS) are two Luxembourg-based companies who are each controlled by Rashid, a resident of a Persian Gulf country.

VC owns 100% of the shares in a Polish company, PolCo. FCS has no direct capital relationship with either PolCo or VC.

Rashid intends to invest EUR 100 million in PolCo but wishes to maximise his tax savings from this investment by shielding as much of the interest as possible from tax. Rashid is considering three possible financing structures for the investment as follows:

– financing of PolCo via VC;
– financing of PolCo via FCS; and
– financing of PolCo by Rashid directly.

Regardless of the financing structure chosen, any loan will be granted at an interest rate of 10% per annum, payable at the end of each year and any shareholding required will be held for more than two years.

Additional information:

(1) Based on the double tax treaty (DTT) between Poland and Luxembourg, the withholding tax rate on interest is reduced to 5%.

(2) The DTT between Poland and Luxembourg provides for the elimination of double taxation on interest by the credit method and there are no restrictions in Luxembourg on the utilisation of such credit.

(3) The effective taxation rate in Luxembourg on all of the income earned by both VC and FCS is 17% before double tax credit (i.e. the 17% tax rate may be further reduced by any available tax credit).

(4) There is no further tax payable on a distribution of interest from either Luxembourg company (VC or FCS) to Rashid and Rashid enjoys full exemption from all taxes in his country of residence.

(5) Poland does not have a DTT with the country in which Rashid is tax resident.

Required:

(a) Briefly describe the Polish thin capitalisation regime. (3 marks)

(b) Assuming a conservative approach to the treatment of interest, calculate, in Euros, the equity and loan split of the EUR 100 million investment required to achieve full interest deductibility. (3 marks)

(c) Identify which of the three financing structures being considered would be the most efficient in terms of the total tax cost for ALL of the entities involved. Support your conclusion with relevant calculations based on the debt to equity split calculated in (b).

Note: All calculations should be made in Euro (EUR). (7 marks)

(d) State the compliance obligations placed on a remitter of interest who applies a reduced treaty rate of withholding tax. (2 marks)

(15 marks)

End of Question Paper