

# Examiner's report

## F6 (POL) Taxation

### June 2017

#### General Comments

There were two sections to the examination paper and all of the questions were compulsory. Section A consisted of 15 multiple choice questions (two marks each) which covered a broad range of syllabus topics. Section B had four questions worth 10 marks each and two longer questions worth 15 marks, each testing the candidates' understanding and application of taxation system in Poland in more depth. The following paragraphs report on each section and focus on some of the key learning points.

#### Specific Comments

##### Section A

It was very pleasing to see that almost all candidates attempted all of the questions. Section A questions aim to provide a broad coverage of the syllabus, and future candidates should aim to revise all areas of the F6 Pol syllabus, rather than attempting to question spot. The following question is reviewed with the aim of giving future candidates an indication of the types of questions asked, guidance on dealing with exam questions and to provide a technical debrief on the topics covered by the specific question selected.

#### Sample Question for Discussion

##### Example

The Supreme Administrative Court can issue a special resolution passed by seven judges and set it as a so called 'legal rule' which provides interpretation of problematic tax issues.

For whom are these Supreme Administrative Court 'legal rule' resolutions formally binding?

- A Taxpayers
- B The tax administration
- C The Administrative Court
- D All the above

This question tested the overall structure of the Polish tax system and the different sources of taxation law and tax regulations. Question may have been difficult for the Candidates who were not acquainted with one of the basic principles of Polish legal system, i.e. that it is not a case law, that general laws can only be enacted via legal bills in Parliament and legal authorities can pass internal regulations which are only binding for themselves (i.e. tax rulings issued by tax authorities are binding only for tax authorities and court guidelines work only for the court)

The correct answer was C, Administrative Court.

##### Section B

##### Question One

This 10-mark question covered the topics of Value Added Tax (VAT).

It required candidates to calculate Rafał's, total input and output VAT for the month of June 2016. Rafał was a German language expert, conducting a small individual business activity with the help of one employee. Candidates' performance was quite good on this question.

Many candidates noticed that (1) transactions values given in the question were mostly gross values - VAT was included in the amount of the transactions and (2) VAT rate which should have been used in the calculations was 23%, apart from VAT on sales of services to companies in other EU states and sales of services of companies and individuals in the US where 0% VAT rate applied.

It was also properly indicated by the use of "0" that sale of the private car and salary cost were outside VAT. In a few cases the VAT on pro bono services, intra community purchase of services (web page hosting and other IT services purchased from the Dutch supplier) and leasing transactions were not properly calculated. As the car leased under the financial lease was used for both business and private purposes - VAT calculation for the financial lease rate and the petrol cost should have been multiplied by 50%.

### **Question Two**

This 10-mark question required calculation of the social security contributions (ZUS), health service contributions (HSC) and personal income tax (PIT) payable by Janusz for the year 2016. Janusz was a tailor and settled his PIT under the tax card system. Performance on this question was average.

The majority of the candidates did not have a problem with calculating ZUS and HSC for Janusz, which was based on the average monthly salary multiplied by 12 and a factor of 60% or 75% respectively. They also usually applied proper rate of for ZUS and 9% for HSC.

In terms of PIT calculation, many candidates did not score well due to the poor presentation. Instead of analysing each person involved in Janusz's business separately, including Janusz himself, from the tax card categories point of view (employee, ancillary worker or no effect), they jumped to the conclusion without providing explanation. Such approach was granted only limited number of marks. Only a few candidates stated that for Roman who had a status of the ancillary worker, disability had no effect.

PIT was generally calculated properly, however in most cases HSC calculated at 7.75% was not deducted from the PIT due.

### **Question Three**

This 10-mark question covered the operational and financial leasing treatment for the tax purposes in Poland.

Part (a) for 8 marks required a calculation of the total tax costs which should be recognized by Szybki Lopez sp. z o.o. (SLSZ) for 2016 in relation to three lease agreements described in the question. Candidates were also asked to clearly identify the nature of each lease (operational or financial). VAT was to be ignored. This part of the question was answered quite well by the majority of candidates.

The first lease agreement was easily classified by the majority of candidates as operational lease while the second as financial lease. The classification of the third agreement was more complicated. Although the third agreement stated that depreciation would be performed by the lessee, the condition regarding the value of instalments vs. the initial value was not met hence the agreement was the operational lease. For operational lease, the sum of lease instalments for the period was a tax cost. For financial lease, taxable cost constituted of depreciation and interest component for the period.

Part (b) for 2 marks required explanation whether the buy-out price set at the nominal amount of PLN 1 in the Agreement B would have any negative tax consequences for the lessor, if the market value of the car at the time of its sale was significantly higher than PLN 1. This part of the question was poorly answered.

In the financial lease, which was the case of Agreement B, the general rules regarding sales price to be set at the market value level were not applicable. The price of the asset at the end of the lease might be significantly lower than the market value, without any negative effect for the lessor (e.g. assessment of additional taxable income).

#### Question Four

This 10-mark question covered the topics of tax arrears and penalties.

Part (a) for 5 marks required a calculation of the total amount paid by Zakrecona Sp. z o.o. (ZSZ) in relation to its tax arrears and penalties on 15 March 2017. Performance on this part of the question was average.

Majority of the candidates properly calculated the amount of VAT arrears and related penalty interest. CIT arrears were not the case in this question as other documents possessed by ZSZ (e.g. bank transfer confirmation) were enough to include the cost in CIT calculation correctly. The candidates who calculated CIT arrears and related penalty interest were granted no marks.

Almost all candidates indicated that there was also tax arrears related to the withholding tax (WHT) on interest but only a few calculated the amount in arrears and related penalty interest properly. WHT in arrears should be calculated as total value of the interest on loan times 20% (WHT rate in case of missing certificate of the creditor tax residency).

Since 25th and 26th of December are public holidays in Poland, according to the Tax Code the arrears are calculated from the next working day (27th). The candidates who started VAT calculation from VAT deadline of 25th Dec were given equal marks though.

Part (b) for 5 marks required explanation of the duties and responsibilities of (1) tax payer; (2) a tax remitter; and (3) a tax collector (inkasent) with respect to tax arrears. Performance on this question was average.

Almost all candidates scored average on this question but there were only a few answers which fully explained differences between those three roles. It was key to notice that a tax payer is fully responsible for proper calculation and payment of own taxes. A tax remitter is fully responsible for proper calculation and payment of taxes of another person, while a tax collector is fully responsible for payment of the tax collected from another person.

#### Question Five

This 15-mark question was based on case of Jan Przedsiębiorczy and his company Aktywna Sp. z o.o. (ASZ). This question tested the knowledge of applying different taxes in the given scenario.

Part (a) for 11 marks required the calculation of the annual amount of each tax and contribution to the State budget which should have been paid or remitted by ASZ for 2016. ASZ CIT calculation was and overall summary or total was not required. This part of the question was answered well.

The majority of the candidates calculated VAT, employer's social security and PIT on dividend correctly. In case of PIT, ZUS and HSC remitted on behalf of the employees there were sometimes difficulties in scoring full marks due to mixing the calculation methodology between PIT, ZUS, HSC of the ASZ or Jan Przedsiębiorczy (from tax payer perspective) and PIT, ZUS and HSC related to employees (from tax remitter perspective).

Part (b) for 4 marks required explanation why it could be more tax efficient for Jan to operate the hand car washing activity as an individual business activity and calculation of the potential saving. Also the candidates were asked to state whether the saving would be higher or lower if ASZ's profits were PLN 100,000 higher. This part of the question was poorly answered.

Only a few candidates noticed that if Jan were to operate his business as his individual business activity, he would eliminate the double taxation on the dividend from ASZ. Almost no one pointed out that in this case additional HSC would be payable by Jan, although this would be partly offset against the PIT on his business

income leaving only margin 1.25% as the effective cost. If the ASZ profits were higher, the saving on the elimination of double taxation on dividend would be also higher.

#### **Question Six**

This 15-mark question was based on the Czysciocha Sp. z o.o. (CSZ) case. It required the candidates to calculate CSZ CIT tax base for 2016. Performance on this question was above average.

It was pleasing to see that most candidates calculated taxable revenue as sales proceeds less advance payments plus benefits in kind. In case of loan waived, the amount of the loan should increase taxable income, in case of loan forgiven; there was no additional tax costs. Those items were usually problematic for the candidates.

Taxable costs included depreciation, production capacity tests with VAT, rent of the factory with VAT, external services and materials with VAT, salaries and employer's ZUS. Donation was not included in taxable income calculation but deducted later up to 10% of the taxable income to arrive to CIT tax base.

Gross tax value of the production line 2 (PL2) was calculated as acquisition price plus customs duty plus installation services and 23% VAT on the top of them. PL2 depreciation for 2016 was gross tax value times 14% depreciation rate times 3 and 8 months out of 12. The majority of the candidates did not have problems with calculating the depreciation of production line 1 (PL1).