Examiner's report

F6 Taxation (POL)
December 2012

General Comments

The examination consisted of five compulsory questions. Question 1 for 25 marks, question 2 for 30 marks, and the further three questions for 15 marks each.

The vast majority of candidates attempted all five questions, and there was almost no evidence of time pressure. Where questions were left unanswered by candidates, this appeared to be due to a lack of knowledge or having used too much time answering other questions.

Generally this exam was well answered by the candidates who were well prepared and demonstrated good exam technique.

Candidates performed particularly well on questions 1b, 2b and 3c. The questions candidates found most challenging were questions 1c, 4b and 4c. This is mainly due to candidates not fully understanding core syllabus areas.

Candidates are reminded of the need to read question requirements carefully so as to be able to provide relevant answers which address the question asked. Candidates should be guided by the marks available for each question part so as to allocate their time effectively. It is important to write clearly and to plan the layout and organisation of the answers; it is recommended to start each question on a new page and to number workings numbered so that it is clear to which question part they relate.

Specific Comments

Question One

This 25-mark question was based on a warehouse owner Składowisko Sp. z o.o. (Składowisko) and tested candidates' understanding of the classification of expenses into three categories: expenses to be capitalised as part of fixed assets, expenses allowed for CIT and expenses not allowed for CIT; and their ability to prepare a CIT calculation.

Part (a)(i) for 6 marks required candidates to calculate the initial value of fixed assets which should be identified for tax purposes in 2011 in relation to the New Warehouse of Składowisko. Part (a)(ii) for 2 marks required the calculation of tax depreciation related to the New Warehouse for the year 2011. Part (a)(iii) for 4 marks required a list of expenses related to the New Warehouse that were not capitalised, and the identification of expenses allowed for CIT and not allowed for CIT in 2011.

In part (a)(i), the main problem candidates encountered was that they did not identify two separate fixed assets related to the New Warehouse: the land and the building. A number of candidates included land in the value of the New Warehouse building or omitted land from the calculations entirely. A few candidates experienced issues with the calculation of insurance and interest expenses which should be capitalised as part of fixed assets.

The majority of candidates provided excellent answers for part (a)(ii). They calculated the New Warehouse tax depreciation correctly, remembering to include 1.4 accelerated depreciation for bad conditions and taking into account that the New Warehouse should be entered into tax fixed assets register on 31 October 2011.

Most candidates produced good answers to part (a)(iii). Most identified repairs and lease agent commission as tax deductible expenses, and hospitality costs as tax non-deductible expenses. A few candidates did very well to include insurance post construction, interest on the loan to purchase the land post the commencement of construction, and interest on the construction loan post completion as tax deductible expenses.

Part (b) for 10 marks required candidates to calculate Składowisko's CIT for 2011. This part of the question was well answered.

Most candidates arrived at the correct taxable income for the year by adjusting the loss shown in the accounts as follows:

- to exclude from income the New Warehouse lease income and Polish dividend;
- to add to tax deductible costs deductible operating expenses relating to the New Warehouse (calculated in part (a)), depreciation and bank interest paid;
- to eliminate from tax deductible costs the environmental penalty, donation, penalty interest and property revaluation; and
- to add bank interest received to taxable revenue.

Part (c) for 3 marks asked for an explanation of the tax treatment of foreign exchange differences related to the acquisition or construction of fixed assets. Candidates found this challenging, with the majority presenting answers which related to the treatment of foreign exchange differences arising on revenues and costs expressed in foreign currencies, rather than foreign exchange differences related to fixed assets as the question required.

Candidates should have commented that foreign exchange differences on the purchase of an asset for foreign currency, or related to the financing of the acquisition or construction of such asset with foreign currency loans, are capitalised as part of the initial value of the fixed asset. Foreign exchange differences realised after completion of the construction of the asset should be treated as CIT revenue or cost in the given year.

Question Two

This 30-mark question covered the topics of Personal Income Tax (PIT) based on transactions performed by Marian Wokulski.

Part (a) for 15 marks presented five real estate transactions performed by Marian Wokulski in June 2011, and asked candidates to state whether tax exemptions were available and, where applicable, to calculate the amount of tax payable.

Candidates performed well on this part. Most candidates noticed that the sale of the apartment in Gdańsk was exempted from tax as it was acquired in 2002, hence the sale occurred more than five years after the end of the year of acquisition. Although many candidates correctly stated that sale of the apartment in Warsaw was tax exempt, a small number are to be congratulated for having spotted that this was due to the fact that Marian was registered as a permanent tenant for more than 12 months.

The majority of candidates knew that the sale of the plot of land in Mazury was not exempt from tax, and calculated tax as the sale price less the cost of acquisition and cost of sale at 19%.

The fourth transaction (sale of Kraków apartment) caused some problems to candidates. A few candidates knew that this transaction was exempt to the extent that the proceeds had been reinvested for his own housing needs. Candidates were able to calculate both taxable income and the proportion of revenues reinvested for Marina's own housing needs. A small number of candidates did exceedingly well and went on to perform the tax calculation correctly: first tax at 19% should be calculated on the taxable income, and then the proportion applied.

Most candidates knew that the sale of the Poznań apartment was not tax exempt, and correctly calculated the tax on the income from selling the apartment only (without taxing the income from selling movables). A few candidates did very well to remember to include the income from selling movables in Marian's PIT calculation in part (b) of the question.

Part (b) for 15 marks required candidates to calculate Marian Wokulski's PIT due for the year 2011. This part of the question was very well answered. Most candidates included in emoluments (basis for ZUS) gross salary for the whole year, gross bonus, company car allowance, excess per diem, medical package, and excluded hotel bills and training related to duties.

It was pleasing to see that candidates had no problems applying the correct ZUS rates, arriving at the HSC (health service contribution) base and deducting costs of employment. Some candidates did not note that the sale of the car was not taxable or forgot to include the income from the sale of movables from part (a). Most candidates applied the joint taxation mechanism correctly and gave child relief for Marina's two children.

A number of candidates went on to calculate interest income withheld by the bank.

Question Three

This 15-mark question tested VAT knowledge in relation to the business activities of Stefan Dziuplarz.

Part (a) for 12 marks tested candidates' abilitiies to calculate the output and input VAT effect of 14 transactions performed in October 2011. Candidates produced good answers to this part where they had first checked whether the value presented included or excluded VAT. For intra community purchases of goods and imports of goods from outside the EU, output and input VAT is calculated in the same amount. For exports of goods to outside the EU, a 0% VAT rate applies.

Candidates found the VAT treatment of the two leasing transactions most challenging. The first was an operating lease agreement for a lorry truck. Only the input VAT relating to the monthly instalment should be calculated for October. The second was a financial lease agreement for a diagnostic car unit - here the input VAT relating to the cash purchase price of the unit was to be included for October.

The sale of the private car, goods purchased and used for private purposes and the tools purchased from a private person did not have an influence on the VAT calculations.

Part (b) for 3 marks asked candidates to explain the alternatives available to a taxpayer where input VAT in a given month exceeded output VAT. Candidates performed well on this part of the question defining two possible treatments: carrying forward the surplus to decrease output VAT in the next/future months or claiming a cash refund, and identifying how many days the tax office have to return the surplus.

Question Four

This 15-mark question examined transfer pricing as well as elements of the organisation of the Polish tax system, in relation to transactions performed by Nasza Sprawa Sp. z o.o. (NS).

Part (a) for 2 marks asked candidates to explain that taxpayers should possess transfer pricing documentation when trading with related parties or entities resident in tax havens, and that the documentation must be presented to the tax office within seven days from their request, and was well answered. Some candidates wrote significantly more than was required to earn the two marks available, which time could have been put to better use elsewhere.

Part (b) for 6 marks asked candidates to calculate the additional tax that would be charged by Tax Inspection Office on 2011 transactions. The most successful candidates analysed each transaction separately from the perspective of the Tax Inspection Office, calculated the additional tax and gave reasons for the treatment. The company presented transfer pricing documentation for the first transaction hence 19% tax should have been applied. In the second transaction, the Tax Inspection Office should increase taxable revenue to the arm's length value. In the third transaction the cost should have been treated as not tax deductible, and in the fourth transaction, free of charge benefits received from Il Padrone should have been treated as additional revenue. The tax rate for the second, third and fourth transactions should be 50%.

Part (c) for 3 marks asked candidates to describe the appeal stages available for the company; these are to the Head of the Tax Chamber, then to the Regional Administrative Court (WSA) and then to the Supreme Administrative Court (NSA).

Part (d) for 4 marks asked for a description of the role of the Tax Office and the Tax Chamber in the Polish tax system.

Candidates produced good answers to this part. The Tax Office is responsible for the day to day collection of tax returns, their verification, basic tax inspections, handling requests from tax payers and issuing tier one tax decisions.

The Tax Chamber is generally responsible for the administrative supervision of tax offices, handling appeals from decisions of tax offices and tax inspection offices, and issuing decisions and resolutions in selected matters.

Question Five

This 15-mark question tested candidates' understanding of the tax card method based on Stefan Karłosz's business.

Part (a) for 7 marks required candidates to state which effect (if any) each of the persons mentioned in the question would have on the tax computation under the tax card method. Good answers were provided by candidates. Candidates whose layout was clear benefitted here (in one or two cases candidates themselves could not follow their answers, and had the correct answer in part (a) but made errors following this through in part (b)). The recommended layout uses a checklist format, as shown in the suggested solution.
Wiesław and Pakosław have no effect on the tax card as Wiesław, although older than 60 years, employs other persons, and Pakosław is a trainee. Barnaba and Pafnucy count as regular employees, however Barnaba additionally brings about a 10% decrease in tax due to his disability. Eberhard and Mścisław are ancillary workers, each bringing about a 20% increase in tax.

Part (b) for 8 marks asked for calculation of Stefan's PIT under the tax card method, as well as the Social Security and Health Service Contributions due from him for the year 2011. This part of the question was answered well. The key to arriving at the correct answer to this question was to notice that we need to calculate PIT for 2011 in two stages: for January to April, and for May to December because Mścisław joined the business on 1 May 2011.

Most candidates calculated tax under tax card correctly. Social Security and HSC was to be calculated only once for the business, using 60% of the average salary and 75% of the average private sector salary, respectively. The rate for ZUS in the question was 29.64% and for HSC, 9%. To arrive at the whole year figure, calculations were multiplied by 12 months. In this question it was not necessary to adjust the tax by deduction of HSC.