

# Examiner's report

## F6 Taxation (POL)

June 2012

The ACCA logo is a black square with the letters 'ACCA' in white, bold, sans-serif font.

### General Comments

The examination consisted of five compulsory questions: question 1 for 25 marks, question 2 for 30 marks, and questions 3 to 5 for 15 marks each.

The vast majority of candidates attempted all five questions but there was evidence of time pressure. The greatest importance is placed upon candidates demonstrating their knowledge of syllabus topics, followed by evidence of mathematical accuracy and good presentation.

Candidates performed particularly well on questions 1(a), 1(b), 2(a) and 3(a).

The questions candidates found most challenging were questions 2(b), 4(b) and 5(a)(ii). Candidates who performed well in these questions showed a sound understanding of syllabus areas, a good level of technical knowledge, and read the question requirements carefully.

Candidates are reminded of the need to pay attention to the following common issues:

- handwriting needs to be legible
- answers must be laid out so as to be easy to follow
- time should be allocated between questions appropriately - candidates need to attempt all parts of all questions
- to read the question requirements with care, so as to be in a position to provide answers that address the question set

### Specific Comments

#### Question One

This 25 mark question was based on Three Stripes and a Bat Sp. z o.o. (TSB), a company active in the business of debt collection, debt trading and the provision of security systems. This question tested candidates' knowledge of corporate income tax (CIT) calculation as well as CIT treatment of interest income and cost.

Part (a) for 20 marks required candidates to calculate the CIT payable to the Tax office by TSB for the tax year ended 30 June 2012.

Most candidates performed quite well on this part of the question and used the right approach, starting the CIT calculation from the accounting result and then commenting on particular adjustments to CIT. The most difficult CIT adjustments, which a few candidates are to be congratulated for calculating correctly, related to the Russian dividend, the loss arising on the sale of loans, the VAT part of non-recoverable trade receivables, and the correction to depreciation of destroyed equipment.

- The Russian dividend unpaid should have been removed from the taxable profit. Also, it granted no tax credit for TSB.
- 100% of the loss on the sale of loans was included in the accounting profit. As the loans were sold at 10% of their value, the CIT adjustment should have covered 90% of their value.
- Non-recoverable types of receivables written off as the court execution had formally ended with no payment, and written off where the court execution had not ended but the debtor had died, and which consisted of the net value and 23% VAT, were included in the accounting profit. The VAT part of both types of non-recoverable receivables was not allowed as a CIT cost and should have been adjusted for the CIT calculation.

- The accounting profit included the depreciation cost of the destroyed equipment, calculated as if it was used normally in the accounting year. As it was destroyed in March 2011, the net value of the equipment as at 30 June 2012 should have been written off and treated as an eligible CIT cost.

Most candidates remembered to include loss relief (50% of tax loss from 2009 and 2010) and CIT advances paid during the tax year when arriving at tax payable to the Tax office for the tax year ended 30 June 2012.

Part (b) for 3 marks was answered well by many candidates. Candidates were to explain the CIT treatment of interest accrued but not paid/received, interest paid/received and interest compounded. Interest compounded for the tax calculation is usually treated as the equivalent of a payment, thus is considered to be taxable.

Part (c) for 2 marks asked whether or not it would be tax efficient for TSB to apply a compounded interest mechanism to its loans, considering that a significant number of loans were not recovered. Few candidates attempted this part of the question. As compounded interest would crystallise as taxable revenue on the capitalisation date, TSB would need to pay CIT on the interest which would probably never be received. This is unlikely to prove tax efficient.

### Question Two

This 30 mark question covered the topics of personal income tax (PIT), social security burdens and the impact of employment form on tax efficiency of the married couple Edyta and Marek.

Part (a) for 16 marks required candidates to calculate the PIT of Edyta and Marek for 2011, both employed under labour law contracts. This part of the question was answered reasonably well. Many candidates correctly included in Edyta's income - basis for social security - excess per diem for meals and the hotel, as well as the cost of the Prada suit. Very few candidates did well to deduct a copyright cost of 50% of the copyright income. The loss on the sale of the car, the insurance receipt and the casino win should not be included in the PIT calculation. Most candidates used the joint taxation mechanism properly, deducting health service contribution (HSC) of Edyta, HSC of Marek and double child relief from tax payable. Some candidates forgot however, that HSC withheld by Marek's employer was calculated using the 9% ratio but only 7,75% was available as a tax deduction for Edyta and Marek.

Part (b) for 14 marks required candidates to prepare calculations and determine whether it would be tax efficient for the couple if Edyta worked as a self-employed person instead of working under a labour law contract. Candidates found this part challenging. The most common mistakes were:

- Incorrect treatment of Edyta's extra income. Training cost and hotel cost were allowed, while meals and Prada suit were not allowed, as business costs. Per diem was not applicable in this scenario.
- Calculating social security and HSC incorrectly. Taking into account benefits for entrepreneurs who have just begun economic activity, Edyta's base for social security was 60% of minimum salary and her base for HSC, 75% of average salary.
- Applying flat rate 50% copyright costs to the self-employment contract.
- Failure to present a summary of PIT, social security and HSC related to the employment option (from part (a)) and to the self employment option (from part (b)), which was needed to conclude which option would be more beneficial for the couple.

### Question Three

This 15 mark question was based on the business activities of Sergiusz Gry[], an entrepreneurial student who had developed IT data processing software and a service system. The question tested basic concepts of VAT.

Part (a)(i) for 2 marks asked candidates to list the types of sales made by Sergiusz which would be subject to VAT, then part (a)(ii) for 2 marks required them to list the types of customer who would not be able to recover

any input VAT charged by Sergiusz. This part of question was answered well. Polish VAT would be applicable to the sales to Polish companies, Polish financial institutions, Polish individuals and EU individuals. Customers who would be unable to recover input VAT were Polish financial institutions, Polish individuals and EU individuals.

Part (a)(iii) for 8 marks required candidates to calculate Sergiusz's output and input VAT based on the 2011 forecast. Candidates scored well in this part of the question. The most efficient and successful approach was to analyse forecasted sales and costs from a VAT perspective, one by one.

Services to Polish individuals, Polish financial institutions and EU individuals, and the cost of external IT services from the forecast should be treated as gross (including VAT); services to Polish companies as net (VAT could be added additionally to the forecast sales as it would be recovered by Polish companies). Services to EU companies, US companies and US individuals, and payroll costs were not VAT-able in Poland.

Part (b) for 3 marks asked whether it would be profitable for Sergiusz to register for VAT. Candidates responses were good, although candidates who quoted narrative arguments for and against VAT registration were faced with difficulties in measuring the strength of their arguments which led to problems in deciding which option was better. Another approach used by stronger candidates presented the impact of both options on forecasted sales and costs, and selected the option which gave Sergiusz the higher net cash balance.

#### **Question Four**

This 15 mark question was based on Ekspansja Sp. z o.o. (Ekspansja), a company producing and servicing industrial machinery, active in both the domestic and foreign markets. This question tested candidates' knowledge of Polish corporate income tax (CIT) in the international environment when the company had Polish headquarters (HQ) and branches or subsidiaries around the world.

Part (a) for 9 marks required the calculation of the Polish CIT of Ekspansja for 2011 where service businesses and the marketing office operated as branches. Candidates' answers were good in this part, particularly in presenting income from the HQ and branches adjusted to the Polish tax regime, and in applying the 19% tax rate to the total adjusted income. A handful of candidates did very well to properly exclude the branch in country D from the calculation, and show that there was no tax credit on the basis of the exemption method. Generally the calculation of tax credits proved problematic. The tax credit from the branch in country B should be at 19% of adjusted income, the country A tax credit should be lower of 19% of adjusted income or the local CIT rate of unadjusted income. The branch in country C was entitled to no tax credit as no foreign CIT was paid.

Part (b) for 6 marks required candidates to calculate the CIT of Ekspansja for 2011 assuming service businesses and the marketing office operated as subsidiaries instead of branches. This part was answered well by very few candidates. Total income should consist of the adjusted HQ income from part (a), the mark-up on management services at 10% and the dividend from the subsidiary in country A. Dividends from the Polish subsidiary, and the subsidiaries in countries B and D were exempt, and the subsidiary in country C could not pay a dividend as it reported losses. Tax credit was only available from country A, and was calculated as 19% of the dividend paid.

#### **Question Five**

This 15 mark question was based on Vulture Capital Sp. z o.o. (Vulture Capital) which was considering investing in Zielonka Sp. z o.o. (Zielonka). The question tested candidates' knowledge of performing CIT corrections related to previous years, calculating penalty interest and understanding the term 'statute of limitation'.

Part (a)(i) for 5 marks required the calculation of Zielonka's CIT understatement as at 30 August 2012. This part of the question was answered quite well. The most successful candidates calculated understatements separately, firstly from non-documented services and, secondly, from interest from the related party, not received at arm's length. Many candidates noticed that the tax loss for 2008 should be reduced by the amount of non-documented services, therefore the loss available to be utilised in 2009 and 2010 would be lower, leading to a CIT



understatement of 19% of the loss adjustments. Very well prepared candidates were able to calculate the CIT understatement relating to interest received from a related party, calculating the additional revenue accurately and remembering that the CIT understatement would be only 19% of this amount.

Part (a)(ii) for 6 marks requested the calculation of the Zielonka penalty interest as at 30 August 2012. Very few candidates were able to answer this part satisfactorily. The correct approach would be to begin by defining the penalty interest period. The start dates (dates of respective CIT advance payments) were 20 February 2009 and 20 February 2010 for understatements related to non-documented services, and 20 April 2010 and 30 March 2012 for understatements related to interest received from the related party. End dates were the same for all calculations: 30 August 2012. Having defined the start and end dates, it was possible to calculate the number of days in each penalty interest period, and compute the penalty interest charge assuming a 12% penalty interest rate.

Part (a)(iii) for 1 mark required a calculation of the total tax risk of Zielonka as at 30 August 2012. This part of the question was answered well by a few candidates.

Part (b)(i) for 1 mark requested an explanation of the term 'statute of limitation'. This part was rarely attempted. 'Statute of limitation' is the period of time after which tax liabilities expire. Neither Tax office nor taxpayer can have claims to one another after this time.

Part (b)(ii) for 2 marks asked for an explanation of the statute of limitation for the CIT liabilities of Polish companies, and which years would be open for tax authority audit as at 30 August 2012. This part of the question was well answered by very few candidates, who are to be congratulated. Although many candidates mentioned that the statute of limitation for CIT in Poland is five years, very few added that it is calculated from the end of the year in which the tax liability was due (the end of the third month of the year following the year for which the tax is calculated). As of 30 August 2012, the years 2006 to 2011 and 2012 of Zielonka remained open to audit by the tax authorities.