Answers

Section A

1 **C** PLN 2,944 (16,000*80%*23%)

The past year proportion is used during the current year.

2 **C** The tax ordinance generally allows for a one-tier administrative appeal and if this fails, the taxpayer can further challenge the decision in court (with further higher court appeals if needed).

3 **D** PLN 68,400 (150,000*12/5*19%)

The 2011 result is used as the base due to the loss in 2012.

4 **B** PLN 9,860 ((120,000 – 4,000)*8·5%)

The higher rate applies to the total revenues due to a lack of a clear separation of the different revenue sources.

5 **B** PLN 76 (100,000*23%*8%*15/365)

6 **C** PLN 45,544 ((45,000*18% – 556) + (200,000*19%))

7 **D** The value added tax (VAT) treatment of an intra-EU sale depends on the type of customer (business or consumer); whether in the case of a business customer they are VAT registered in the other EU state; the turnover of the supplier in Poland and in the other EU state; and whether any relevant elections have been made. For example, a Polish company selling goods to individuals in Germany in limited amounts may still decide to register for VAT in Germany and apply the local German VAT to its sales.

8 **A** Since the car was bought in August 2014 and the income from the sale was also derived in 2014, it must have been sold within six months of the date of purchase, hence it is part of cumulative income.

9 **D** PLN 12,000 (60,000*20%)

Reducing balance depreciation is not allowed for new passenger cars, the other items could be expensed immediately.

10 **C** Natural persons are not corporate income tax (CIT) taxpayers; under most double tax treaties (DTTs) exports do not create a tax presence in the country to which goods are sent.

11 **A** PLN 2,835 (3,500*12*75%*9%)

12 **B** In the Polish system, ratified double tax treaties (DTTs) override both legal acts and supporting decrees. DTTs do not impose additional taxation over local regulations; and treaties on the elimination of double taxation do not apply to value added tax (VAT).

13 **B** Social security contributions are connected with work-like activity rather than with other forms of taxable income.

14 **B** A delay of under 150 days does not impact on the settlement of input value added tax (VAT).

Marks

15 A PLN 75,000 (45,000 + 65,000 – 35,000)

2 marks each	**30**

Section B *Marks*

1 Chwalimir

(a) Initial value and deductible expenditure

Initial value of car

	PLN	
Purchase price	70,000	0·5
Customs duty	7,000	0·5
Excise duty	14,000	0·5
Xenon lights and tinted windows	6,000	0·5
LPG installation	5,000	0·5
Dealer's commission	1,500	0·5
Transport	2,000	0·5
Insurance re sea transport	2,000	1
	107,500	
VAT non-recoverable (W)	12,362	0·5
Initial value	119, 862	

Tax deductible costs (PIT)

Insurance post acquisition for year 2014	3,000	1

Working: Non-recoverable value added tax (VAT)

	PLN	
VAT base (as above)	107,500	
VAT at 23%	24,725	1
VAT recoverable (maximum 50%)	(12,363)	1
VAT non-recoverable	12,362	
		8

(b) Depreciation for 2014

Depreciation for passenger cars is capped at the equivalent of 20,000 EUR, i.e. PLN 80,000 (20,000 x 4). 1

Depreciation for 2014 based on maximum allowed amount (80,000 < 126,225) is: PLN 10,667 (80,000 x 20% x 8/12) 1

2

10

2 Zależna Sp. z o.o.

(a) Differences between parent company financing and bank financing

The key tax issues to be considered are:

1. **Thin capitalisation**

   Interest paid on bank financing is a tax deductible cost in full, hence the interest on the whole amount will serve as the basis for creation of a tax shield.

   In the case of parent company (shareholder) financing, the thin capitalisation restrictions will apply, limiting the interest available for deduction to the interest calculated within the limits of a 3:1 debt to equity ratio. 2

   Tutorial note: *CIT Act amendments provide for a new 1:1 debt to equity ratio for loans granted after 1 January 2015. Candidates referring to this new ratio were granted equal marks.*

2. **Withholding tax**

   Interest paid on bank financing is subject to withholding tax (WHT) at the rate of 10%. Since the bank is not willing to accept a reduction in the interest amount received, the WHT will constitute an additional expense for Zależna (and it will also be necessary to gross up the WHT amount).

   Interest payments made to Zależna's parent company (shareholder) will be exempt from WHT, assuming the shareholder will control more than 25% of Zależna's shares for more than two years. 2

Marks

3. **Transfer pricing**

As the bank loan is a third party loan, it will not be subject to the transfer pricing regulations.

The parent company (shareholder) financing will fall within the scope of the transfer pricing regulations, hence Zależna will have to:

– observe the arm's length rules in setting the terms of the loan agreement; and
– prepare the required transfer pricing documentation. 2

6

(b) (i) One-off versus over time recognition of the arrangement fee

While the CIT Act clearly requires the recognition of interest costs to be on a cash basis, it is not clear as to whether other financing related costs, such as arrangement fees, should be recognised when paid or apportioned on a time basis over the period of the loan.

Therefore: (1) it may be argued that the arrangement fee is an indirect cost related to the whole period for which the loan is drawn, i.e. over time recognition; OR (2) it may also be claimed that the fee is a cost to be recognised when paid as there is no clear connection between this cost and particular revenues earned. As such, the fee should be deducted on a cash paid basis because it is incurred only once, irrespective of the actual time for which the loan is granted or when it is reimbursed. 2

(ii) Most beneficial treatment for Zależna

Zależna will not have a tax profit until 2019, therefore 50% of any tax loss generated in 2014 will not be utilised. Hence it would be more beneficial for Zależna to recognise the cost of the arrangement fee on an over time recognition basis rather than a cash paid basis. 1

In the case of the one-off recognition of cost in 2014, the unutilised tax asset would amount to PLN 285 000 (100 million x 3% x 50% x 19%); whereas in the case of over time recognition, the tax asset lost will be only PLN 2,375 (100 million x 3% x 1/120 x 50% x 19%). 1

2

10

3 Wolfram

Personal income tax (PIT) for 2014

		PLN	PLN	
Gross salary	(7,000 x 12)		84,000	0·5
Heat protecting suit (uniform)			0	0·5
Energy drinks			0	0·5
Travel	(100 x 12)		1,200	0·5
			85,200	
Social security at 13·71%			(11,681)	1
Costs of employment			(1,668)	0·5
			71,851	
Sale of car 1	(35,000 – 20,000 – 6,000 – 500)		8 500	1·5
Sale of car 2			0	1
Loss on car bought in 2013			0	0·5
Rent of apartment				
Rent received	(2,000 x 12)	24,000		0·5
Less Service fees	(650 x 12)	(7,800)		1
Depreciation	(988 x 80 x 1·5%)	(1,186)	15,014	1
Loss on investment fund			0	0·5
Total income			95,365	
Tax:				
On first 85,528 at 18% less 556			14,839	
On balance at 32%			3,148	
			17,987	0·5
				10

Marks

4 ITMistrz.pl Sp. z o.o.

Value added tax (VAT) for April 2014

	Value PLN	VAT Rate	VAT PLN	
Output VAT				
Sales of computers in Poland	730,000	*23%	167,900	0·5
Sales of insurance services in Poland	65,000		0	0·5
Sales of computers in Germany	420,000	*23%	96,600	0·5
Sales of insurance services in Germany	35,000		0	0·5
Promotional computer sales	100	*23%	23	1
Computers given free of charge	15,000	*23%	3,450	1
Insurance services provided free	800		0	0·5
Import of computers (reverse charge)	450,000	*23%	103,500	0·5
			371,473	
Input VAT				
Import of computers	450,000	*23%	103,500	0·5
Salaries	30,000		0	0·5
Bank charges for insurance services	70,000		0	1
Office overheads	6,000	*23%*92%	1,270	1
Unpaid invoices for server maintenance	140,000	*23%*92%	(29,624)	1·5
			75,146	
Net VAT payable			296,327	0·5
				10

5 Alfred

(a) Value added tax (VAT) implications

Employment

Employment salary is not subject to VAT, thus no tax would be charged on the amounts paid to Alfred. 0·5

Independent service provider (self-employment)

IT services are a VATable supply, so as Alfred would register voluntarily for VAT, he will need to charge VAT at 23% on the amounts invoiced to Młotex. 1·5

However, as the supplies made by Młotex Sp. z o.o. itself are also VATable, it will have the right to deduct any input VAT charged by Alfred. The VAT amount charged will not decrease the net amount available for payment. 1

3

Tutorial note: *There will be a possible cash-flow effect for Młotex Sp. z o.o. as the input VAT charged by Alfred will only be recovered by offset against its output VAT in the VAT return filed by the 25th day of the following month, which may be later than Alfred expects to be paid. From Alfred's perspective, voluntary registration for VAT has significant benefits as in practice he would gain a right to deduct input VAT on purchases related to his business (e.g. new computer, programs, office stationery, possibly a car).*

Marks

(b) Net cash received

(i) Employment

	PLN	
Salary budget	120,000	0·5
Employer security component (120,000/120·74%*20·74%)	(20,613)	0·5
'Gross salary' equivalent	99,387	
Gross salary paid to Alfred (as calculated)	99,387	0·5
Employee social security at 13·71%	(13,626)	0·5
Health service contribution (HSC) base	85,761	
Costs of employment	(1,335)	0·5
Total taxable income	84,426	
Tax at 18% less 556	14,641	0·5
Less HSC at 7·75%	(6,646)	0·5
Tax due	7,994	
Take home pay:		
Gross salary	99,387	
Less employee's social security	(13,626)	0·5
Less HSC deducted at 9%	(7,718)	0·5
Less tax paid	(7,994)	0·5
Net cash left	70,048	
		5

(ii) Independent service provider (self-employment)

		PLN	
Social security	(3,500*60%*34·35%*12)	8,656	1·5
HSC	(3,500*75%*9%*12)	2,835	1·5
		11,491	
PIT	Net invoiced amount	120,000	0·5
	Social security (as above)	(8,656)	0·5
	Taxable income	111,344	
	Tax at 19%*	21,155	1
	HSC deduction (2,835/9% x 7·75%)	(2,441)	0·5
	Tax due	18,714	
Take home pay:			
Net invoiced amount		120,000	
Less social security paid		(8 656)	0·5
Less HSC paid		(2 835)	0·5
Less tax paid		(18,714)	0·5
Net cash left		89,795	
			7
			15

Tutorial note: *As there is no information on any additional reliefs or circumstances and the income exceeds the first taxation threshold of PLN 85,528, the more efficient option is to go for the flat 19% taxation method.*

Marks

6 **Lutownica Sp. z o.o.**

Corporate income tax (CIT) for 2014

	PLN	PLN	
Income per accounts		5,490,000	
Adjustments Italian branch:			
Income	0		1
Entertaining clients		350,000	0·5
Environmental penalties		260,000	0·5
Forex valuation gains	380,000		0·5
Adjustments German branch:			
Income	1,400,000		1
Adjustments Polish operations:			
Periodic services (accrued)		150,000	1
Insurance income (accrued)	45,000		0·5
Interest received (190,000 – 70,000)	120,000		1
Dividend (gross)	200,000		0·5
Additional depreciation (800,000 x (28% – 14%) x 5/12)	46,667		1
Salaries unpaid		240,000	0·5
Social security unpaid		85,000	0·5
Donation		300,000	0·5
Sum of adjustments	2,191,667	6,875,000	
		(2,191,667)	
Taxable income		4,683,333	
Donation (<10%)		(300,000)	0·5
2013 tax loss (50%*1,200,000)		(600,000)	1
Tax base		3,783,333	
Tax at 19%		718,833	0·5
Credit for Italian tax (W1)		(271,700)	1·5
Credit for German tax		0	0·5
Credit for Polish dividend tax		0	0·5
Instalments paid (W2)		(671,080)	1·5
Tax refundable		(223,947)	
			15

Workings:

W1 Foreign tax credit Italian branch

	PLN
Income per accounts	1,200,000
Add adjustments (net)	230,000
	1,430,000
Polish tax at 19% (less than Italian tax)	271,700

W2 Instalments paid

	PLN
Tax charge per accounts	1,500,000
Less Italian tax	(376,800)
German tax	(414,120)
Polish dividend tax at 19%	(38,000)
	671,080