Answers

Section A *Marks*

1 D

2 C

3 B

4 A 18% x (13,500 – 1,335) – (1,440 – (884 x (13,500 – 1,335 – 8,000)/5,000))

5 D 100,000 x 5%

6 D 24,000 x 23% x (5 + 3 + 9)/(5 + 3 + 9 + 8) = 3,754

7 B

8 C 570,000 x 19% = 108,300

9 A

10 D 49,000 = (200,000 + 10,000) x 14% x 2 x 10/12

11 A 60,000 x 19% + 80,000 x 20% = 27,400

12 B

13 A

14 B

15 C 133,290 x 13·71% + (150,000 – 133,290) x 2·45% = 18,683

2 marks each **30**

Section B *Marks*

1 Spaceks

		PLN	PLN	
Sales revenues			395,000,000	0·5
Cost of sales		250,000,000		0·5
Interest received on loans granted			6,000,000	0·5
Interest deductible	W2	49,147,500		
Intangible services adjustment	W3		0	
		299,147,500	401,000,000	
Tax basis			101,852,500	
Tax	at 19%		19,351,975	0·5

W1

Depreciation

	PLN	
Factory (25 million x 2·5%)	625,000	1
Machinery (130 million x 14%)	18,200,000	1

W2

		PLN	
Qualifying income		145,000,000	1
Depreciation added back as included in cost of sales	W1	18,825,000	0·5
Tax EBITDA	W3	163,825,000	
Interest cost cap	30% x tax EBITDA	49,147,500	1

Tutorial note: *The interest cap applies to both related party and unrelated party financing. Arguments are being raised through the courts and practitioners to clarify if the correct approach should instead be to calculate the EBITDA ratio restriction only on amounts in excess of the PLN 3 million safe harbour amount (i.e. allowing a higher deductible figure, giving an alternative result of PLN 52,147,500; effectively 3 million plus 30% x EBITDA).*

In case of similar EBITDA based limit for intangible services acquired from related parties, the slightly different wording of the regulation resulted in more common acceptance of the limit calculated as 3 million PLUS 5% of tax EBITDA. However, it also happened that the tax authorities claimed a lower limitation threshold of either 5% EBITDA or 3 million (in such case, in our example the maximum allowed service cost would be PLN 8,191,250 and the required tax adjustment would be to increase the tax basis by PLN 808,750).

As appropriate tax practice is yet to settle in this respect, consistent application of either method earns equal marks.

W3

		PLN	
Tax EBITDA	W2	163,825,000	1
Intangible services cap	3 million + 5% of EBITDA	11,191,250	1
Related party costs requiring adjustment		9,000,000	1
Allowed		(11,191,250)	0·5
Adjustment required		0	**10**

Marks

2 Domova and Exportowa

(a) Domowa Sp. z o.o.

	PLN	Input VAT PLN	Output VAT PLN	Tax due/ (repayable) PLN	
Domestic sales	11,400,000		2,622,000		0·5
Purchases	9,500,000	2,185,000			0·5
Net VAT payable on 25th of the next month (February)				437,000	0·5

Customers' payments received on 28 February.

Domowa Sp. z o.o. needs financing for three days for	437,000	0·5

Exportowa Sp. z o.o.

	PLN	Input VAT PLN	Output VAT PLN	Tax due/ (repayable) PLN	
Export sales	11,400,000		Nil		0·5
Purchases	9,500,000	2,185,000			0·5
Net VAT reclaimable				(2,185,000)	
Gross payment due to suppliers				11,685,000	1
Cash received from customers				(11,400,000)	1
To be financed				285,000	

First VAT refund will be paid to Exportowa Sp. z o.o. 60 days from filing the return. 0·5

Return is filed on due date 25 February, so refund would be available on 24 April. 0·5

Exportowa Sp. z o.o. needs financing for PLN 285,000 starting from end of February until 24 April (54 days) 1

and for additional PLN 285,000 starting from end of March until the same date. 1

8

(b) Where Exportowa's sales are VAT exempt, there would be a material difference in terms of both cash flow and the profit/loss effect.

No VAT would be chargeable on exempt sales. 0·5

No input VAT could be recovered on standard rated purchases. 0·5

The cost of activity charged in the accounts would be the VAT inclusive cost of purchases. 0·5

If the mark up continued to be calculated on the net of VAT cost, then the business would never make a profit. They would have to charge the mark up on the VAT inclusive cost. 0·5

2

10

Marks

3 Lucyna and Stefan

		PLN	
Lucyna's salary	12 x 11,000	132,000	0·5
Hotel in London		0	0·5
Daily allowance	800 – (42 x 4 x 3)	296	1
		132,296	
Lucyna's ZUS	at 13·71%	(18,138)	0·5
Lucyna HSC basis		114,158	
Stefan's freelance revenue		20,000	0·5
Stefan's ZUS	at 11·26%	(2,252)	1
Stefan HSC basis		17,748	
Lucyna's cost		(1,335)	0·5
Stefan's cost	17,748 at 50%	(8,874)	0·5
500+ tax free benefit		0	0·5
		7,539	
Joint income	(114,158 + 7,539)	121,697	
Halved		60,849	0·5
Tax at 18%		10,953	0·5
Less tax free		(556)	0·5
Tax		10,397	
Doubled		20,793	0·5
Child relief	1,112 x 2	(2,224)	1
Less HSC	(114,158 + 17,748) x 7·75%	(10,223)	1·5
Tax due		8,347	
			10

4 Długoterminowa Sp. z o.o.

(a) If the tax years remain always falling to December, the tax loss for the first year of operations (2018) will expire after five years.

Financial year	**Explanations**	**Losses PLN 000**	
5 months to December 2018	Total loss	(35,000)	
	Used against December 2022	10,000	½
	50% v December 2023 (5th year)	17,500	1
	Balance of this loss cannot be used after five years	7,500	1

The losses for December 2019 and December 2020 can be fully used against profits of December 2023 and December 2024, within the five-year carry forward period. ½

If the year ends are changed as shown below, then the early loss will fall within the financial year to 31 December 2019 and therefore the loss will not expire until December 2024.

Financial year	Explanations	Losses PLN 000		Marks
17 months to December 2019	Total loss	(45,000)	1 for revised period and loss	
	Used against December 2022	10,000	½	
	50% v December 2023	22,500	2 for explaining the later expiry date and showing figures for how the losses are relieved	
	Balance v December 2023 (4th year)	12,500		
	Loss fully used within five years	0		
23 months to 30 November 2021	Total loss	(5,000)	1 for revised period and loss	
	Used 50% v December 2023	2,500	½	
	Used 50% v December 2024	2,500		
	Loss fully used	0		
			8	

(b) Under the General Anti Avoidance Rule (GAAR), the tax authorities may challenge transactions giving rise to a tax benefit if they believe that the transaction lacks commercial justification and if the primary motivation of the transactions is believed to be the obtaining of a tax advantage.

If the tax authority proves that the changes to the tax years were tax driven, then the company would lose the benefit of the additional losses obtained by the changed year ends, but would still be able to claim the losses which would have been available without the changes. 2

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5 Alfa

		PLN	PLN	
Sales revenue			95,000,000	0·5
Deposits received		2,500,000		0·5
Free of charge benefits	12*10,000*3		360,000	1
Cost of products sold		62,000,000		0·5
Gross salaries	200,000*11	2,200,000		1
Employer's social security	at 20·74%	456,280		1
Intangible services cost (unrelated)		1,500,000		0·5
Intangible services cost (related)	within limit	1,800,000		1
Income of the foreign branch	W1		1,850,000	
Operating income		70,456,280	97,210,000	
			(70,456,280)	
			26,753,720	
Tax at 19%			5,083,207	0·5
Dividend from Poland			0	0·5
Cost of shares acquisition (capitalised until sale)		0	0	0·5
Costs of financing of share acquisition	60,000,000*3%	1,800,000		1
Capital income (loss)	to be carried forward		(1,800,000)	0·5
Tax at 19%			0	0·5
Total CIT			5,083,207	
Credit for foreign branch tax	W2		(351,500)	0·5
CIT due			4,731,707	

			Marks
W1			
		PLN	
Net foreign income		1,200,000	0·5
Foreign tax		400,000	0·5
Foreign social security	allowed as cost	0	0·5
Representation costs		140,000	0·5
Know how amortisation	100,000 – 200,000/5	60,000	1
Environmental penalty		50,000	0·5
		1,850,000	

W2

Foreign tax credit cap			
Foreign income (PL rules)	as per W1	1,850,000	0·5
Tax at 19%		351,500	0·5
	lower of 400k and 351,5k is the latter		0·5
			15

6 Mariusz Pałąk

(a) If an individual is employed under a labour agreement for at least the minimum salary, the employment income is the primary source for social security (ZUS) contributions. ZUS is not payable on ADDITIONAL income from a registered business activity. 1

HSC contributions are always payable on all sources of income (within the scope of Social Securities Act).

Accordingly, HSC is payable in relation to both the employment income (calculated based on salary less ZUS) and the business activity (calculated on the declared earnings basis – effectively minimum allowed declared basis equal to 75% of average salary). 1

2

(b) (i) Personal income tax payable for 2018

		PLN	
Salary		55,000	0·5
Social security	55,000 x 13·71%	(7,541)	1
HSC basis		47,459	
Employment costs		(1,335)	0·5
Business revenues		85,000	0·5
Business costs		(70,000)	0·5
Taxable income		61,124	0·5
Tax at 18%		11,002	0·5
Less 556		(556)	0·5
PIT		10,446	
Less employment HSC	47,459 x 7·75%	(3,678)	1
Less business HSC	12 x 4,500 x 75% x 7·75%	(3,139)	1·5
Tax due		3,629	
			7

Marks

(ii) Flat rate revenue

		PLN	
Employment income	55,000 – 7,541 – 1,335	46,124	1
Tax	at 18%	8,302	0·5
	less 556	(556)	0·5
PIT		7,746	
Less employment HSC	47,459 x 7·75%	(3,678)	0·5
PIT on employment		4,068	
Flat rate revenue tax	Revenue	85,000	0·5
Tax	at 3%	2,550	0·5
Less business HSC	12 x 4,500 x 75% x 7·75%	(3,139)	0·5
	excess HSC	(589)	
Total tax	Employment	4,068	0·5
	Business	0	0·5
	Excesss HSC from business	(589)	1
Total		3,479	
			6
			15