Taxation and Investment in Poland 2016

Reach, relevance and reliability

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Contents

1.0 Investment climate

1.1 Business environment

Poland is a parliamentary democracy. Legislative power is vested in a bicameral parliament, composed of the Sejm (lower house) and the Senat (upper house); executive power is vested in the president and the Council of Ministers; and judicial power is vested in the courts and tribunals.

Poland is a member of the EU, the European Economic Area (EEA), the World Trade Organization (WTO) and the OECD. As an EU member state, Poland is required to comply with all EU directives and regulations and it is bound by EU trade treaties, import regulations, customs duties, agricultural agreements, import quotas, rules of origin and other trade regulations. The EU has a single external tariff and a single market within its external borders. Restrictions on imports and exports apply in areas such as dual-use technology, protected species and some sensitive products from emerging economies. Companies operating in Poland have access to a tariff-free market of consumers through the country's membership in the EU and free trade with Iceland, Liechtenstein, Norway and Switzerland through other agreements. Trade also is governed by the rules of the WTO.

EU member states		
Austria	Germany	Netherlands
Belgium	Greece	Poland
Bulgaria	Hungary	Portugal
Croatia	Ireland	Romania
Cyprus	Italy	Slovakia
Czech Republic	Latvia	Slovenia
Denmark	Lithuania	Spain
Estonia	Luxembourg	Sweden
Finland	Malta	United Kingdom*
France		
EU candidate countries		
Albania	Montenegro	Turkey
Macedonia	Serbia	
European Economic Area (EEA) member states		
EU member states	Liechtenstein	Norway
Iceland		

* In a referendum on 23 June 2016, the UK electorate voted for the country to leave the EU, but the country will remain an EU member state until a secession agreement is concluded with the EU.

OECD member countries		
Australia	Hungary	Norway
Austria	Iceland	Poland
Belgium	Ireland	Portugal
Canada	Israel	Slovakia
Chile	Italy	Slovenia
Czech Republic	Japan	Spain
Denmark	Korea (ROK)	Sweden

Estonia	Latvia	Switzerland
Finland	Luxembourg	Turkey
France	Mexico	United Kingdom
Germany	Netherlands	United States
Greece	New Zealand	
Enhanced engagement countries		
Brazil	India	South Africa
China	Indonesia	
OECD accession candidate countries		
Colombia	Costa Rica	Lithuania

Poland's main imports are machinery and transport equipment, manufactured goods (particularly consumer electronics), chemicals and mineral fuels. The major trading partners include EU countries, Russia and Ukraine.

Poland has pursued a policy of economic liberalization. The privatization of small and medium-sized state-owned companies and a liberal law on establishing new firms have encouraged the development of the private business sector.

Price controls

Poland generally does not impose price controls.

Intellectual property

Polish law protects intellectual property rights, including copyrights and industrial property rights (which include rights to patents, trademarks, industrial designs and utility models).

The EU legislation on industrial property rights is directly applicable in Poland. This legislation, most notably, includes the regulation on the protection of community trademarks, community designs and geographical signs and designations of origin. Poland also is a member of international conventions on the protection of industrial property rights, including the Paris and Madrid Conventions.

The Act on Copyrights and Neighboring Rights is the primary Polish law that regulates the treatment of copyrights for creative works authored by Polish citizens or citizens of the EU/EEA, works first published in Poland (or published simultaneously in Poland and abroad), works first published in Polish and works protected under certain international agreements. There are no registration requirements; protection applies from the date a work is established in any form. There are two types of copyright rights: "moral" and economic. Moral rights are rights granted to the author that are unlimited in time and cannot be waived or transferred, including the right to control the manner of using the work. Economic rights provide the holder the exclusive right to use and dispose of the work and receive remuneration for its use, and generally expire after a period of 70 years. The date from which the 70-year period starts to run depends on the holder of the copyright and the type of copyrighted work (e.g. it may run from the date of the last surviving author holding the copyright). Economic rights to a copyright may be transferred or another party may be licensed to use the work through a written agreement.

The Industrial Property Law and its implementing rules regulate patents, trademarks, industrial designs and utility models in Poland. Polish law is influenced by EU law and international agreements. Patent, trademark, industrial design and utility model applications are filed with the Polish Patent Office. A patent grants the holder an exclusive right to use the invention for profit or professional purposes in Poland for a term of 20 years from the date the patent application is filed with the Patent Office. Periodic fees must be paid to maintain protection. Patent holders may enter into a full or restricted license to permit another party to exploit the patent, and a licensee may grant a sublicense with the patent holder's consent. Patents also may be obtained from the European Patent Office or the International Bureau of the World International Property Organization (WIPO) after an application has been filed with the Polish Patent Office.

A right of protection for a trademark grants the holder an exclusive right to use the trademark for profit or professional purposes in Poland for 10 years from the date the trademark application is filed with the Patent Office. The right of protection may be extended for successive periods of 10 years. Trademarks can be registered within the EU with the Office for the Harmonization in the Internal Market, or internationally using the mechanisms of the WIPO's Madrid agreement and protocol.

A right in registration for an industrial design grants the holder an exclusive right to use the design for profit or professional purposes in Poland for a term of 25 years. Periodic fees must be paid to maintain protection. Industrial designs may obtain protection throughout the EU by applying to the Patent Office or to the EU Office for the Harmonization in the Internal Market, or international protection (among participating countries and organizations) by applying to the Patent Office or the International Bureau of the WIPO.

A right of protection for a utility model grants the holder an exclusive right to use the model for profit or professional purposes in Poland for a term of 10 years from the date the application is filed with the Patent Office. Periodic fees must be paid to maintain protection.

1.2 Currency

The national currency is the Polish zloty (PLN). Poland is not part of the Eurozone.

1.3 Banking and financing

The banking system in Poland comprises the central bank (the National Bank of Poland or NBP), as well as commercial, retail, foreign and investment banks. Banking activities are supervised by the Financial Supervision Authority.

The NBP is the exclusive issuing institution for the Polish zloty and it has the exclusive right to set and implement monetary policy.

Commercial banks dominate the industry, holding around 95% of all the banking sector assets (with cooperative banks holding the remainder). In addition to banks, other important financial institutions include insurance companies, pension funds, mutual funds, venture capital funds and leasing companies. Foreign financial companies, primarily insurers, play an important role in these sectors.

Warsaw is the main financial center.

1.4 Foreign investment

The Polish government encourages foreign direct investment, and the country's market size and membership in the EU and OECD have made it attractive to foreign investors.

Business operations are regulated by the Code of Commercial Companies and the Law on Economic Activity. The aforementioned acts cover most forms of economic activity and have enhanced the attractiveness of the Polish market by streamlining some of the legal obstacles facing foreign investors.

Under the Law on Economic Activity, a "foreign person" is a natural person without Polish citizenship or a legal person (or an organizational entity that is not a legal person and is endowed with legal capacity) with a seat abroad. Other acts regulating certain activities may include different definitions of a foreign person.

Except for a few minor restrictions, foreign investors enjoy the same treatment as domestic entities and may apply for permits to engage in restricted activities if they are permanent residents originating from countries applying the reciprocity rule to Polish companies. Permits are required for mining operations, defense-related industries, fuel or energy operations, security services involving individual property, aviation services and telecommunications.

Foreign investors generally are entitled to remit all of their profits abroad. All legal entities must maintain their own bank account(s).

1.5 Tax incentives

Various activities may be supported by EU structural funds, ranging from environmental protection projects to human resource development. Consequently, it is possible for business operations in various sectors of the economy to receive EU financing, even from several different programs or funds. The level of co-financing varies, depending on the type of business activity and the level of permitted public aid.

Special economic zones (SEZs) are designated areas in Poland in which business activities (manufacturing and services) may be carried out on preferential terms. Fourteen special economic zones have been established to revitalize regions hit by high unemployment. The zones offer a variety of benefits, including tax exemptions, employment incentives, low rent, etc. Grants also are available for companies that create new jobs, particularly for the unemployed or disabled.

Customs bonded warehouses are storage facilities for goods that are not subject to either customs duty or the rules that apply to imported/exported products during the storage period. A bonded warehouse can be open to the entity operating the warehouse or to other entities, provided certain requirements are met. Other customs duty suspension regimes generally are available, e.g. for imports of non-EU goods intended for a temporary presence in the EU (temporary admission relief) or for goods to be processed/transformed before import customs clearance or further export (inward processing relief).

Duty-free zones are separate parts of the EU customs zones in which goods are treated by the customs authorities as if they remained outside the zone. Both Community and non-Community goods may enter the zones. Several duty-free zones have been established in Poland and are situated primarily on the main communication routes (e.g. airports and border crossings). Duty-free goods are available only to travelers departing to non-EU countries.

An additional deduction for qualifying expenses (limited to 10-30% of qualifying expenses) incurred for R&D activity may be available, with additional incentives available to entities that have “R&D center” status.

Entities with R&D center status may establish an innovative fund. Monthly contributions to the fund amounting to 20% of revenue may be treated as tax-deductible costs. R&D centers also are eligible for a real estate tax exemption, and rural and forest tax exemptions.

A one-time depreciation write-off up to EUR 50,000 may be available for small and start-up taxpayers.

1.6 Exchange controls

Polish foreign exchange rules are harmonized with EU legal standards, and there are no limits on capital flows between Poland, the EEA and OECD member countries. Permission may be required for certain transactions with other jurisdictions and to conduct certain transactions in a foreign currency. There are no exchange controls on inbound or outbound investment within the EU.

The Polish zloty is fully convertible and may be used for settlement of international transactions. Nevertheless, entities transferring zloty and foreign currency to and from Poland may be required to submit detailed quarterly reports of their transactions for statistical purposes. The NBP monitors flows, but the Council of Ministers sets the relevant thresholds and reporting procedures.

The Ministry of Finance and the NBP supervise all foreign exchange activities, and banks must submit information about customer accounts at the request of the NBP, courts and tax offices.

1.7 Labour Code

The Labour Code is the primary legislation governing relations between employers and employees and the conditions for carrying out work in Poland.

The minimum wage in Poland is PLN 1,850 per month as from 1 January 2016.

Poland’s rules on the employment of foreigners distinguish between citizens of EU/EEA member states and citizens of non-EU/EEA countries. Citizens of EU/EEA member states are entitled to perform work in Poland. For citizens of non-EU countries, the employment requirements vary by profession; in some cases, a work permit is not required, while in other cases, a simplified procedure for obtaining a permit may be available. A foreigner working in Poland generally must obtain a visa.

2.0 Setting up a business

2.1 Principal forms of business entity

The principal types of entities operating in Poland include the following: the limited liability company (Sp. z o.o.), joint stock company (SA), limited joint stock partnership, registered partnership, limited partnership, professional partnership and branch of a foreign corporation. An individual also may carry on business as a sole proprietor.

The *Societas Europaea* or SE company form also is available. The SE is designed to enable companies to operate across the EU with a single legal structure, to facilitate mergers and create flexibility for companies wanting to move their head office from one EU state to another. Companies from two or more EU member states are permitted to merge to form an SE or create an SE holding company or branch. A company may convert an existing firm to SE status without liquidating. One advantage of an SE is that it is possible to move headquarters to another EU member state with minimal formalities.

Businesses can establish as a European Economic Interest Grouping (EEIG). Companies (even non-EU companies, if the vehicle is a subsidiary in an EU country that is formed in accordance with the law of a EU member state and that has its registered office and central administration in the EU) that want to start working with an EU company but do not want to commit to a formal joint venture may set up an EEIG. The grouping functions much like a partnership in that the income is taxed in the hands of the member companies. In order to form an EEIG, at least two of the companies involved must be from different EU member states.

Formalities for setting up a company

The requirements to establish an Sp. z o.o. include the adoption of articles of association, the contribution of the entire capital by the shareholders, the appointment of a management board and a supervisory board (if required) and registration with the National Court Register within six months of adopting the articles of incorporation. An Sp. Z o.o. acquires legal personality as a result of its registration in the National Court Register. However, it comes into existence as a company in organization (and is capable of contracting) at the time its articles of association are signed.

The requirements to establish an SA include the adoption of articles of association, the contribution of the required amount of capital by the shareholders (as described below), the appointment of a management board and a supervisory board and registration with the National Court Register. The SA comes into existence as a company in organization when all of its shares are subscribed for. As in the case of an Sp. z o.o., it acquires legal personality when it is entered into the National Court Register.

Forms of entity

The Sp. z o.o. is the basic legal form of a company in Poland. Limited liability companies may be used for any purpose allowed by the law, but they primarily are used as special purpose vehicles, holding companies and Polish operating companies controlled by multinational corporations. An Sp. Z o.o. has a separate legal personality from its shareholders, which means that, when acting through its governing bodies, it can acquire rights and incur liabilities on its own behalf.

The Sp. z o.o.'s capital is formed by shareholders' contributions, but shareholders of the Sp. z o.o. generally are not responsible for the liabilities of the company. The management of the Sp. z o.o. is less formal than that of the SA, so it is a somewhat more popular form in which to conduct business.

The SA also has a personality separate from its shareholders, which means that, when acting through its governing bodies, it can acquire rights and incur liabilities on its own behalf.

The SA's capital is formed by shareholder contributions. As in the case of an Sp. Z o.o., the shareholders of the SA generally are not responsible for the company's liabilities. Management is more formal than in the case of an Sp. z o.o. This type of company frequently is used where its form is required by law (e.g. banks, insurance companies) or where the company is planning to offer its shares on the capital markets.

Requirements for an Sp. z o.o.

Capital: The minimum capital required to establish an Sp. z o.o. is PLN 5,000, to be paid up before the registration. Contributions may be made in cash or in kind.

Legal reserve: There are no legal reserve requirements for an Sp. z o.o.

Founders: There are no restrictions on the number, nationality or residence of shareholders; a limited liability company may be formed by a single shareholder, but not solely by another single-shareholder limited liability company or its foreign equivalent.

Board of directors: There must be a management board composed of at least one individual. There are no residence requirements for the management board members of the Sp. z o.o.; however, a work permit may be required for a non-EU person. The term of office for management board members is not defined. If share capital exceeds PLN 500,000 and there are more than 25 shareholders, the company also must have a supervisory board composed of at least three persons.

Management: The main corporate bodies of the Sp. z o.o. are the shareholders' meeting and the management board. A simple majority of 50% is sufficient to pass most resolutions by the shareholders' meeting; a two-thirds or three-fourths majority is required for some major decisions. Employees have no influence over the management of private sector firms unless they are shareholders.

Taxes and fees: The legal costs for establishing a company (including notary charges, stamp duty and court costs) depend, *inter alia*, on the level of capital.

Types of shares: Shares are registered and may be common or preferred. The minimum share value is PLN 50. The shares do not constitute securities.

Control: The rights of control are vested in each shareholder of the Sp. z o.o. and may be limited only when a supervisory board or an audit committee is established.

Requirements for an SA

Capital: The minimum initial capital for an SA is PLN 100,000. Shares subscribed for in-kind contributions must be paid in full no later than one year from the date of registration of the company. At least one-fourth of the nominal value of shares subscribed for cash contributions must be paid prior to registration of the company.

Legal reserve: An SA is required to set up a legal reserve (supplementary capital) equal to 8% of annual net profits, until the reserve reaches one-third of share capital.

Founders: An SA must be founded by at least one individual or legal person that must sign the articles of association. The SA may not be formed solely by a single-shareholder limited liability company or its foreign equivalent. There are no residence or nationality requirements.

Board of directors: Management of the SA is vested in a management board, which must be composed of at least one individual. There are no residence requirements for the management board members of the SA; however, in the case of non-EU persons, a work permit may be required. In the financial sector, particularly in the case of Polish-registered banks, at least two members of the management board, including the chairman, must have working knowledge of the Polish language. Members of the management board may be appointed for a term of office of up to five years. The SA also must have a supervisory board consisting of at least three members (five for listed companies), each appointed for a term of up to five years.

Management: The corporate bodies of an SA are the shareholders' meeting, the management board and the supervisory board. A simple majority of 50% is sufficient to approve most actions by the shareholders' meeting; a 75% or two-thirds majority is required for some major decisions (e.g. amendment of the articles of association, capital increase or reduction, merger, split, change of legal form or liquidation). Employees have no influence over the management of private sector firms unless they are shareholders.

Taxes and fees: The legal costs for establishing a company (including notary charges, stamp duty and court costs) depend, *inter alia*, on the level of capital.

Types of shares: Shares may be registered or bearer, common or preferred. Nondividend shares are not permitted. The minimum share value is PLN 0.01. Shares constitute securities and may be issued to the public.

Control: The supervisory board must exercise permanent supervision over all areas of the activities of the SA.

Branch of a foreign corporation

A foreign company may opt to set up a branch in Poland. Foreign investors from the EU or member states of EFTA parties to the EEA agreement, as well as certain other companies from outside the EEA that may enjoy the freedom of economic activity on the basis of agreements concluded with the EU or EU member states, are authorized to conduct business activities under the same rules that apply to Polish enterprises.

A branch is a part of a foreign company but it does not have its own legal personality; however, it may generate income. A branch may conduct only activities that are within the scope of the business activities of its foreign head office. It must be registered in the National Court Register under the name of the head office, and its name must include the words “branch in Poland.”

A branch in Poland is taxed at the same tax rate as applies to a Polish company.

Foreign investors may establish a representative office in Poland. A representative office may carry out only promotion and advertising activities. Representative offices may not generate income on their own behalf. A representative office is registered in the Register of the Representative Offices of Foreign Entrepreneurs kept by the Ministry of Economy.

2.2 Regulation of business

Registration and filing requirements

All companies intending to conduct business activities are assigned a tax identification number (NIP) after registration with the appropriate local tax office. Taxpayers are required by law to keep their accounts and calculate tax independently.

Mergers and acquisitions

The Polish merger control regime requires mandatory merger notifications to the Polish competition authority i.e. the President of the Office of Competition and Consumer Protection (the OCCP) if:

- The planned transaction meets the criteria for a concentration (i.e. it constitutes a statutory merger, takeover of control, creation of a joint venture or acquisition of a part of the assets (enterprise or a part of an enterprise) from another undertaking); and
- The combined turnover of the parties to the proposed merger (generally including the turnover of their entire capital group, but excluding intragroup transactions) for the previous year exceeded either EUR 1 billion worldwide or EUR 50 million in Poland.

However, the Act on Competition and Consumer Protection provides certain exceptions from the threshold test. For example, a transaction is exempted from the notification requirement if it takes place within the same capital group, if the concentration results from bankruptcy proceedings or if the target’s turnover does not exceed EUR 10 million in each of the last two financial years.

All multinational companies are required to notify the President of the OCCP of a planned merger if any party to the merger or its capital group generates turnover in Poland (e.g. from the sale of products or provision of services).

The Polish merger control regime includes a “stand-still obligation” in cases where a merger notification is required—the parties may not close the transaction before the President of the OCCP issues a decision.

Merger control proceedings in Poland generally take one month (with the possibility of a suspension of the proceedings for a request of information), but in more complicated cases the proceedings may be extended for four more months.

The Act on Competition and Consumer Protection empowers the President of the OCCP to block a merger that would significantly impede competition in the market, in particular, by the creation or strengthening of a dominant position.

In accordance with the "one-stop shop" rule, certain mergers and acquisitions with an EU dimension fall within the EU merger control regime. As a rule, the European Commission has exclusive powers to review such transactions. Under its merger control regime, the EU has jurisdiction over mergers in two cases:

1. Where the combined aggregate worldwide turnover of all the undertakings concerned exceeds EUR 5 billion and the aggregate EU-wide turnover of each of at least two of the undertakings exceeds EUR 250 million, unless each of the undertakings concerned achieves more than two-thirds of its aggregate EU-wide turnover in a single member state; and
2. Where the aggregate global turnover of the undertakings concerned exceeds EUR 2.5 billion for all businesses involved, aggregate global turnover in at least three member states exceeds EUR 100 million, aggregate turnover of at least two undertakings in each of these three member states exceeds EUR 25 million and aggregate EU-wide turnover of at least two of the undertakings exceeds EUR 100 million, unless each of the undertakings concerned achieves more than two-thirds of its aggregate EU-wide turnover within a single member state.

The European Commission has 25 business days after a merger is reported to approve the transaction or open a procedure. If it decides to open a procedure, it must issue a ruling within 90 business days. However, the Commission may decide to refer the merger to the competition authority of the relevant member state to determine whether the effect of the merger primarily will be in that member state. That decision operates as an official notification to the government of the member state.

Companies whose merger normally would not fall within the jurisdiction of the European Commission may request Commission review if they otherwise would be required to notify three or more member states. The European Commission acts as a one-stop shop only if none of the relevant member states objects within 15 business days.

Monopolies and restraint of trade

The Act on Competition and Consumer Protection is the primary legislation regulating anti-competitive agreements between companies (e.g. price-fixing agreements), the abuse of dominant market position and mergers that may negatively affect competition (see under "Mergers and acquisitions," above). There is a presumption that a company has a dominant position if it holds a market share of at least 40%, but the determination of whether a dominant position exists is based upon all the relevant facts and circumstances concerning market conditions.

The President of the OCCP has the power to initiate proceedings against practices that may restrict competition, which may result in an order for an enterprise to cease such practices and the imposition of a fine up to 10% of its turnover.

Polish competition law imposes personal liability on managers for taking part in anticompetitive agreements between companies, up to EUR 500,000.

2.3 Accounting, filing and auditing requirements

Accounting standards

Polish accounting standards do not differ significantly from international standards. As from 1 January 2005, all companies listed on the Warsaw stock exchange must prepare their consolidated financial statements in accordance with IFRS. All accounting documentation, records and reports must be prepared in the Polish language and Polish currency. Companies must apply the accounting principles specified in the Accounting Act to ensure a true and fair presentation of their economic and financial position, as well as their financial results. Activities (including business transactions) must be entered into the accounting ledgers and disclosed in the financial statements, according to the nature of the business.

Accurate annual financial statements consist of a balance sheet, profit and loss account and notes, as well as supplementary information and explanations. Companies audited in a given year also must present a cash flow statement and a statement of changes in the company's share capital. Together with the annual financial statements, the management must prepare a report on the company's activities, including information on major events that are material to the company's activities, the company's expected development and major achievements in the area of R&D, as well as the company's present financial condition and projections.

Auditing requirements

Financial statements of certain entities, including joint stock companies, banks, insurers and investment and pension funds, must be audited. Other companies must be audited if two of the following three conditions were fulfilled in the preceding financial year:

- Average annual employment (calculated as a full-time equivalent) is at least 50 persons;
- Total net annual turnover and financial income from the sale of goods and services and financial transactions is at least EUR 5 million; and/or
- Total balance sheet assets as of the end of the accounting year are at least EUR 2.5 million.

Filing requirements

All companies must file their annual accounts with the registry court.

3.0 Business taxation

3.1 Overview

The main taxes applicable to businesses in Poland are the corporate income tax, tax on civil law transactions, value added tax (VAT), stamp duty, real estate tax and excise duty.

There is no excess profits tax or alternative minimum tax. In general, foreign companies pay the same taxes as Polish legal entities (except where a tax treaty provides otherwise).

All taxes in Poland are imposed by the government through Taxation Acts, which set the rules for imposing taxes, the rates and duties and taxpayer responsibilities. The Minister of Finance may be authorized by an act to issue regulations. All legislation is published in an official publication (i.e. the Official Journal of Laws of the Republic of Poland).

The Tax Ordinance is the most general tax legislation, which covers the following: general taxation rules, tax liabilities of third parties, tax information, tax proceedings, structure of the tax administration and fiscal confidentiality. As from 2016, the Tax Ordinance Act contains an express rule, under which doubts that cannot be dispelled regarding the interpretation of the wording of tax provisions are resolved in favor of the taxpayer.

Other relevant legislation includes the Corporate Income Tax Act, the Value Added Tax Act, the Civil Law Activities Tax Act (for capital duties and transfer tax) and the Local Taxes Act (for real estate tax, among others). Parliament passes tax legislation with a simple majority of votes.

Poland has implemented the EU directives, including the parent-subsidiary (PSD), interest and royalties (IRD) and merger directives. Poland also had implemented the savings directive, which required the exchange of information between tax administrations when interest payments were made in one EU member state to an individual resident in another member state. The directive was repealed from 1 January 2016 to coincide with the introduction of the common reporting standard (CRS) within the EU through the implementation of a new directive on the mandatory exchange of information. Poland has been a party to the EU arbitration convention since 2007.

Poland Quick Tax Facts for Companies	
Corporate income tax rate	19%
Branch tax rate	19%
Capital gains tax rate	19%
Basis	Worldwide for tax residents
Participation exemption	Yes
Loss relief	
– Carryforward	5 years
– Carryback	No
Double taxation relief	Yes
Tax consolidation	Yes
Transfer pricing rules	Yes
Thin capitalization rules	Yes
Controlled foreign company rules	Yes
Tax year	Calendar year or other 12-month period
Advance payment of tax	Yes
Return due date	3 months after tax year end

Withholding tax	
– Dividends – Interest – Royalties – Fees for intangible services – Branch remittance tax	19% 20% (nonresidents) 20% (nonresidents) 20% (nonresidents) No
Social security contributions	Vary
Real estate tax	Varies
Stamp duty	Varies
Tax on civil law transactions	0%/0.5%/1%/2%
VAT	23% (standard rate)

3.2 Residence

A company is resident in Poland for tax purposes if it has its legal seat or a management office in Poland.

3.3 Taxable income and rates

Resident companies are subject to corporate income tax on their worldwide income. Income derived by residents from sources abroad generally is subject to corporate income tax under the same rules as income earned from Polish sources, usually with a foreign tax credit available, unless an applicable tax treaty provides otherwise. Nonresidents (companies having their registered seat or place of management abroad) are liable to corporate income tax only with respect to income earned in Poland. The amount of income (loss) is determined on the basis of the accounting books, with adjustments made according to tax law.

The corporate tax rate is 19%. Branches of foreign companies are taxed at the same rate as Polish companies.

Taxable income defined

Taxable income comprises all revenue earned in a tax year, both financial and operating (with some exceptions), decreased by tax-deductible expenses. A company's profits consist of business/trading income, passive income (e.g. dividends, interest and royalties) and capital gains. Business income earned abroad is aggregated with other income and is subject to Polish corporate income tax.

Dividends received by a Polish resident company from another Polish company or an EU/EEA company may be exempt from taxation if certain holding and participation requirements are met (among other things, if the recipient holds at least 10% of the shares in the payer company for at least two years before/after the distribution). A similar rule may apply to dividends from a Swiss company, provided the recipient holds at least 25% of the shares in the payer company.

Dividends received from a foreign company are aggregated with other taxable income and are subject to the standard corporate income tax rate of 19% (unless the exemption specified above for dividends received from EU/EEA/Swiss companies applies), with a credit granted for foreign withholding tax, and, in some cases, for the underlying foreign corporate income tax paid (although the total credit cannot exceed the Polish corporate income tax attributable to the dividend income) (see under **3.5**, below). The underlying tax related to dividends received by a Polish company may be credited against the corporate income tax liability if the dividends are paid by an entity resident in a non-EU/EEA member state/Switzerland with which Poland has concluded a tax treaty and the Polish company has held at least a 75% stake in the payer company for at least two years before/after the distribution.

A taxpayer is entitled to choose the accounting method or the tax method for calculating exchange rate differences for corporate income tax purposes. In general, exchange rate differences are treated as taxable revenues/tax-deductible costs.

In general, Polish regulations follow EU law regarding corporate reorganizations. If a restructuring concerns a business or its organized part, it generally should be tax neutral.

Deductions

In general, all expenses incurred by a taxpayer for the purpose of generating, preserving or protecting taxable revenue are deductible, e.g. for interest paid (subject to the thin capitalization rules), employee remuneration, net operating losses and depreciation. Specified categories of expenses are not deductible (e.g. penalties, dividends paid).

Depreciation

Fixed assets and intangible assets are subject to tax depreciation/amortization if the projected economic useful life of the asset is longer than one year and it is related to the taxpayer's taxable income. Fixed assets and intangible assets with a value up to PLN 3,500 may be directly expensed. As a rule, tax depreciation/amortization is calculated on a straight-line basis. However, a declining-balance basis may be used for certain categories of assets. Basic (standard) depreciation rates (per annum) for commonly owned (or, in certain cases, leased) assets are as follows:

Asset	Straight-line rate per annum
Land	N/A
Buildings	2.5%
Technical equipment and machines	4.5%-25%
Vehicles (cars/buses/trucks)	20%
Computers (including related equipment)	30%

Depending on the conditions of use for the assets, the basic depreciation rates may be increased as follows:

- 1.2 to 1.4 times the basic rate for buildings and construction that are in poor condition;
- 1.4 times the basic rate for machinery, equipment and means of transportation used more intensively than usual; and
- Twice the basic rate for machinery and equipment from specified statistical groups (e.g. computers) that are subject to rapid obsolescence.

Special rules apply for depreciation of second-hand assets (i.e. assets used for at least six months, or five years in the case of buildings) or improved assets (i.e. assets improved before being entered into the books, where the value of the improvement exceeded 20% of the initial value, or 30% for buildings).

In the first year of business activity, taxpayers may write off the cost of specified fixed assets (excluding passenger cars) in the year in which these assets are entered into the register of fixed and intangible assets. The total value of the special depreciation deduction may not exceed EUR 50,000 for the tax year.

Taxpayers generally are allowed to decrease the basic depreciation rates for all fixed assets (but not intangible assets), and to increase them back up to the standard rates provided by the Corporate Income Tax Act.

Losses

Losses incurred by a taxpayer may be carried forward and set off against income over the five tax years following the year in which the loss is incurred, but only up to 50% of the loss suffered in a given tax year may be deducted. Losses cannot be carried back. In the case of a merger, only the tax losses of the surviving company can be utilized; the losses of the acquired company are forfeited. If the merger results in the establishment of a new company, the tax losses of the merging companies cannot be utilized.

3.4 Capital gains taxation

Capital gains generally are treated as regular income and are subject to the standard 19% corporate income tax rate. An exemption may be available for venture capital companies (that are taxpayers for corporate income tax purposes) on gains from the transfer of shares that are acquired in 2016 or 2017 in companies performing R&D activities, provided certain requirements are met.

3.5 Double taxation relief

Unilateral relief

Foreign tax paid on foreign-source income may be credited against Polish tax on the same profits, but the credit is limited to the amount of Polish tax payable on the foreign income. Credit for underlying tax related to dividends received by a Polish resident from an entity residing in a non-EU/EEA member state/Switzerland with which Poland has concluded a tax treaty may be granted, provided the Polish company holds at least 75% of the shares in the payer company for at least two years before/after the distribution of the dividends.

Tax treaties

Poland has concluded numerous bilateral taxation treaties. Most treaties are based on the OECD model treaty, providing for relief from double taxation on all types of income, limiting the taxation by one country of companies resident in the other and protecting companies resident in one country from discriminatory taxation in the other. Poland's treaties generally contain OECD-compliant exchange of information provisions. Many of Poland's treaties reduce the withholding tax rates applied to dividends, interest and royalties paid by Polish companies to nonresidents. If the EU PSD or IRD applies, no tax is withheld on dividends/interest and royalties, respectively.

Poland also has entered into a number of separate tax information exchange agreements.

To benefit from a reduced rate under a tax treaty or an exemption under the PSD or IRD, the nonresident recipient must provide the Polish payer with a certificate of tax residence issued by the tax authorities in the recipient's country of residence. Additionally, in the case of an exemption claimed under the PSD or IRD, the recipient also must provide a signed declaration that it is subject to tax on its entire taxable income in the country of residence, regardless of the source of the income.

Tax Treaty Network			
Albania	Georgia	Luxembourg	Singapore
Armenia	Germany	Macedonia	Slovakia
Australia	Greece	Malaysia	Slovenia
Austria	Hungary	Malta	South Africa
Azerbaijan	Iceland	Mexico	Spain
Bangladesh	India	Moldova	Sri Lanka
Belarus	Indonesia	Mongolia	Sweden
Belgium	Iran	Montenegro	Switzerland
Bosnia-Herzegovina	Ireland	Morocco	Syria
Bulgaria	Israel	Netherlands	Tajikistan
Canada	Italy	New Zealand	Thailand
Chile	Japan	Norway	Tunisia
China	Jordan	Pakistan	Turkey
Croatia	Kazakhstan	Philippines	Ukraine
Cyprus	Korea (ROK)	Portugal	United Arab Emirates

Czech Republic	Kuwait	Qatar	United Kingdom
Denmark	Kyrgyzstan	Romania	United States
Egypt	Latvia	Russia	Uzbekistan
Estonia	Lebanon	Saudi Arabia	Vietnam
Finland	Lithuania	Serbia	Zimbabwe
France			

3.6 Anti-avoidance rules

Transfer pricing

Transfer pricing rules apply both to domestic and cross-border transactions. They also apply to permanent establishments of both Polish entities abroad and foreign entities in Poland.

Poland's transfer pricing rules generally follow the OECD guidelines. Transactions between related parties must be concluded at arm's length. If related party transactions are concluded on non-arm's length terms and, as a result, a taxpayer reports a taxable income lower than it otherwise would have disclosed, the tax authorities may adjust the taxpayer's taxable income.

The tax authorities are required to use one of the five OECD methods (comparable uncontrolled price method, cost plus method, resale price method, profit split method or transactional net margin method).

As noted above, Poland is a party to the EU arbitration convention, so taxpayers may seek protection from double taxation either under the relevant tax treaty or under the procedures in the convention.

Documentation requirements

Documentation must be prepared for domestic and cross-border related-party transactions exceeding certain annual value thresholds (generally EUR 100,000 for tangible transactions (EUR 50,000 in the case of small taxpayers), EUR 30,000 for services and intangible transactions and EUR 20,000 for transactions with entities in tax havens). Recent court decisions seem to indicate that the thresholds apply to all transactions with the same counterparty, rather than to the separate transactional flows. Permanent establishments also are subject to the documentation requirements.

The documentation must include, *inter alia*, a description of the functions to be performed by entities involved in the transaction, a definition of all projected costs related to the transaction, the method used for calculating profits and the price of the transaction. Recent court decisions seem to indicate that the documentation also should contain a benchmarking analysis. A benchmarking study will be a mandatory part of the documentation as from 2017 (for entities whose costs or revenues exceed PLN 10 million).

If the taxpayer does not provide the tax authorities with the required documentation on related party transactions within seven days of a request, and additional income is assessed by the authorities based on the transfer pricing rules, the additional income will be subject to a 50% corporate income tax rate (instead of 19%).

Transfer pricing documentation

The transfer pricing documentation rules have been subject to significant amendments, some of which apply as from 2016 and others of which will apply as from 2017. New legislation introduces the three-tiered approach to transfer pricing documentation, as recommended under action 13 of the OECD BEPS project: (i) local documentation (a "local file") will be required as from 2017; (ii) documentation for groups of companies (a "master file") will be required as from 2017; and (iii) a report on the global allocation of income and tax within the group (a "country-by-country" (CbC) report) is required as from 2016. The CbC reporting requirements apply to entities whose consolidated revenue exceeds the equivalent of EUR 750 million in the year preceding the tax year.

Advance pricing agreements

Poland provides for advance pricing agreements (APAs), under which taxpayers can obtain certainty on the accuracy of the pricing methodology applied in domestic or foreign related party transactions, and the acceptance of the transfer pricing methodology by the tax authorities. Unilateral, bilateral and multilateral agreements are possible. APAs also may relate to agreements regarding the split of costs.

Before submitting an application for an APA, the taxpayer may request the Ministry of Finance to advise as to whether an APA would be possible, the scope of information to be submitted, the procedure and the probable date of conclusion of the APA. An APA application must be submitted by the Polish entity, and the application fee (which may be up to EUR 50,000, depending on the value of the transaction and the type of the APA) must be paid within seven days of the date the application is submitted.

A taxpayer requesting an APA is required, among other things, to justify the selected transfer pricing method, prepare a description and explain the application of the selected method, indicate the circumstances that could affect the correctness of the pricing methodology, prepare documentation used as a basis for setting the level of transactional prices and propose the tax years to be covered by the APA.

An APA can be valid for a maximum period of five years, although it may be extended for additional periods, with each renewal not exceeding five years.

Thin capitalization

The thin capitalization rules apply to broadly defined related-party debt and provide for a debt-to-equity ratio of 1:1. Any interest on debt exceeding this amount is nondeductible.

The rules allow a taxpayer to use an alternative method to determine the limit on tax-deductible interest. Under the alternative method, deductible interest may not exceed the value of the taxpayer's assets (excluding intangible assets) multiplied by the reference rate published by the NBP (increased by 1.25%), and it also cannot exceed 50% of the taxpayer's earnings before interest and taxes for a given tax year. If a taxpayer opts to use the alternative method, it must be used for both related-party and third-party loans for at least three tax years, and the taxpayer must notify a competent tax office about its choice to adopt the method.

Controlled foreign companies

Under the CFC rules, Polish taxpayers are taxed at a rate of 19% on the income of their CFCs. A subsidiary will be characterized as a CFC if any of the following requirements are met: (1) the company is located in a country that is on the "black list" issued by the Polish Minister of Finance; (2) the company is located in a country that does not engage in an exchange of information with Poland or with the EU; or (3) the Polish company owns, for an uninterrupted period of at least 30 days, a shareholding of at least 25% of a foreign company that derives mainly passive revenue and at least one of the types of passive revenue is taxed at a rate equal to or lower than 14.25%. As a rule, the rules are not applicable if the CFC carries out genuine economic activities or if the income of the CFC is lower than EUR 250,000 per year. A foreign permanent establishment of a Polish company also may be treated as its CFC. The tax from a CFC is payable within nine months from the end of the CFC's tax year.

Anti-avoidance rule applicable to dividends

As from 2016, an anti-abuse clause applies to dividends paid and received by Polish companies to/from EU/EEA/Switzerland resident companies that are eligible for an exemption from corporate income tax and/or withholding tax under Polish law. Based on the anti-abuse clause, the corporate income tax/withholding tax exemption is not available if the dividend results from an agreement/transaction whose main purpose (or one of its main purposes) was to benefit from the exemption and the agreement/transaction does not have a genuine character.

General anti-avoidance rule

Under the new general anti-avoidance rule (GAAR) that entered into force on 15 July 2016, a transaction/action that was carried out primarily to obtain a tax benefit that, under the circumstances, is contrary to the subject and intention of a provision of tax legislation may result in the denial of that benefit if the transaction/action was carried out in an artificial way (tax avoidance). A transaction/action will be deemed to be carried out primarily to obtain a tax benefit if the other commercial or economic aims of the transaction/action, as indicated by the taxpayer, are deemed immaterial. A transaction/action will be deemed to be carried out in an "artificial" way if, under the same circumstances, it would not have been carried out by a person that acts reasonably and is guided by lawful goals other than obtaining a tax benefit that is contrary to the subject and intention of a provision of tax legislation. In assessing whether a transaction/action was carried out in an artificial manner, the following factors, in particular, will be taken into consideration:

- Unreasonable split of a transaction/action;
- Involvement of intermediaries without commercial or economic justification;
- Factors leading to occurrence of a state of affairs that is similar or identical to the state of affairs that existed before the transaction/action was carried out;
- Factors that cancel each other out or compensate for each other; or
- Commercial or economic risk that outweighs the expected benefits, other than the tax benefits, to such an extent that it may be assumed that a person that acts reasonably would not carry out the transaction/action in such a way.

As a rule, in the case of "tax avoidance" situations, the tax authorities have the right to assess the tax consequences of the relevant transaction(s)/action(s) in a way that eliminates the effects of the tax benefits obtained (i.e. as if the tax avoidance never occurred).

The GAAR applies to tax benefits obtained after the date of entry into force of the new provisions (i.e. 15 July 2016).

A specific VAT anti-avoidance rule also entered into force on 15 July 2016 (see under **5.1**, below).

BEPS

The government has contributed to the development of the OECD action plan under the BEPS project, and considers a uniform and internationally coordinated approach to be most effective in preventing BEPS.

3.7 Administration

Tax year

The calendar year generally is deemed to be the tax year. However, a taxpayer may change its tax year by notifying the appropriate tax office and identifying a different 12-month period as its tax year.

Filing and payment

A company must file an annual corporate income tax return within three months after the tax year end, and any outstanding tax liabilities must be settled by that time.

Companies are required to make monthly advance payments of corporate income tax by the 20th day of the following month, and advance payments are based on the cumulative taxable income or tax loss for the tax year. The payment for the last month of the tax year (e.g. December) must be made by the 20th day of the first month of the new tax year (e.g. January), unless the corporate taxpayer files an annual corporate income tax return and pays any tax due before this date. A simplified tax calculation and monthly advance tax payment also is permissible under the Corporate Income Tax Act, under which taxpayers may make monthly advance tax payments of 1/12 of the tax due disclosed in the tax return filed in the previous year.

Late payments result in interest charges at a rate that is the sum of: (i) 200% of the "Lombard rate" (announced by the NBP) and (ii) 2% on the amount of any tax arrears (the total rate calculated in this way cannot be lower than 8%). A taxpayer may be eligible for a preferential penalty interest rate (50% of the standard penalty interest rate) if the taxpayer corrects its tax settlements within six months from the deadline to submit the original tax return, and pays the outstanding tax liability in full within seven days from the correction date. A taxpayer may be subject to an increased interest rate (150% of the standard penalty interest rate) if it has tax arrears in the area of VAT and excise duties, and such arrears are disclosed in relation to a tax audit/control.

If the tax authorities conclude that there has been a violation of the tax law (which is either an offense or a minor offense under the Penal Fiscal Code), they may try to hold the company's representatives liable for the infringement. Additionally, under the rules on the liability of collective entities for acts prohibited under penalty, penal fiscal proceedings can lead to the initiation of judicial proceedings against the collective entity (e.g. the company), which may result in a financial penalty for the taxpayer. The maximum amount of the penalty may reach 3% of the revenue generated by the taxpayer during the financial year in which an offense or minor offense was committed. However, the penalty cannot be less than PLN 1,000 or more than PLN 5 million.

Consolidated returns

Provided certain requirements are met, a group of Polish companies may establish a "tax capital group" (TCG), which is treated as a single corporate income taxpayer (i.e. companies forming a TCG are no longer standalone taxpayers for Polish corporate income tax purposes and their tax results are consolidated in the tax result of the TCG). For the purpose of other taxes, the companies continue to act as standalone taxpayers.

The main requirements for establishing and maintaining a TCG are as follows:

- All companies in the group must be limited liability companies or joint stock companies with registered offices in Poland;
- The average share capital of the companies participating in the TCG is at least PLN 1 million;
- An agreement on the establishment of a TCG is concluded for a minimum period of three years and is registered by the competent tax authority;
- The companies forming a TCG do not carry out non-arm's length transactions with related parties that are not members of the TCG; and
- The TCG maintains a tax profitability ratio of 3%.

A TCG formed and registered with the relevant tax authorities is treated as a separate entity for corporate income tax purposes, which results, in particular, in the following benefits:

- The losses of some of the members of the TCG may be offset against the taxable income of its other members (but a TCG may not use tax losses that were incurred by its members before the TCG was established);
- The transfer pricing rules do not apply to transactions between group companies;
- Donations between group companies, as a rule, may be tax-deductible expenses for the donor; and
- Tax formalities are simplified, since only one company in the group prepares a tax return.

Statute of limitations

A tax return remains subject to adjustment by the tax authorities for five years from the end of the calendar year in which the payment of the tax liability is due. This general statute of limitations period can be interrupted or suspended under certain circumstances. The same period applies for the collection of tax.

Tax authorities

Taxes in Poland are administered by the following:

- **Tax offices:** These units supervise the collection of taxes in their territories. They also issue individual administrative decisions in tax cases;
- **Fiscal audit offices:** These offices carry out tax and procedural audits of fiscal accounting;
- **Tax chamber:** The chamber supervises the tax offices and is empowered to review administrative decisions of the tax offices and fiscal audit offices; and
- **Minister of Finance:** The minister is responsible for budgetary policy and supervision of the entire taxation system.

Taxpayers may appeal to the tax chamber against decisions of the local tax office or fiscal audit office. An appeal against a decision of the tax chamber may be directed to the regional administrative court. Taxpayers are entitled to resort to the supreme administrative court to review decisions of the regional administrative courts.

Polish tax law also provides for extraordinary measures against final tax decisions: declaration of invalidity of the decision, annulment or change of the final tax decision and resumption of the proceedings.

Rulings

Two types of tax rulings are available in Poland: general and individual. General rulings aim to ensure that the application of the tax law by the tax authorities is uniform; general rulings may be applied by all taxpayers. Individual rulings, which may be relied upon only by the taxpayer obtaining the ruling, are issued upon written request. The tax authorities may not challenge a taxpayer that properly applies a valid individual ruling. To obtain a ruling, the taxpayer must submit a written request setting out the actual facts or planned events and the question, and present its opinion on the issue. A ruling issued will remain valid until changed/repealed/declared void by the tax authorities (possible only in specific situations) or until an underlying provision of law is changed, rendering the ruling irrelevant. As from 2016, an application for a tax ruling may be submitted jointly by two or more taxpayers participating in the same transaction/event.

As from 15 July 2016, no rulings generally will be issued regarding events that raise a justifiable suspicion that they may be subject to the new GAAR (see under **3.6**, above) or may constitute an abuse of law under the new VAT anti-avoidance provisions (see under **5.1**, below). Instead, taxpayers are entitled to apply for a protective opinion regarding a transaction that is being planned, and protective opinions will be issued if the circumstances indicate that the GAAR does not apply in the given case. The fee for submitting an application for such an opinion is PLN 20,000. Issuance of a protective opinion should occur within six months from the time of receipt of the application by the tax authorities.

Even if a ruling is issued, the protection generally resulting from a tax ruling may not apply if the facts of the case or future events that are the subject of the tax ruling also constitute a part of an activity that is the subject of a decision issued due to application of the GAAR, or in relation to an abuse of law under the new provisions of the VAT law.

As explained in **3.6** above, APAs also are possible.

3.8 Other taxes on business

Shipping companies may opt to pay tonnage tax on certain types of income. A special tax is imposed on the excavation of silver and copper.

A new type of tax (retail sales tax) is applicable as from 1 September 2016, under which retail sellers generating turnover exceeding PLN 17 million in a given month will be required to pay tax at 0.8% (for turnover in the range of 17 million to 170 million in a given month) and 1.4% (for turnover exceeding 170 million in a given month).

Due to the initiation by the European Commission of proceedings concerning the possible incompatibility of the retail sales tax provisions with EU law, the Polish government has prepared a draft of a regulation to suspend the collection of this tax with regard to turnover generated between 1 September 2016 and 31 December 2016.

Tax on certain financial institutions

A tax on the assets of domestic banks, credit unions, insurance and reinsurance companies and loan institutions, as well as Polish branches of foreign banks, credit institutions and insurance and reinsurance companies, was introduced as from 1 February 2016. The taxable basis is the surplus of the accounting value of taxpayer's assets (decreased by certain types of funds) over specific thresholds (PLN 4 billion in the case of banks, PLN 2 billion for insurance/reinsurance companies and PLN 200 million for loan institutions). The tax rate is 0.0366% per month (approximately 0.44% per year).

4.0 Withholding taxes

4.1 Dividends

Dividends paid by Polish companies to nonresidents are subject to a 19% withholding tax, unless a tax treaty provides a lower rate or the EU PSD applies. Under the PSD, the domestic withholding tax is reduced to zero if the dividends are distributed to a qualifying EU shareholder that holds at least 10% of the capital of the subsidiary for a continuous period of at least 2 years.

As noted above (under **3.5**), the recipient of dividends must provide the Polish payer with a certificate of residence to benefit from a lower withholding tax rate or an exemption, and must produce a signed declaration that it is subject to tax on its entire income in its country of residence to benefit from the PSD.

Dividends paid to a Polish resident individual are subject to a 19% withholding tax. See under **3.3**, above, for the treatment of dividends paid to a Polish resident company.

4.2 Interest

The withholding tax rate on interest paid to nonresidents is, as a rule, 20% (a 19% rate may apply to certain payments to nonresident individuals, depending on the type of interest). The rate on payments to nonresidents may be reduced or eliminated under a tax treaty.

Interest payments are exempt from taxation in Poland if the EU IRD applies. The following requirements must be met:

- The company making the payment is an associated company of a company located in another EU/EEA member state/Switzerland that is the recipient of the payment. A company is an “associated company” of another company for these purposes if (1) the payer company holds directly at least 25% of the capital of the recipient company; (2) the recipient company holds directly at least 25% of the capital of the payer company; or (3) a third company holds directly at least 25% of the capital of both the payer company and the recipient company, and all companies are located within the EU/EEA/Switzerland; and
- Both the payer and the recipient company (1) are tax resident in (and, where applicable, their permanent establishments are located in) an EU/EEA member state/Switzerland; (2) are subject to corporate tax in the EU/EEA/Switzerland; and (3) are in the form of a company listed in the annex to the Polish Corporate Income Tax Act. The recipient must present a certificate of tax residence issued by the tax authorities in its country of residence, and provide a signed declaration that it is subject to tax on its entire taxable income in the country of residence, regardless of the income’s source.

The withholding tax rate on interest paid to resident individuals is, as a rule, 19% (interest paid to resident companies is taxed as ordinary income at the level of the beneficiaries of the interest).

4.3 Royalties

A 20% withholding tax is imposed on royalties paid to nonresidents (royalties paid to resident companies are taxed as ordinary income at the level of the beneficiaries of the royalties). The 20% rate may be reduced or eliminated under a tax treaty. No tax is withheld if the conditions for the application of the IRD are met (see under **4.2**, above).

Royalties paid to resident individuals are, as a rule, subject to income tax advance payments collected by the payer at 18% (before collection of tax, the amount of royalties is decreased by relevant tax-deductible costs) and are subject to final settlement within the annual tax return at progressive tax rates, with a top marginal rate of 32%.

Fees paid to nonresidents for certain intangible services (e.g. advisory services, market research, legal services, data processing) are subject to a 20% withholding tax. As a general rule, under most of Poland’s tax treaties, such payments are classified as business profits and, therefore, no withholding tax would be due. However, to benefit from a tax treaty provision, the payer must receive a certificate of tax residence (i.e. a document issued by the competent tax authorities of the residence of the recipient of the payment) from the recipient of the royalties.

4.4 Branch remittance tax

Poland does not levy a branch remittance tax.

4.5 Wage tax/social security contributions

The employer is required to withhold income tax on salaries and other remuneration in connection with employment. This is done on a monthly basis, with the tax remitted to the tax authorities by the 20th day of the following month. Social security payments must be remitted to the social security authorities by the 15th day of the following month.

Poland's social insurance system consists of old-age pensions, disability and accidents and illness insurance, payable on an assessment base that basically is the gross remuneration, with certain exceptions. Health insurance contributions are levied on an assessment base that generally is gross remuneration decreased by employee social security, with certain exceptions. Details regarding social insurance rates and brackets are summarized in the table below.

Social insurance contributions			
Insurance type	**Cap on salary subject to contribution**	**Allocation of contribution cost**	
		Employer	*Employee*
Pension	PLN 121,650 per annum	9.76%	9.76%
Disability	PLN 121,650 per annum	6.5%	1.5%
Sickness	No cap applies	-	2.45%
Accident	No cap applies	0.4%-3.6% (depending on risk category);	-
Health	No cap applies	-	9% (7.75% tax deductible)
Other employer charges (uncapped)			
Labor fund		2.45%	-
Employees' guaranteed payments fund		0.1%	-

5.0 Indirect taxes

5.1 Value added tax

VAT is a broad-based tax levied on the supply of goods and services in Poland. Polish regulations are based on EU directives.

VAT is imposed on the supply of goods and the provision of services in Poland, the import of goods into Poland, the export of goods, the intra-Community acquisition of goods and the intra-Community supply of goods, unless the transaction is exempt.

The standard rate of VAT is 23%, and is charged on most goods and services. A reduced rate of 8% or 5% is imposed on certain supplies, such as certain foods, medicines, hotel and catering services, certain transport services, municipal services, etc.

A zero-rate applies to the intra-Community supply of goods, exports of goods, some international transportation services and related services. Additional conditions usually must be fulfilled to apply the zero VAT rate.

Some financial, medical and cultural services are exempt, which means that the taxpayer is unable to recover the input VAT incurred on purchases connected with such transactions. Taxpayers also are not entitled to deduct input VAT incurred on purchases made for a purpose other than carrying out a VAT-able activity. In case of purchases made for mixed purposes (a VAT-able activity and a non-VAT-able activity), special input VAT deduction rules must be followed.

A Polish entity is required to register for VAT purposes once its annual turnover on transactions subject to VAT exceeds PLN 150,000 (except for specific situations that require registration regardless of annual turnover). Foreign entrepreneurs must register in Poland for VAT purposes before they start any VAT-able activity in Poland (except for limited cases expressly specified). Based on the Fiscal Penal Code, if an entity obliged to register for VAT purposes fails to fulfill this obligation, it is liable to a monetary penalty for a fiscal offense at an amount determined separately in each case (based on multiples of the lowest monthly salary).

No VAT grouping schemes are provided for in the Polish VAT provisions.

Transactions between VAT taxpayers must be documented with invoices. The VAT law strictly regulates the elements that must be included in invoices. In general, an invoice must contain at least the following data (however, in certain cases (described below) the elements marked with an "*" may be omitted):

- Name and surname or business name of the seller, and its address;
- Name and surname or business name of the purchaser, and its address*;
- Polish tax identification numbers of the purchaser and the seller;
- Sequential number that identifies the invoice;
- Date of issue;
- Date of supply of goods or services, or date of receipt of a prepayment if this date has been determined and differs from the date of issue;
- Name (kind) of goods or services;
- Unit of measure and quantity of the goods sold or scope of the services rendered*;
- Unit price of the goods or services without VAT (net unit price)*;
- Value of potential rebates, including rebates for an earlier payment, if these were not included in the net unit price;
- Value of the goods or services sold without VAT (net value)*;
- VAT rate*;
- Total net value of the goods sold or services rendered, separately stated according to particular VAT rates and tax exemptions*;

- VAT amount on total net sales value, separately stated according to particular VAT rates*; and
- Total amount due, including the VAT amount due.

Simplified invoices have been introduced that may be issued if the total invoice amount does not exceed PLN 450 or EUR 100 (if the invoice is issued in EUR). Simplified invoices may omit elements of the invoice that are marked with "*" on the list above, provided the invoice includes the information necessary to determine the value of VAT in relation to particular VAT rates.

Registered VAT taxpayers are required to submit monthly or quarterly returns to the competent tax office and to keep registers of purchases and sales subject to VAT. Additionally, VAT-registered EU taxpayers carrying out intra-Community acquisitions of goods into Poland and intra-Community supplies of goods and services from Poland are required to submit "EC Sales and Purchases List" returns on a monthly basis (or a quarterly basis, provided certain conditions are satisfied). Additionally, taxpayers carrying out a local supply of goods or providing services covered by a reverse-charge mechanism (in specific situations) are required to submit "summary information" on national trading. This summary must be submitted for settlement periods in which the tax liability arose, within the time limits for filing tax returns.

The tax due to the tax authorities is calculated as the output VAT minus input VAT on purchase amounts invoiced.

As a rule, the surplus of output VAT over input VAT must to be paid within 25 days from the end of the month in which the VAT obligation arose (for small taxpayers, the VAT due must be paid within 25 days from the end of the quarter in which the VAT obligation arose). If the input VAT exceeds the output VAT, a VAT refund generally is available.

In general, if the obligations on Polish VAT taxpayers are not fulfilled, the tax authorities may impose the penalties provided for in the Fiscal Penal Code. Additionally, if any VAT liability arises, taxpayers are obliged to pay the outstanding VAT amount due, along with the related interest.

A mandatory reverse-charge mechanism (settlement of tax by the purchaser having its seat or fixed establishment in Poland) applies in respect of the supply of goods and services by foreign taxpayers that have neither a seat of economic activity nor a fixed establishment in Poland for VAT purposes, as well as in respect of certain types of supplies of goods or provision of services between Polish entities. However, the reverse-charge mechanism is not applicable (with certain exceptions) to a supply of goods if the foreign taxpayer without a fixed establishment in Poland is a supplier registered for VAT purposes in Poland. In such a case, the foreign supplier (not the purchaser) is required to charge VAT on the supplies in Poland.

VAT anti-avoidance rule

On 15 July 2016, a specific VAT anti-avoidance rule ("abuse of law") entered into force. Under the rule, in the event of an abuse of law, VAT-able activities will lead to only those tax results that would have occurred in the absence of transactions/actions constituting the abuse of law. An abuse of law is defined as carrying out an activity subject to VAT as part of a transaction/action that, despite meeting the formal requirements specified in the provisions of the VAT law, basically was aimed at deriving tax benefits that are contrary to the intention of the VAT law provisions.

5.2 Capital tax

A tax on civil law transactions (TCLT) is levied on certain contracts (and amendments to such contracts, if they result in an increase in the base of TCLT), such as sales, loan and donation contracts; mortgages; establishment of a usufruct; and partnership or company deeds. The relevant act provides, however, for a number of exemptions and exclusions.

A common exclusion relates to transactions where at least one of the parties is subject to or exempt from VAT (however, there are exceptions to this rule, e.g. for a sale of real estate or shares that otherwise is subject to TCLT).

Exemptions include selected contracts with financial institutions seated abroad or with direct shareholders, among others.

The rate of tax varies depending on the type of contract. An increase in a company's share capital is subject to a 0.5% rate, the acquisition of shares is subject to a 1% rate and loans are subject to a 2% rate (except for shareholder loans, which are exempt from TCLT).

5.3 Real estate tax

Real property tax is levied by the local tax authorities. Tax on a building/plot of land is calculated separately for each area; tax on construction is based on the tax book value.

5.4 Transfer tax

Sales and exchanges of goods, property and property rights may be subject to TCLT (as described under **5.2**, above). No other transfer taxes are levied in Poland.

5.5 Stamp duty

Stamp duty is imposed on certain activities undertaken by public administration, such as the issuance of certificates, permissions, powers of attorney and other documents issued by the central and local authorities. The amount of stamp duty is prescribed in the regulations for each particular activity of public administration. The fixed fee varies from approximately EUR 1 to EUR 3,000. The amount can be higher for fees calculated on the basis of the value of certain investments.

5.6 Customs and excise duties

As a member of the EU, no customs duties are imposed on goods from other member states. However, goods imported from outside the EU generally are subject to customs duties and the common customs tariff is applied in trade between Poland and non-EU countries. The basic rates included in the tariff, i.e. the conventional duty rates, generally apply to the import of goods originating in WTO countries or countries benefiting from most favored nation status granted by the EU. If autonomous customs duty rates established by the EU are lower than the conventional rates, the autonomous rates are applied.

Preferential rates are applied to countries benefiting from tariff preferences established either unilaterally by the EU (e.g. within the framework of the Generalized System of Preferences) or on the basis of bilateral agreements concluded by the EU with certain countries.

Excise duties are levied on excise dutiable goods and passenger cars. Taxation of goods subject to excise duty (i.e. energy products, alcoholic beverages and manufactured tobacco products) is based on the legislation of the EU. In particular, such goods may be produced only in tax warehouses, and excise duty is due when the goods are moved outside the warehouse (unless they are moved under an excise duty suspension procedure).

Excise tax is levied on the producer, importer or seller of nontaxed excise goods, as well as any other entities explicitly specified by the law.

5.7 Environmental taxes

The environment fee is payable, among other things, for: (i) emitting gases and dust into the air, (ii) injecting sewage into the water or soil; (iii) water collection; (iv) waste storage; (v) rights granted to emit greenhouse gases. Exceeding or infringing the conditions provided for the exploitation of the environment is punishable with an additional administrative monetary fee.

The rates of the environment fee depend on several factors, and the fee is payable to local government units (marshal offices).

5.8 Other taxes

A number of taxes are imposed by the municipalities, such as road vehicle tax, agricultural tax and forestry tax.

6.0 Taxes on individuals

Individuals are subject to personal income tax, withholding tax, inheritance tax, real estate tax and social security contributions.

Poland Quick Tax Facts for Individuals	
Income tax rates (regular progressive rates and flat rate)	18%/32% and 19%
Special expatriate flat rate regime (applicable only to tax nonresidents on certain sources of income)	20%
Capital gains tax rates	19%
Basis	Worldwide for tax residents
Double taxation relief	Yes
Tax year	Calendar year
Return due date	30 April of the following year
Withholding tax	
– Dividends	19%
– Interest	19%/20% (nonresidents)/19% (residents)
– Royalties	20% (nonresidents)/0% (residents; advance income tax payments are collected at 18%)
Net wealth tax	No
Social security	Varies
Inheritance tax	0%/3%-20%
Real estate tax	Varies
VAT	23% (standard rate)

6.1 Residence

An individual is resident in Poland if one of the following requirements is met: the individual's center of personal or economic interests is in Poland or he/she is present in Poland for more than 183 days in a year. This determination of residence is subject to the provisions of an applicable tax treaty.

6.2 Taxable income and rates

Under the Personal Income Tax Law, individuals may be subject to limited or unlimited tax liability in Poland.

Resident individuals are subject to personal income tax on their worldwide income. Nonresident individuals are subject to limited tax liability in Poland, i.e. only income earned in Poland is subject to taxation.

Individuals who are considered nonresidents may benefit from preferential taxation on certain types of income, including board fees, management contracts, other types of civil law contracts and royalties. These types of income are subject to a flat rate of 20% when received by nonresidents (whereas such income received by tax residents generally is subject to progressive taxation at rates of up to 32%).

Taxable income

Taxable income includes most cash and noncash benefits earned from employment, self-employment or the use of property for business or rent. Income tax is levied on the following types of income of individuals:

- Income from dependent services;
- Income from independent services;
- Income from business activities;
- Rental income;
- Income from capital;
- Income from royalties or other property rights;
- Income from the sale of movable or immovable property; and
- Other income.

Income from dependent services mainly consists of employment income, including benefits in kind. Pension income also is included.

Income from entrepreneurial or professional activities is taxable either as business income or as income from independent services. Directors' remuneration in the form of board fees granted on the basis of a company's resolution is treated as income from independent services.

Income from capital consists of taxable investment income, such as dividends, interest and proceeds from the sale of securities.

Certain income, such as per diems, refunds of business travel expenses or costs of professional training (if requested by the employer) is exempt from taxation.

Deductions and reliefs

Taxpayers may deduct donations to institutions with public welfare goals from taxable income, up to a limit of 6% of income (in the case of donations made to church organizations for charitable purposes, the deduction has no limit upon meeting certain conditions). Employee social security contributions are fully deductible. Healthcare contributions are deductible for tax purposes, up to 7.75% of the assessment base. Expenses for the rehabilitation or support of a disabled person are deductible up to a certain limit. Personal deductions also are available (e.g. a childcare deduction).

Rates

The personal income tax rates are progressive at rates of 18% or 32%, as shown in the table below, although individuals carrying out business activities may opt for special rules under which a 19% tax rate generally applies (with certain limitations regarding some allowances).

Taxable base	Tax
Up to PLN 85,528	18% of taxable base, minus PLN 556.02
Over PLN 85,528	PLN 14,839.02, plus 32% of excess over PLN 85,528

Investment income, such as dividends and interest, usually is subject to withholding tax at a flat rate of 19%, rather than the progressive rates. Capital gains generally are subject to the 19% rate. Gains derived from the sale of real property (which is treated as a separate source of income, rather than "income from capital" under Polish law) that has been held for more than five years from the end of the year in which it was purchased or built are exempt; if sold before the end of the five-year period, a 19% flat tax rate applies.

Polish-source income derived by nonresidents from independent artistic, literary, scientific, educational and journalistic activities; copyrights and inventions; personal service contracts, specific task contracts, managerial contracts or similar contracts; and board member fees is subject to a 20% flat rate.

The taxation of income derived by foreign individuals from work in Poland depends on the legal basis for their right to work in Poland:

- If a foreign individual has concluded an employment contract with a Polish entity, the income received under the contract will be subject to the Polish personal income tax at the progressive rates of 18% and 32%, regardless of whether the individual is a tax resident of Poland.
- If a foreign individual has concluded an employment contract with a foreign entity and has been seconded to Poland, the taxable income for Polish personal income tax purposes will include all income obtained in connection with work in Poland, including remuneration, bonuses of all kind and benefits in kind. Thus, most benefits provided by the employer or host entity along with, or in place of, salary are taxable as regular employment income at the progressive rates of 18% and 32%, from the first day of the individual's stay in Poland. However, if the specific conditions listed in an applicable tax treaty are fulfilled, the income earned by the foreign individual (Polish tax nonresident) from work in Poland may not be subject to personal income tax in Poland. The same general rules apply regardless of whether the individual is a tax resident of Poland.
- If a foreign individual who is a nonresident has been appointed as a member of the management board of a Polish entity, the individual may be subject to 20% flat-rate taxation in Poland on the board fees. If the foreign individual becomes a Polish tax resident, income received from membership on the management board would be subject to tax at the regular progressive rates of 18% and 32%.

6.3 Inheritance and gift tax

In general, inheritances and gifts are not taxed if the inheritance occurs or gifts are exchanged among close family members, i.e. spouses, descendants, ancestors, siblings, stepchildren and stepparents, provided they comply with specific reporting obligations.

If an exemption does not apply, taxpayers are divided into three groups, depending on the closeness of the relationship to the person from whom the inheritance or gift is received:

- Group I: Spouses, descendants, ancestors, siblings, stepchildren, stepparents, children-in-law and parents-in-law;
- Group II: Descendants of siblings, siblings of parents, descendants and spouses of stepchildren, spouses of siblings, siblings of spouses, spouses of siblings of spouses and spouses of other descendants; and
- Group III: Other individuals.

The applicable rates for inheritance and gift tax vary by group:

- For group I recipients, the rates range from 3% to 7%, and the first PLN 9,637 is exempt if no other taxable inheritance or gift has been received from the same individual within a five-year period;
- For group II recipients, the rates range from 7% to 12%, and the first PLN 7,276 is exempt if no other taxable inheritance or gift has been received from the same individual within a five-year period; and
- For group III recipients, the rates range from 12% to 20%, and the first PLN 4,902 is exempt if no other taxable inheritance or gift has been received from the same individual within a five-year period.

6.4 Net wealth tax

Poland does not levy a net worth or net wealth tax on individuals or companies.

6.5 Real property tax

Real property tax is levied by the local tax authorities. Tax on a building/plot of land is calculated separately for each area; tax on construction is based on the tax book value.

6.6 Social security contributions

EU social insurance regulations have applied since Poland's accession to the EU in 2004. The general rule involves making contributions to the social insurance system of the country where the work actually is performed.

Poland's social insurance system encompasses old-age pensions and insurance for disability, illness and accidents. Health insurance contributions also are levied.

Poland has a "three-pillar" pension system in place, under which both the employee and the employer make contributions to the first (obligatory) and second pillar (voluntary). For details regarding social insurance rates and brackets, see the table under **4.5**, above.

Employees may make voluntary payments to third-pillar funds, usually managed by insurers or banks. Fiscal incentives for the third pillar have been created to encourage employees and employers to set up retirement plans. Contributions are paid on an after-tax basis. The benefits and income from investments are tax-exempt for certain types of retirement plans.

The mandatory health insurance contribution generally is paid by the employee at a rate of 9% of gross income, less the employee's portion of the social insurance contribution.

6.7 Other taxes

None

6.8 Compliance

The tax year for individuals is the calendar year.

The employer generally is required to withhold income tax on salaries and other remuneration in connection with employment. This is done on a monthly basis, with the tax required to be remitted to the tax authorities by the 20th day of the following month. However, special rules may apply for foreign individuals working in Poland:

- If a foreign individual has concluded an employment contract with the Polish employer, the employer is required to withhold tax on the income at the progressive personal income tax rates (regardless of whether the individual is a Polish tax resident).
- If a foreign individual has concluded an employment contract with a foreign entity and has been seconded to Poland, the foreign individual personally is responsible for all compliance activities required by the Polish personal income tax law, i.e. neither the foreign employer nor the Polish host entity has any obligation in this respect (regardless of whether the foreign individual is a Polish tax resident). The individual is responsible for making monthly advance payments of tax on the income received under the foreign employment contract, at the progressive personal income tax rates. The advance payment for income received in a given month must be paid by the 20th day of the following month. If the taxpayer does not have a PESEL identification number, he/she must register with the relevant tax office before the date when the first advance payment is due.
- If a foreign individual who is a nonresident is a management board member of a Polish entity, the board fees will be subject to 20% flat-rate taxation and all personal income tax compliance obligations related to the income will be performed by the Polish entity of which the individual is a board member. If the foreign individual is a resident, the Polish entity still will be responsible for withholding taxes on the board fees, but the progressive personal income tax rates will apply.

Other income generally is self-assessed.

Individuals (including foreign individuals that are Polish tax residents or nonresidents) are required to file a tax return disclosing the aggregate annual taxable income at the end of the tax year. The deadline for filing the tax return and paying the tax liability is 30 April of the year following the tax year for which the return is filed (if 30 April is a Saturday or a public holiday, the deadline is considered the business day immediately following the holiday or holidays). No extensions are possible.

Married couples may file a joint return if they have unlimited tax liability (certain options also are available for nonresidents who are a resident of the EU/EEA/Switzerland) and if they are married for the entire tax year, have marital co-ownership during the entire tax year and do not conduct a business activity taxed under a regime other than the progressive tax scale. Joint tax returns also are available for single parents with a dependent child or children.

Late payments result in interest charges at a rate that is the sum of: (i) 200% of the "Lombard rate" (announced by the NBP) and (ii) 2% on the amount of any tax arrears (the rate calculated in this way cannot be lower than 8%). A taxpayer may be eligible for a preferential penalty interest rate (50% of the standard penalty interest rate) if the taxpayer corrects its tax settlements within six months from the deadline to submit the original tax return and pays the outstanding tax liability in full within seven days from the correction date.

A tax return for a tax year remains subject to adjustment by the tax authorities for five years from the end of the calendar year in which the payment of the tax liability is due. This general statute of limitations period can be interrupted or suspended under certain circumstances. The same period applies for the collection of tax.

7.0 Deloitte International Tax Source

The Deloitte International Tax Source (DITS) is a free online database that places up-to-date worldwide tax rates and other crucial tax information within easy reach. DITS is accessible through mobile devices (phones and tablets), as well as through a computer.

Connect to the source and discover:

A database that allows users to view and compare tax information for 65 jurisdictions that includes:

- Corporate income tax rates;
- Historical corporate rates;
- Domestic withholding tax rates;
- In-force and pending tax treaty withholding rates on dividends, interest and royalties;
- Indirect tax rates (VAT/GST/sales tax); and
- Information on holding company regimes.

Guides and Highlights: Deloitte's Taxation and Investment Guides analyze the investment climate, operating conditions and tax systems of most major trading jurisdictions, while the companion Highlights series concisely summarizes the tax regimes of over 100 jurisdictions.

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