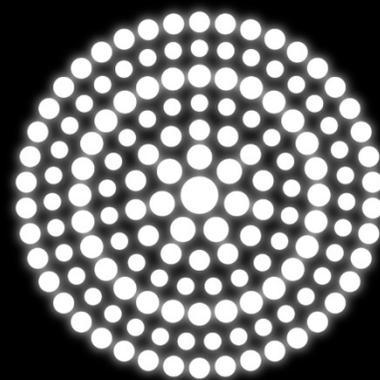


International Tax Poland Highlights 2021

Updated January 2021



Recent developments

For the latest tax developments relating to Poland, see [Deloitte tax@hand](#).

Investment basics

Currency: Polish Zloty (PLN)

Foreign exchange control: None (generally) for transactions with European Union (EU), European Economic Area (EEA), and Organisation for Economic Co-operation and Development (OECD) member states, and certain other jurisdictions. Permission may be required for some transactions with other countries and to conduct certain transactions in a foreign currency.

Accounting principles/financial statements: Polish GAAP or, in some cases, IFRS. Financial statements must be prepared annually. Special rules apply to listed companies.

Principal business entities: These are the limited liability company, joint stock company, limited joint stock partnership, limited partnership, sole proprietorship, and branch of a foreign corporation.

Corporate taxation

Rates

| | |
|----------------------------------|-----------------------------|
| Corporate income tax rate | 19% (standard)/9% (reduced) |
| Branch tax rate | 19% (standard)/9% (reduced) |
| Capital gains tax rate | 19% |

Residence: A corporation, limited joint stock partnership, or, since 1 January 2021, generally a limited partnership or (under certain conditions) a general partnership, is tax resident in Poland if its registered seat or management is in Poland.

Basis: Resident entities are taxed on worldwide income; nonresident entities are taxed only on Polish-source income. Foreign-source income derived by residents generally is subject to corporation tax in the same way as Polish-source income, usually with a foreign tax credit available, unless a tax treaty provides otherwise. Branches generally are taxed in the same manner as subsidiaries.

Taxable income: Corporation tax is imposed on a company's profits, which consist of two sources ("baskets") of income; capital gains and other income (which includes business/trading income). Normal business expenses may be deducted in computing taxable income with some limitations, including interest and other financing costs, and payments for intangible services purchased from related parties.

Rate: The standard corporation tax rate is 19%. A lower rate of 9% applicable to income other than capital gains may be available to small taxpayers and taxpayers commencing business activity with revenues not exceeding EUR 2 million in the given year (with certain exceptions). Tax capital groups (groups of two or more companies having a fiscal unity for corporation tax purposes) may not benefit from the lower rate.

As from 1 January 2021, limited liability companies and joint-stock companies wholly owned by individuals may be able (subject to certain conditions) to apply a flat rate of tax for a period of four years on profits distributed to their shareholders (referred to as flat rate taxation on the income of capital companies or "Estonian CIT"). The benefit may be extended for the subsequent four years.

To apply the flat rate, entities must meet a number of conditions set out the relevant regulation, including:

- The total operating revenue of the previous tax year or the value of average operating income does not exceed PLN 100 million (including VAT);
- Passive income (e.g., interest, royalties, receivables, sureties, guarantees, etc.) is less than half of total revenue;
- The company:
 - Maintains average employment (based on employment agreements) of at least three employees (other than shareholders); or
 - Incurs monthly expenses in an amount equal to at least three times the average monthly salary in the business sector on the payment of salaries to at least three individuals (other than shareholders) engaged under an agreement other than an employment agreement; and
- Direct investment expenditure increase by:
 - 15% (but not less than PLN 20,000) in two consecutive tax years; or
 - 33% (but not less than PLN 50,000) in four consecutive tax years (in the case of the implementation of a significant investment and to fulfill relevant disclosure obligations).

Numerous other conditions specified in the regulation and various additional factors outside of the regulation also may apply.

The flat tax rate is:

- 15% of the tax base in the case of a small taxpayer and a taxpayer whose average revenue does not exceed the value of the maximum revenue specified for a small taxpayer; or
- 25% of the tax base for other taxpayers.

These rates may be reduced by 5% where investment expenditure is increased by 50% over a two-year period or 110% over a four-year period.

Alternatively, taxpayers who are entitled to the flat rate may benefit from a special investment fund that enables accelerated tax settlement of the depreciation of fixed assets. To benefit from this, taxpayers must set up a separate settlement account at Bank Gospodarstwa Krajowego (BGK) or another bank that concludes an agreement with BGK on information exchange.

Surtax: There is no surtax.

Alternative minimum tax: Minimum tax applies on income from the ownership or joint ownership of certain leased/rented buildings located in Poland. The tax is imposed at a rate of 0.035% per month on the total initial tax value of the taxpayer's buildings, decreased by PLN 10 million. The tax is deductible from advance payments of corporation tax. An exemption from the minimum tax applies for the period from 1 March 2020 to 31 December 2020, and 1 January 2021 to the end of the month in which the state of emergency related to the COVID-19 pandemic is canceled.

Taxation of dividends: Dividends received by a Polish resident company (with certain exceptions in the case of limited joint stock partnerships) from another Polish company, EU/EEA company, or Swiss company are exempt from taxation where certain holding and participation requirements are met, and the dividends are not related to a transaction (or a set of transactions) undertaken to benefit from a tax exemption and that does not reflect economic reality.

If the exemption does not apply, dividends received are taxable, but a credit for foreign withholding tax and, in some cases, underlying foreign corporate tax paid is available, where appropriate.

Capital gains: Capital gains are taxed as a separate source of income at the standard corporation tax rate of 19% (see "Taxable income," above). An exemption may be available for venture capital companies (limited liability companies and limited partnerships resident in Poland) on gains from the transfer of shares acquired during 2016-23 in companies performing research and development (R&D) activities, provided certain requirements are met. Under certain conditions, some investment funds and alternative investment vehicles also may benefit from an exemption on the sale of shares.

Losses: Losses from a particular source of income may be carried forward for five years against income from the same source, but the deduction is restricted to 50% of the loss incurred. Alternatively, the taxpayer may offset up to PLN 5 million of the loss in any one year with the remainder deductible in the four remaining years of the five-year period, subject to the 50% offset rule. New rules related to the utilization of tax losses have been introduced in response to the COVID-19 pandemic.

The carryback of losses is not permitted.

As from 2021, a new limitation applies to the settlement of tax losses where a taxpayer acquires another entity, acquires an enterprise or an organized part of an enterprise (including in-kind), or receives a cash contribution for which an enterprise or an organized part of an enterprise is acquired, whereby:

- The basic business activity conducted by the taxpayer after acquisition is, in whole or in part, different from the basic activity conducted by the taxpayer before the acquisition; or
- At least 25% of the taxpayer's shares are owned by an entity or entities that did not have such rights at the end of the tax year in which the taxpayer generated the loss.

Foreign tax relief: Foreign tax paid 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.

Participation exemption: See "Taxation of dividends," above.

Holding company regime: There is no holding company regime.

Incentives: An additional deduction ranging from 100% to 150% of qualifying expenses incurred for R&D activities may be available.

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

A notional interest deduction of up to PLN 250,000 per year is available if certain conditions are fulfilled.

A 5% tax rate may be applied to income derived by a taxpayer from selected intellectual property (IP) (e.g., inventions, patents, medication, or software) that is created, developed, or improved by the taxpayer's R&D activity (with certain restrictions).

Other

VAT "white list"

A taxpayer entering into a transaction with another person should check that person's name and bank account against the "white list," a register of all active VAT payers and their bank accounts that is publicly available on a government website (see "Value added tax," below). If the person or the bank account is not included in the white list, payments to the bank account will not be tax deductible for income tax purposes.

Taxation of limited partnerships and certain general partnerships

As from 1 January 2021, limited partnership and some general partnerships that meet certain additional conditions and whose partners are not individuals are subject to corporation tax; however, the entities may opt to apply the new rules as from 1 May 2021. As a result, income generated by limited partnerships and certain general partnerships is taxed both at the partnership level and at the partner level. Previously such partnerships were treated as tax transparent entities for corporation tax purposes.

A tax exemption may apply to 50% of a limited partner's revenue earned from a profit participation in a limited partnership that has its registered office or management board in Poland (capped at PLN 60,000 per tax year). The corporation tax payable by a general partner may be reduced by the amount of tax paid by the limited partnership, in proportion to the amount of profits allocated to the general partner.

Real estate-rich companies

As from 1 January 2021, where a nonresident sells shares or similar interests that comprise at least 5% of the voting rights/interests in a real estate-rich company (as defined below), the company whose shares are being sold is required to settle the capital gains tax payable on the transaction and remit the tax on behalf of the seller.

A real estate-rich company is defined as an entity other than an individual that is required to prepare a balance sheet based on the relevant accounting provisions and that meets one of the following conditions:

- For entities commencing their activity, at least 50% of the market value of their assets directly or indirectly consists of real estate located in Poland or rights to such real estate as at the first day of the tax year; or
- For all other entities, at least 50% of the total book value of their assets directly or indirectly consists of real estate located in Poland or rights to such real estate as at the last day of the year preceding the current tax year.

Additionally, the value of the real estate must exceed PLN 10 million for entities commencing their activity. For all other entities, at least 60% of taxable revenue in the previous tax year must have been from sources such as, e.g., (sub)leases of real estate, agreements of a similar nature, or ownership rights relating to real estate or other real estate companies.

Compliance for corporations

Tax year: Taxpayers may choose the calendar year or another 12-month period.

Consolidated returns: Companies may form a tax consolidated group, where all companies in the group are treated as a single taxpayer for corporate income tax purposes.

Filing and payment: Taxpayers must self-assess and pay advance income tax during the year and may use a simplified method based on previous years' results. The final calculation and reconciliation of the tax due must be made within three months of the end of the tax year. Payments of tax must be made to the taxpayer's individual bank account number provided by the tax authorities.

Penalties: Statutory penalty interest applies at a rate determined by reference to the National Bank of Poland's Lombard rate, subject to a minimum rate of 8%. Persons responsible for the tax reconciliation, as well as members of the management board in certain cases, are subject to penalties for noncompliance. Corporate entities also may be subject to penalties.

Rulings: Taxpayers may request a ruling on the tax treatment of a specific transaction (two or more interested parties participating in the same transaction may submit one request). If the background presented in the application for a binding tax ruling corresponds to the background covered by a general ruling issued based on the same legislation in force, the Ministry of Finance may issue a decision stating that the general ruling applies.

The legal protection resulting from a tax ruling does not apply to tax rulings issued before the introduction of the GAAR (July 2016) where tax benefits resulting from transactions/actions covered by the rulings are derived after 1 January 2017. To safeguard tax settlements from application of the GAAR, taxpayers may apply for a protective opinion issued by the Head of the National Fiscal Administration (the deadline for issuing the opinion is six months after the ruling and the fee for submitting the application for the opinion is PLN 20,000).

Individual taxation

| Rates | | |
|----------------------------|--------------------|------|
| Individual income tax rate | Taxable income | Rate |
| | Up to PLN 85,528 | 17% |
| | Over PLN 85,528 | 32% |
| Solidarity surcharge | Over PLN 1 million | 4% |
| Capital gains tax rate | | 19% |

Residence: An individual is resident in Poland if the individual's center of personal or economic interest is in Poland or the individual stays in Poland for more than 183 days in the tax year (these rules may be modified under certain tax treaties).

Basis: Residents are taxed on their worldwide income; nonresidents are taxed only on Polish-source income.

Taxable income: Taxable income includes most cash and noncash benefits earned from employment or income from self-employment. Profits derived from business activities are subject to rules similar to the rules for companies.

Rates: In general, progressive rates of 17% or 32% apply, although certain individuals (e.g., those carrying out business activities) may opt for a flat rate under the "lump sum" regime or a linear 19% tax rate (with deduction of normal business expenses subject to some limitations, but without relief for most other deductions and allowances, or the option for joint spousal or single parent filing). As for corporations, taxpayers may apply a preferential 5% tax rate to selected IP. Rental income (earned outside the scope of individual business activity) is subject to tax at progressive rates of 17% or 32%, or a flat rate of 8.5% or 12.5% under the lump sum regime.

Individuals whose annual income from specific sources (including income taxed at progressive rates, income from the sale of shares/securities, and income from business activity taxed at a linear rate) exceeds PLN 1 million are subject to an additional 4% solidarity surcharge on the portion of income in excess of PLN 1 million.

Individuals under the age of 26 who derive their income from employment or personal service contracts are exempt from tax on income up to PLN 85,528. Social security contributions are still required, if applicable.

Capital gains: Capital gains are a separate source of income. Capital gains derived from the sale of real estate within five years of the end of the year in which the property was purchased are taxed at 19% (subject to certain exemptions). Gains derived from the sale of shares, stock, securities, and cryptocurrencies, together with investment income such as dividends or interest, also are taxed at the 19% rate (different detailed taxation rules apply to various sources of income within this category).

Where an individual moves assets outside of Poland or loses Polish tax residency, exit tax at 19% (3% in specific cases) may apply on unrealized gains.

Deductions and allowances: Deductions include items such as donations, certain employee social security contributions, expenses incurred by disabled persons and, in certain cases, qualifying expenses incurred for R&D activities or contributions to an individual pension insurance account. Personal allowances also are available (e.g., a childcare allowance).

Foreign tax relief: Foreign tax paid 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. Additional tax relief (“abolition relief”) applies to income from certain sources (e.g., employment or business activity income) such that this foreign income is effectively tax-exempt on a progressive basis. As from 1 January 2021, the abolition relief is limited to PLN 1,360.

Compliance for individuals

Tax year: The tax year is the calendar year.

Filing status: Individual tax returns generally are required although married couples and single parents may be eligible to opt for preferential joint spousal/single parent filing regimes.

Filing and payment: Advance payments of income tax on an employee’s salary or personal service contract income are remitted to the tax authorities by the Polish employer/company on a monthly basis. Other income generally is self-assessed. Individuals generally are required to submit an annual tax return determining the final amount of tax due by 30 April following the tax year. Earlier filing dates apply for the exit tax and lump sum tax regimes. Payments of tax should be made to the taxpayer’s individual bank account number provided by the tax authorities.

Penalties: Individuals may be subject to penalties for noncompliance.

Rulings: See “Rulings” under “Compliance for corporations,” above.

Withholding tax

New withholding tax rules applicable to certain cross-border payments exceeding PLN 2 million per recipient per year have been enacted but entry into force of the new rules is postponed until 30 June 2021 for both corporations and individuals. Under the new rules, the payer must withhold tax at the standard rate on the surplus over PLN 2 million at the time of payment unless the payer either:

- Provides the tax authorities with a statement that a withholding tax exemption or reduced rate is applicable; or
- Obtains an opinion from the tax authorities that an exemption based on the EU directives may be applied.

Where tax is withheld but the payment qualifies for an exemption or reduced rate, a refund subsequently may be requested from the tax authorities.

Payers of income responsible for remitting the tax must exercise appropriate diligence with respect to verifying the grounds for applying exemptions or reduced rates. Beneficial ownership requirements also apply. The Polish Ministry of Finance has issued for public consultation draft explanatory notes on certain practical aspects of the new regulations, including an explanation of beneficial owner and the extent of the due diligence required by those responsible for remitting the tax. However, no final version of this document has yet been published and further changes to the withholding tax regime are expected.

| Rates | | | | |
|------------------------------------|-----------------------|-------------------|---------------------|-------------------|
| Type of payment | Residents | | Nonresidents | |
| | Company | Individual | Company | Individual |
| Dividends | 0% (generally)/19% | 19% | 19% | 19% |
| Interest | 0% | 19% | 20% | 19% |
| Royalties | 0% | 0% | 20% | 20% |
| Fees for technical services | 0% | 0% | 20% | 20% |

Dividends: Dividends paid by a Polish resident company to another resident company generally are not subject to withholding tax (see “Taxation of dividends” under “Corporate taxation,” above). Dividends paid to a resident individual are subject to withholding tax at 19%.

Dividends paid to a nonresident are subject to withholding tax at 19%, unless the rate is reduced under a tax treaty or the dividends qualify for an exemption under the EU parent-subsidiary directive, provided the dividend is not related to a transaction (or a set of transactions) undertaken to benefit from a tax exemption and that does not reflect economic reality. See “Withholding tax,” above, for new rules applicable to certain payments as from 1 July 2021 (assuming no further postponement in the law’s enactment).

Interest: Interest paid to a resident company is not subject to withholding tax. Interest paid to a nonresident company is subject to a 20% withholding tax, unless the rate is reduced under a tax treaty or the EU interest and royalties directive, provided the interest is not related to a transaction (or a set of transactions) undertaken to benefit from a tax exemption and does not reflect economic reality. An exemption based on the directive may be available only if the recipient is the beneficial owner of the interest. A 19% withholding tax rate generally applies to interest paid to resident and nonresident individuals (unless reduced under a tax treaty). See “Withholding tax,” above, for new rules applicable to certain payments as from 1 July 2021 (assuming no further postponement in the law’s enactment).

Royalties: Royalties paid to a resident are exempt from withholding tax. Royalties paid to a nonresident are subject to a 20% withholding tax, unless the rate is reduced under a tax treaty or the EU interest and royalties directive, provided the royalties are not related to a transaction (or a set of transactions) undertaken to benefit from a tax exemption and does not reflect economic reality. An exemption based on the directive may be available only if the recipient is the beneficial owner of the royalties. See “Withholding tax,” above, for new rules applicable to certain payments as from 1 July 2021 (assuming no further postponement in the law’s enactment).

Fees for technical services: See “Other,” below.

Branch remittance tax: There is no branch remittance tax.

Other: Fees for specified intangible services (e.g., advisory, accounting, legal, technical, advertising, data processing, market research, recruiting, management, control services, guarantees, etc.) paid to nonresidents are subject to a 20%

withholding tax (subject to the provisions of an applicable tax treaty). See “Withholding tax,” above, for new rules applicable to certain payments as from 1 July 2021 (assuming no further postponement in the law’s enactment).

Anti-avoidance rules

Transfer pricing: The Polish transfer pricing rules generally follow the OECD guidelines and the tax authorities may make an adjustment where prices for related party transactions are not in accordance with the arm’s length principle. Generally, two entities are considered related parties if one entity exercises effective influence over the other (e.g., by owning, directly or indirectly, at least 25% of its shares) or if the same entity exercises effective influence over both of them.

Transfer pricing documentation must be prepared for related party transactions (see “Disclosure requirements,” below).

Advance pricing agreements are permitted. Safe harbor provisions apply for transactions involving loans and low value-added services.

Interest deduction limitations: Deductions of debt financing costs that exceed interest or “interest-type” income are limited to 30% of “tax EBITDA” (earnings before interest, tax, depreciation, and amortization, as defined for purposes of the thin capitalization rules) and/or PLN 3 million in a fiscal year. The limitation applies to all “debt financing costs” (interest, arrangement fees, etc.) on financing granted by both related and nonrelated entities. Disallowed deductions may be carried forward for five years, with some exceptions.

Controlled foreign companies: Under the controlled foreign company (CFC) rules, Polish taxpayers are taxed at 19% on the income of their CFCs. A subsidiary is characterized as a CFC where the:

- Entity is located in a country that engages in “harmful tax practices;”
- Country of the entity’s seat or place of management, registration, or location does not engage in the exchange of information with Poland or the EU; or
- Polish company effectively controls or holds (either on its own or jointly with its related entities) over 50% of a foreign entity that derives at least 33% of its revenue from passive income;

and the amount of tax actually paid by the foreign entity is lower than the difference between the tax that would have been payable had the entity been a Polish resident and the tax the foreign entity actually paid.

The rules do not apply where a CFC carries out relevant genuine economic activities. The tax base (taxable income) under the CFC regime may be reduced by the amounts already included in the Polish taxpayer’s tax base in respect of dividends received from a CFC and income from the sale of shares in a CFC.

A specific anti-avoidance rule applies under the CFC legislation, requiring a business reason for the associations between entities and ignoring artificial and circular shareholding structures.

Hybrids: Polish tax regulations implementing the EU Anti-Tax Avoidance Directive (ATAD) 2 anti-hybrid measures entered into force on 1 January 2021 and apply as from that date. The measures apply to certain payments made by Polish taxpayers (with unlimited and limited tax obligations in Poland) that are subject to:

- A double deduction (i.e., the same payment is tax deductible in more than one jurisdiction); or
- A deduction without inclusion (i.e., the payment is deducted for tax purposes in the country of the payer with no matching inclusion in taxable income (revenue) in the country of the recipient, or the payment qualifies for tax relief

in the recipient's jurisdiction solely due to the payment's characteristics), provided certain additional conditions are met.

Economic substance requirements: There are no economic substance requirements.

Disclosure requirements: Certain transactions must be reported to the tax authorities and/or the National Bank of Poland.

Transfer pricing local file documentation must be prepared for related party transactions exceeding certain thresholds in a tax year. The thresholds are PLN 10 million for uniform transactions including tangible goods or financial transactions, PLN 2 million for uniform transactions including services and other types of transaction, and PLN 100,000 for transactions with entities located in a country that engages in "harmful tax practices." Domestic transactions may be excluded from transfer pricing documentation requirements where certain conditions are met.

Taxpayers whose consolidated revenue exceeds PLN 200 million also must prepare a master file that contains additional information about the entire related party group.

All taxpayers obliged to prepare transfer pricing local file documentation must submit a statement confirming that they have the compliant transfer pricing documentation available and that the covered transactions were concluded at arm's length. Late submission, failure to submit, or submission of false statements may result in penalties charged to the members of the management board. Taxpayers also may be required to prepare and submit a simplified report on related party transactions (TP-R form).

Transfer pricing documentation requirements also apply to taxpayers conducting business operations in forms not having legal personality (e.g., partnerships) and transactions concluded with entities incorporated in tax havens, even where such entities are not considered related parties.

Taxpayers whose consolidated revenue exceeded the equivalent of EUR 750 million in the preceding tax year also must produce a country-by-country report, which contains additional information about the income and tax paid by group subsidiaries, their places of conducting business, and their permanent establishments.

Mandatory disclosure rules apply to both cross-border and domestic arrangements. The obligation to report "marketable" (repeatable) tax planning schemes falls principally on the intermediary and is performed on a no-names basis provided the intermediary is compelled to secrecy under legal professional privilege (i.e., is a tax advisor, legal counsel, or attorney at law) and its secrecy obligation is not lifted by the taxpayer. "Bespoke" (i.e., tailor-made) schemes are reportable by the taxpayer, unless the intermediary's secrecy obligation under legal professional privilege is lifted or the intermediary is not entitled to invoke a legal professional privilege.

Corporation tax payers whose revenue exceeds EUR 50 million in a tax year and tax capital groups must prepare and disclose information on the execution of their tax strategy. The deadline is nine months after the deadline for submitting the corporation tax return. Based on informal explanations from the Polish Ministry of Finance, taxpayers are required to prepare and publish 2020 information by 31 December 2021.

Excluding information covered by a trade, industrial, professional, or manufacturing process secret, taxpayers must prepare and disclose information on, inter alia:

- Their approach to processes and procedures to manage their obligations under tax regulations and to ensure their proper execution;
- Voluntary forms of cooperation with the National Fiscal Administration authorities;
- The number of mandatory disclosure reports about tax schemes submitted for each tax;

- Transactions with related entities with a value greater than 5% of total balance sheet assets (based on statutory financial statements);
- Restructuring activities planned or undertaken by the taxpayer, which may affect the tax liabilities of the taxpayer or related entities;
- Applications submitted for a tax ruling, binding VAT rate information, or binding excise duty information; and
- Tax settlements in countries applying harmful tax competition.

This list is not exhaustive and the report must be prepared taking into account the nature, type, and size of the taxpayer's business. Failure to meet this reporting requirement may result in a fine of up to PLN 250,000.

Exit tax: Exit tax applies to corporations (and individuals) in the case of a change of tax residence or associated transfer of assets outside of Poland. Where an individual moves assets outside of Poland or loses Polish tax residency, exit tax at 19% (3% in specific cases) may apply on unrealized gains.

General anti-avoidance rule: A general anti-avoidance rule (GAAR) allows the tax authorities to eliminate the tax benefit of a transaction/action in cases where obtaining such benefit is the main or one of the main reasons for undertaking the transaction/action and the conduct is artificial. In assessing whether a tax benefit should be deemed the main or one of the main aims of performing a transaction/action, the economic reasons for performing the transaction/action as indicated by the taxpayer must be considered.

In certain cases where the tax authorities apply the anti-avoidance regulations, additional tax liabilities may be imposed.

Value added tax

| Rates | |
|---------------|----------|
| Standard rate | 23% |
| Reduced rate | 0%/5%/8% |

Taxable transactions: VAT is imposed on the supply of goods and services, the import and export of goods to/from Poland, and the intra-Community acquisition and supply of goods.

Rates: The standard VAT rate is 23%. Preferential rates of 5% and 8% apply to certain goods and services; other goods and services (e.g., intra-Community supplies, exports, etc.) may be zero-rated or exempt. A new VAT rates matrix applicable to particular products and services entered into force in July 2020.

Registration: The registration threshold for VAT purposes is annual turnover of PLN 200,000 unless the entrepreneur is engaged in an activity that is not subject to VAT exemptions (e.g., sale of alcohol and tobacco, provision of legal services). Nonresidents that make taxable supplies of goods or services in Poland generally must register.

Filing and payment: As from October 2020, instead of submitting separately a VAT return and a JPK_VAT file (the Polish equivalent of the Standard Audit File for Tax, SAF-T), all taxpayers are required to submit an extended JPK_V7 file (VDEK), which also includes data from VAT returns submitted previously. The JPK_V7 must be submitted and the VAT due paid within 25 days following the month in which the VAT obligation arose. Taxpayers must file the JPK_V7 in electronic form, including taxpayers that are EU VAT registered and taxpayers that are suppliers or buyers subject to the reverse charge mechanism. Other possibilities regarding filing or payment may exist in certain cases (e.g., a quarterly reporting for small taxpayers). Additionally, taxpayers are required to mark in the JPK_V7 file certain supplies of goods and provision of services with GTU codes (with respect to transactions that are particularly vulnerable to fraud) as well as apply specific codes for some types of transactions and documents.

A split payment mechanism is mandatory for certain select transactions under penalty of VAT sanctions. For other types of transactions, the split payment mechanism is voluntary with certain incentives for the purchaser.

The tax authorities may impose penalties of 30% of understated output VAT or overstated input VAT, which may be reduced to 20% or 15% under certain conditions. The penalty is increased to 100% of input VAT claimed from so-called “empty invoices.”

Other

List of registered VAT taxpayers and bank accounts (“white list”)

A taxpayer entering into a transaction with a supplier should check the person’s name and bank account against the “white list,” a register of all active VAT payers and their bank accounts that is publicly available on a government website. If the supplier or the bank account is not included in the white list, payments to the bank account will not be tax deductible for income tax purposes and the taxpayer will be jointly and severally liable for the supplier’s VAT arrears up to the value of VAT resulting from the transaction. The bank account should be verified on the day of the transfer order. However, where the payment is made to an unreported bank account of a supplier who is on the white list, the taxpayer may notify the head of the relevant tax office of the supplier’s bank account number within three days from the date of the transfer order (this notification deadline is extended to 14 days from the date of the transfer order during the state of emergency related to the COVID-19 pandemic).

Quick fixes

“Quick fixes” regulations implementing the EU VAT directive apply as from 1 July 2020. The new provisions amend the Polish VAT Act with respect to:

- Intra-Community supplies of goods (the documentation required to apply the 0% VAT rate has been modified);
- Mandatory EU VAT number verification (as a condition for applying the 0% VAT rate for the intra-Community supply of goods);
- Call-off stock arrangements; and
- Changes in settlements of chain transactions.

Other taxes on corporations and individuals

Unless otherwise stated, the taxes in this section apply both to companies and individuals and are imposed at the national level.

Social security contributions: Employers and employees must make social security contributions in total equal to approximately 35% of an employee’s remuneration, subject to certain caps, with approximately 21% paid by the employer and 14% by the employee.

Employee contributions are withheld and remitted by the employer, together with the employer’s contribution. The employee contributions are deductible when calculating the employee’s taxable earnings. Employees also are required to make a 9% healthcare contribution, which is partly tax deductible (and is collected and remitted by the employer). Specific rules apply to self-employed individuals.

Employee Capital Plans (PPK) – broadly a type of retirement savings plan financed jointly by the employee, the employer, and the government, and operated by third party financial institutions – apply as from as from 1 January 2021 for all companies. PPK were introduced as from July 2019 for companies with over 250 employees, as from 1 January 2020 for companies with 50 to 250 employees, and as from 1 July 2020 for companies with 10 to 49 employees. Employees and

otherwise designated hired individuals (subject to specific regulations) may voluntarily participate in PPK. Persons are enrolled by default but have an option to opt out. Basic employee contributions are 2% of gross remuneration and basic employer contributions are 1.5%. There are no caps.

Payroll tax: There is no payroll tax, but an employer is responsible for remitting social security contributions and advance payments of income tax on an employee's salary.

Capital duty: Capital duty is imposed on corporations at 0.5% of the nominal value of share capital.

Real property tax: Tax generally is imposed on the owner of real estate (land, buildings, and construction) at rates imposed by the local authorities.

Transfer tax: Tax is imposed at a rate of 0.5%-2% on certain types of transaction (e.g., sales, exchanges of rights, loans) that generally are not covered by VAT. As a rule, transactions exempt from VAT are not subject to transfer tax (except for real estate and shares).

Stamp duty: Stamp duty is charged, for example, when filing a power of attorney and when the (central or local) authorities are requested to perform activities, such as issuing certificates, granting approval, etc. The applicable rates or fixed amounts are specified in the stamp duty law.

Net wealth/worth tax: There is no net wealth tax or net worth tax.

Inheritance/estate tax: Inheritance and gift taxes range from 3% to 20%, subject to certain allowances and exemptions.

Other: Excise tax is charged on the turnover of selected goods. Shipping companies may opt to pay tonnage tax on certain types of income. A special tax is imposed on the excavation of silver, copper, crude oil, and natural gas.

A tax applies on certain financial institutions, including domestic banks, branches of foreign banks and credit institutions, insurance and reinsurance companies, and loan institutions (excluding state-owned banks). The tax is charged on the total value of assets exceeding PLN 200 million in the case of loan institutions, PLN 2 billion for insurance and reinsurance companies, and PLN 4 billion for other financial institutions, at a rate of 0.0366% per month.

A tax on revenues from retail sales was introduced in 2016, but its collection was suspended until 1 January 2021 due to the initiation of proceedings concerning the possible incompatibility of the tax with EU law. Although the proceedings are ongoing, as from 1 January 2021, the tax applies to retailers whose monthly turnover exceeds PLN 17 million at 0.8% on monthly turnover between PLN 17 million and PLN 170 million, and 1.4% on monthly turnover exceeding PLN 170 million.

Exit tax applies to individuals in the case of a change of tax residence or associated transfer of assets outside of Poland. It also applies to corporations (see "Anti-avoidance rules," above).

Tax treaties: The OECD multilateral instrument (MLI) entered into force for Poland on 1 July 2018. For information on Poland's tax treaty network, visit [Deloitte International Tax Source](#).

Tax authorities: Minister of Finance, Head of the National Tax Administration, Director of the National Tax Information, heads of tax offices, heads of customs-tax offices, directors of tax administration chambers, and some local authorities

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