



Poland

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# FDI in Poland – current situation

**Amount of FDI (period 1990-2015):** EUR 173,6 billion (an average of PLN 26 billion) per year

## Investors (countries):

- Netherlands 23,6%
- UK 20,9%
- Germany 19,4%
- Spain 8,0%
- Austria 6,2%
- Luxembourg 6,0%
- Sweden 5,3%
- Cyprus 5,3%
- Belgium 4,0%
- Switzerland 3,4%

## Investments by sector:

- Manufacturing 23,2%
- Professional, scientific and technical activities 20.3%
- Information and communication 12.8%
- Real estate 9.7%
- Finance and insurance 4.5%
- Administrative services and support 2.9%
- Construction 2.7%

## POLAND

### GENERAL INFORMATION

|                                 |                         |
|---------------------------------|-------------------------|
| Territory:                      | 312 679 km <sup>2</sup> |
| Population:                     | 37,9 million            |
| Currency:                       | Polish Zloty (PLN)      |
| GDP 2016:                       | EUR 424,6 mld           |
| GDP per capita:                 | EUR 11,200              |
| Growth rate:                    | 3,4%                    |
| Average monthly gross earnings: | EUR 968.16              |
| Export:                         | EUR 14932,01 mln        |
| Import:                         | EUR 15283.31 mln        |

# FDI in Poland – current situation

## The biggest investors in Country:

Volkswagen (800 mln euro), LG.Philips LCD, FIAT Auto,

## Investors perception about investment climate:

- A stable and growing economy
- Human capital: relatively low costs and qualified and competitive labor force
- Strategic location
- Significant European market

## Why to invest in Country:

- **Ambitious and hard-working people.** The main advantage of Poland are the inhabitants. Especially their ambition, motivation and professional ethics as well as unique initiative. Poland is the biggest country in Central-Eastern Europe, 6th biggest in the EU.
- **Diversified economy.** A wide range of manufacturing, service and agricultural companies. It is not a problem to find partners in sectors like automotive, aviation, food processing electronics and finance.
- **Macroeconomic stability.** Healthy public finances and long-term predictability. Poland as the only country in the EU avoided recession and public finances are in much better condition than the EU average.
- **Quality.** Services and products offered are characterized as highly competitive and meet the highest quality standards.
- **Transformation.** New business opportunities derive from unique in European terms infrastructural modernisation - of the road and rail transportation, as well as the energy infrastructure.
- **Vast internal market and free access to the European market.** Over 38 million of consumers in Poland and free access to the EU market which covers 500 million consumers as well as easy access to Eastern European countries.

## POLAND

### BUSINESS SECTORS TO INVEST:

Automotive  
Aerospace  
Biotechnology  
BPO/SSC  
Electronics  
Food processing  
Household appliances  
IT  
R&D  
Renewable energy sector

# Taxation implication

## Tax implications on foreign investors and investment climate

Recently, the approach of the tax authorities and the Ministry of Finance in Poland has changed and become more profiscal. This includes increased tax audits, also aimed at transfer pricing, limitation of the binding rulings force and new regulations, as described below.

A general anti-avoidance rule (GAAR) and a VAT “abuse of law” rule (introduced by two new laws that amend the Polish Tax Ordinance Act and the Polish VAT Act, respectively) became effective on 15 July 2016. Based on GAAR rules, the Polish Ministry of Finance started to issue warnings against specific structures aimed at tax optimization. Transactions mentioned in warnings will be under special control of Polish tax authorities. In view of this, it should be mentioned the Polish tax authorities will be focused on the business justification of any restructuring.

Also, as of January 1, 2017, Poland has introduced CIT regulation increasing the force of attraction of Polish tax regime, i.a. the beneficial owner clause was added to the CIT Act. It is intended to eliminate the situation of using a more preferential DTT concluded with the country of residence of this agent.

It should also be noted that Base Erosion and Profit Shifting regulations (BEPS) have a direct impact on Polish tax law provisions. At the beginning of 2016, new transfer pricing regulations, mostly binding from 2017 directly influenced by the BEPS regulations, entered into force. Poland was one of the first countries to implement BEPS into transfer pricing.

As regards VAT – many regulations have been imposed recently, most of them aiming at reduction of the VAT Gap. A fundamental change in the VAT system is considered – as the draft law concerning VAT split payment has been introduced recently by the Ministry of Finance.

### **TAXES IN Poland**

#### **STATE TAXES:**

- CIT (19%, 15% or small taxpayers and the taxpayers who start their business activity in the year they started. Tonnage tax)
- VAT (23%, 8%, 7% 5%)
- Excise duties and special taxes

#### **direct:**

- personal income tax - PIT,
- corporate income tax - CIT,
- tonnage tax,
- inheritance and donation tax,
- tax on civil law transactions,
- agricultural tax,
- forest tax,
- real property tax,
- transport vehicles tax,
- tax on extraction of certain minerals.

#### **indirect:**

- VAT,
- excise duty,
- gambling tax.

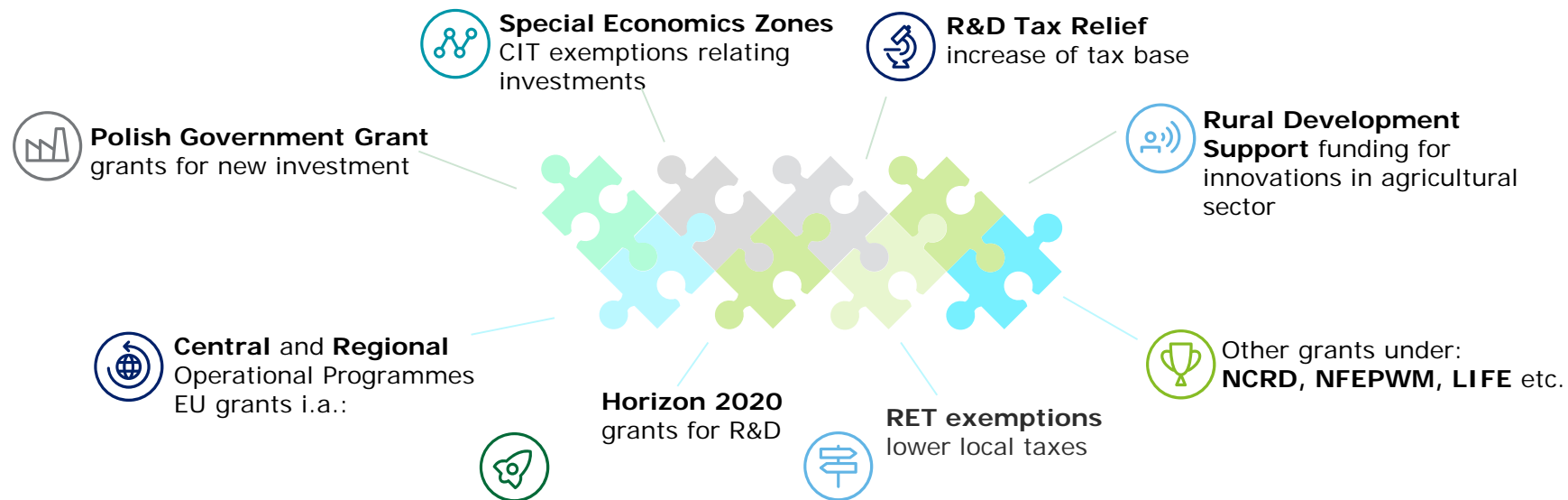
# Withholding tax and anti-avoidance regulations

| Withholding tax   |                                  |
|-------------------|----------------------------------|
| Employment income | General wage withholding applies |
| Dividends         | 19%                              |
| Interest          | 20%                              |
| Royalties         | 20%                              |
| Fees (technical)  | 20%                              |
| Fees (directors)  | 20%                              |

| Anti-avoidance regulations                   |     |
|--|-----|
| Transfer pricing legislation                 | YES |
| Thin capitalization legislation              | YES |
| Controlled foreign company legislation (CFC) | YES |
| General anti-avoidance rule (GAAR)           | YES |
| Other anti-avoidance legislation             | YES |

# Stimulating investment measures

Poland has managed to develop a very attractive system of different types of incentives. Most significant types of incentives available in Poland are:



Moreover, Poland is currently the biggest beneficiary of public funding from EU (**EUR 82,5 bn**). This combined with national and international incentives gives enterprises operating in Poland a unique opportunity to co-finance their activities with external, **non-commercial sources**.

Available incentives for operational activities for large companies are mainly focused on research and development (**R&D**) and **innovations**. R&D comprise creative and systematic work undertaken in order to increase the stock of knowledge and to devise new applications of available knowledge (def. *Frascati Manual 2015*).

# Stimulating investment measures

Governmental grants are provided on the basis of *Programme for supporting investments of major importance to the Polish economy for years 2011-2023*.

## Form of support

Support is provided in the form of a grant on the basis of a agreement concluded between the Minister of Development and the investor.

Grant value is calculated individually for a particular project (up to **12,5% of investment costs** or up to approx. **EUR 4.5k per 1 new work place**). Grant is paid proportionately to degree of fulfilling commitments.

## Beneficiaries

Support can be applied for by companies planning investments in the following priority sectors:

- automotive sector,
- electronic and household appliances sector,
- aviation sector,
- biotechnology sector,
- food processing sector,
- modern services sector,
- research and development (R&D).

## Minimum requirements

- R&D sector: 35 new jobs for degree holders and EUR 0.24 M investment expenditures in relation to new jobs creation or EUR 2.4 eligible costs in relation to investment costs
- Business services sector: at least 250 new job places and EUR 0.4M investment expenditures (support for new work places)
- Other priority sectors: at least 250 new job places and EUR 9.5 M investment expenditures (support for new work places) or at least 50 new jobs and EUR 38 M (investment support)
- Significant investments in other sectors (support for new work places and investment support): at least 200 new job places and EUR 180 M investment expenditures or at least 500 new jobs and EUR 120 M

**Planned changes**: new version of the Programme is expected in 2nd half of 2017 (details not known yet)

# Stimulating investment measures

## Forms of support

**Special Economic Zones** are one of the main instruments used to attract investors in Poland.

The key benefit for a SEZ investor is income tax exemption (in some cases Real Estate Tax exemption available as well). The aid constitutes regional investment support – i.e. real benefits may amount at from **15 to 70% of investment costs**.

In essence SEZ are designated areas in Poland where business (production/services with some exceptions) can be carried out on preferential terms.

Formally there are 14 predefined SEZ in Poland. SEZ are due to operate until the end of 2026.

## Procedure

New investment project must be located within Special Economic Zone territory – investor can use one of the following scenarios:

- **SCENARIO 1:** purchase of land already covered with SEZ status and build production plant/ office space
- **SCENARIO 2:** rent of existing production hall/ office space within SEZ territory (the fastest and „easiest” scenario)
- **SCENARIO 3:** application for covering chosen premises with SEZ status (applicable also in case of premises where functioning facilities are already located). The slowest and „hardest” scenario

Subsequently, SEZ permit must be obtained (specifying also scope of activity subject to exemption – possibility of covering IT/ accounting services with SEZ permit).



# Legal implication

## Legal implications on foreign investors and investment climate:

- **EU law** directly in force or implemented to the Polish legal system
- **Continental type of corporate / civil law regulations** (many legal institutions similar to existing in jurisdictions such as Germany, Austria)
- Foreign companies (especially EU entities) generally enjoy **unrestricted access to the Polish market**
- However, Polish law **provides for certain regulatory limitations and requirements with regard to specific industries / operations, e.g. energy sector, telecommunications, banking and finance, security, etc.**, and limits foreign acquisition of real estate (does not apply to EU entities), especially forest and agricultural land (applicable also to EU entities)

## Recent, selected pro-business changes of the law:

- Possibility to incorporate a limited liability company (*sp. z o.o.*) via Internet
- In 2015, Poland adopted another tranche of deregulation reforms. The reforms covered almost 250 professions and removed or partially abolished more than 70 barriers to business and professional operation
- New bankruptcy and restructuring frameworks entered into force which provides debtors more ways to restructure a company and limits their obligations towards creditors, making a company's exit from the market easier
- In 2016 a package of pro-business regulations were introduced in various areas of the law, covering, *inter alia*, construction law, regulations concerning public inspections, environment protection law (as regards fees and reporting duties)
- In 2017 changes to administrative proceedings were introduced aimed at faster and more efficient interaction with the administrative bodies, e.g. by introduction of the „positive administrative silence“ general rule

# Privatization and private investments

The Polish Government has invited foreign investors to participate in most of the major privatisation programmes, such that the level of foreign ownership of the Polish economy is high, especially in the banking sector, where foreign-controlled banks hold over 70% of assets. Major privatisation is over and the focus is on consolidation and improvement of efficiency in entities still under state control.

**As for mid-2015 the state preserved minority share in 346 enterprises, and majority share in 47 and these numbers constantly decrease as the state sells or liquidates existing companies.**

## **ENTERPRISES: structure of ownership**

| TYPE OF ORGANISATION  | %      |
|---|--------|
| Private companies (50% or more of the shares held by country-s residents)   | 63,6 % |
| Private companies (less than 50% of the shares held by country-s residents) | 16,6 % |
| State owned companies   | 19,8   |
| Other   |        |

Thank you for your attention!





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