

Taxation and investment in Poland 2014

Reach, relevance and reliability



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1. Investment climate

1.1 Business environment

Poland is a parliamentary democracy with a bicameral legislature. 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, while judicial power is vested in courts and tribunals.

Poland is a member of the European Union (EU), the European Economic Area (EEA), the World Trade Organization and the Organization for Economic Co-operation and Development (OECD). As an EU member state, Poland is required to comply with all EU directives and regulations. 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 the 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 development of the private business sector.

Quick facts	
Capital	Warsaw
Population	37 748 288
Language	Polish
Currency	Polish Zloty (PLN)
Time	GMT +1
Membership	EU, EEA, OECD, WTO

1.2 Currency

The national currency is the Polish Zloty (PLN). Poland expects to become a member of the European Monetary Union in or after 2020 and possibly will adopt the Euro as its currency on that date. The date of accession to the Monetary Union is yet to be decided due to economic uncertainty.conditions

1.3 Banking and financing

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

The NBP is the exclusive issuing institution of 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 co-operative banks holding the rest). In addition to banks, other important financial institutions are insurance companies, pension funds, mutual funds, venture capital funds and leasing companies. Foreign financial companies and primarily insurers, play an important role in these sectors.

1.4 Foreign investment

Poland’s market size and membership in the OECD and the EU have made it attractive to foreign investors.

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

Foreign investors are defined as corporations with head offices registered abroad, business associations established by foreign individuals or companies operating under the laws of a foreign country and individuals domiciled abroad.

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.

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

Permits are required for mining operations, defence related industries, fuel or energy operations, security services involving individual property, aviation services and telecommunications.

1.5 Tax incentives

Various activities can be supported by structural funds, ranging from environmental protection projects to human resource developments. 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) can

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 are also available for companies creating 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 general public or private entities provided that certain requirements are met.

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 only available to travellers departing to non-EU countries.

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. There are no exchange controls on inward or outward investment.

The Polish Zloty (PLN) is fully convertible and may be used for settlement of international transactions.

Nevertheless, entities transferring Zloty and foreign currency to and from Poland must submit detailed quarterly reports of their transactions for statistical purposes. The NBP monitors flows, but the Council of Ministers sets thresholds and reporting procedures.

The Ministry of Finance supervises all foreign exchange activities, and banks must submit information about customer accounts at the Ministry’s request.



2. Setting up a business



2.1 Principal forms of business entity

There are the following types of companies operating in Poland: joint-stock company (spółka akcyjna — SA), limited liability company (spółka z ograniczoną odpowiedzialnością — Sp. z o.o.), limited joint-stock partnership, registered partnership, limited partnership and professional partnership. Poland allows for the creation of the European Company (SE). An individual can also carry on business as a sole proprietor.

Forms of entity

Limited liability company (Sp. z o.o.)

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 are primarily used as special purpose vehicles, holding companies and as national operating companies controlled by international corporations. It 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. has capital which is created from shareholders' contributions, but shareholders of the Sp. z o.o. are generally 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.

Formation

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

Capital: The minimum capital required to establish a limited liability company is PLN 5,000 to be paid up before the registration. Contributions to a limited liability company may be made in cash or in kind.

Legal reserve: There are no legal reserve requirements for a limited liability company.

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

Management: The main corporate bodies of the Sp. z o.o. are the shareholders' meeting and the management board. There are no residence requirements for the management board members of the Sp z o. o., however a work permit may be required from a foreigner. The term of office for management board members is not defined.

Employees have no influence over the management of private sector firms unless they are shareholders.

Supervision: 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. If share capital exceeds PLN 500,000 and there are more than 25 shareholders, the company has to have a supervisory board composed of at least three persons.

Meetings and votes: A simple majority of 50% is sufficient to pass most resolutions; a 2/3 or 3/4 majority is required for major changes.

Costs of incorporation: Legal costs for establishing a company (including notary charges, stamp duty and court costs) depend, inter alia, on the level of capital.

Registration: A limited liability company 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 able of contracting) at the time its articles of association are signed.

Joint-stock company (SA)

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 has capital created by shareholder contributions. Like in the case of a limited liability company, the shareholders of the SA are basically 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 is frequently used where this form is required by law (e.g. banks, insurance companies) or where the company is planning floatation on capital markets.

Formation

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

Capital: The minimum initial capital for a joint-stock company is PLN 100,000. The shares subscribed for in-kind contributions shall be paid in full not later than before the end of one year of registration of the company. The shares subscribed for cash contributions shall be paid prior to registration of the company to the extent of at least one fourth of their nominal value.

Legal reserve: The 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.

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

Management: The corporate bodies of a joint-stock company are the shareholders' meeting, the management board and the supervisory board. Management of the SA is vested in a management board. There are no residence requirements for the management board members of the SA, however, in case of foreigners a work permit may be required. In financial sector however in particular in 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. Employees have no influence over the management of private sector firms unless they are shareholders.

Supervisory: The SA shall have a supervisory board consisting of at least three members (five in listed companies), each appointed for a term of up to five years. The supervisory board shall exercise permanent supervision over all areas of the activities of the SA.

Meetings and votes: A simple majority of 50% is sufficient to approve most actions; a 75% majority is required for major changes.

Costs of incorporation: Legal costs for establishing a company (including notary charges, stamp duty and court costs) depend, inter alia, on the level of capital.

Registration: The SA comes into existence as a company in organization when all of its shares are subscribed for. As in case of Sp. z o.o. , it obtains legal personality when it is entered into the National Court Register.

Branch of a foreign company

A foreign company may opt to set up a branch in Poland. Foreign investors from EU, member states of EFTA parties to EEA agreement as well as other foreign companies from outside EEA which may enjoy freedom of economic activity on the basis of agreements concluded with 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 that does not have its own legal personality, but conducts business in Poland. A branch may only conduct activities within the scope of business activities of the foreign investor. A branch is allowed to generate income. It has to be registered in the National Court Register under the name of the investor and the name has to include the phrase "branch in Poland".

Foreign investors also may establish a representative office in Poland. A representative office may only carry out 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 obliged by law to keep their accounts and calculate tax independently.

Mergers and acquisitions

The Act on Competition and Consumer Protection empowers the Office for the Protection of Competition and Consumers (UOKiK) to block a merger that would lead to creation or strengthening of a dominant position on the market. The UOKiK also imposes reporting requirements for acquisitions of existing firms. Parties to a proposed merger have to notify the UOKiK whether their combined turnover for the previous year exceeded either EUR 1 billion worldwide or EUR 50 million in Poland. There are exceptions, such as when the transaction is within the same capital or financial group and when the concentration results from bankruptcy proceedings or taking over local business with an annual turnover not exceeding EUR 10 million. All international companies have to notify the UOKiK of a proposed merger if any party to the merger has subsidiaries, distribution networks or permanent sales practices in Poland. Certain mergers and acquisitions

3. Tax system

on a European Community scale fall within EU merger control. As a rule, the European Commission has exclusive powers to review such transactions. Under its Merger Control Regulation, the EU has jurisdiction over mergers (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 companies concerned exceeds EUR 2.5 billion for all businesses involved, aggregate global turnover in each of at least three member states exceeds EUR 100 million, aggregate turnover in each of these three member states of at least two undertakings exceeds EUR 25 million and aggregate EU-wide turnover of each 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 one member state. The European Commission has twenty five business days after a merger is reported to approve the transaction or open a procedure. If it decides to open a procedure, it has to issue a ruling within ninety business days. However, the Commission can decide to refer the merger to the competition authority of the respective member state to determine whether the effect of the merger will primarily be in such member state. That decision counts as official notification of the government of the member state. Companies whose merger would not normally fall within the jurisdiction of the European Commission can request a Commission review if they are otherwise obliged to notify three or more member states. The Commission proceeds as a “one-stop shop” only if none of the relevant member states objects within 15 business days.

2.3 Accounting, filing and auditing requirements

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, notes, as well as supplementary information and explanations. Companies audited in a given year must also 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, which in particular contain 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. 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 met in the preceding financial year:

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

All companies must file their annual accounts to the registry court files.

3.1 Principal taxes

The main taxes in Poland are:

- Corporate income tax
- Personal income tax
- Tax on civil law transactions
- Value added tax
- Stamp duty
- Real estate tax
- Excise duty.

There is no excess profits tax or alternative minimum tax.

In general, foreign companies and individuals pay the same taxes as Polish legal entities and individuals (except where a tax treaty provides otherwise).

3.2 Basic legislation

All taxes in Poland are imposed by the government in Taxation Acts, which set the rules for imposing taxes, their rates and duties, as well as taxpayer responsibilities.

The Minister of Finance may be authorized by an Act to decree regulations. All legislation is published in official publications (i.e. the Journal of Laws and the Official Journal of the Republic of Poland).

The Tax Ordinance is the most general tax legislation which defines:

- General taxation rules;
- Tax liabilities of third parties;
- Tax information;
- Tax proceedings;
- Structure of the tax administration and
- Fiscal confidentiality.

Other relevant legislation includes the Corporate Income Tax Act, Personal Income Tax Act, Value Added Tax Act, Civil Law Activities Tax Act (for capital duties and transfer tax), Local Taxes Act (i.a. real estate tax).

Parliament passes tax legislation with a simple majority of votes.

3.3 Administration

Tax authorities

Taxes in Poland are administered by:

- *Tax office*: Units supervising the collection of taxes in their territories. They also issue individual administrative decisions in tax cases;
- *Fiscal audit offices*: Offices that carry out tax and procedural audits of fiscal accounting;
- *Tax chamber*: Supervise the tax offices and are empowered to review administrative decisions of tax offices and fiscal audit offices;
- *Minister of Finance*: Responsible for Polish budgetary policy and supervision of the entire taxation system.

Taxpayers may appeal to the Tax Chamber against the 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 also entitled to resort to the Supreme Administrative Court to review decisions of the Regional Administrative Courts.

Rulings

Two types of tax rulings are available in Poland: general and individual. General rulings aim to ensure that application of the tax law by tax authorities is uniform; general rulings may be applied by all taxpayers. Individual rulings, which may only be relied on by the taxpayer obtaining the ruling, are issued upon written request. Application of the individual ruling may not be detrimental to the applicant. To obtain a ruling, the taxpayer has to submit a written request setting out the actual facts or planned events, the question and present its own opinion on the issue. The ruling remains valid until changed by tax authorities (possible only in specific situations; change comes into effect starting from the next settlement period, e.g. next year for CIT) or when the underlying provision of law is changed rendering the ruling irrelevant.

Advance pricing agreements

Poland has had an advance pricing agreement (APAs) regime in place since 2006, which allows taxpayers to verify the correctness of the pricing methodology applied in domestic and foreign related party transactions and ascertains the up-front acceptance of the transfer pricing methodology by the tax administration. Unilateral, bilateral and multilateral agreements are possible.

Before submitting an application for an APA, the taxpayer may request the Ministry of Finance to address whether an APA would be useful, the scope of information to be submitted, the procedure and probable date of conclusion of an APA. The application has to be submitted by a Polish entity and the application fee (which depends on the value of the transaction) has to be paid within 7 days from the date when the application is submitted. An APA is valid up to 5 years and may be extended for additional 5 year periods.



A taxpayer requesting an APA is required 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, indicate the related parties included in a given transaction and propose the period for which the APA should be binding.

3.4 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 member state with whom Poland has concluded a tax treaty may be granted, provided that the Polish company holds at least 75% of shares in the payer for at least two years before/ after the distribution of the dividends.

Tax treaties

Poland has concluded a lot of double taxation treaties. Many of those treaties reduce the withholding tax rates applied to dividend, interest and royalties paid by Polish companies to non-residents. If the EU Parent-Subsidiary Directive / EU Interest and Royalties Directive applies, no tax is withheld on dividends / interest and royalties, respectively.

Poland’s Tax Treaty Network		
Armenia	India	Norway
Algeria	Indonesia	Philippines
Albania	Iran	Portugal
Australia	Ireland	Qatar
Austria	Isle of Man	Romania
Azerbaijan	Israel	Russia
Bangladesh	Italy	Serbia
Belarus	Japan	Saudi Arabia
Belgium	Jersey	Singapore
Bosnia-Herzegovina	Jordan	Slovakia
Bulgaria	Kazakhstan	Slovenia
Canada	Korea	South Africa
Chile	Kuwait	Spain
China	Kyrgyzstan	Sri Lanka
Croatia	Latvia	Sweden
Cyprus	Lebanon	Switzerland
Czech Republic	Lithuania	Syria
Denmark	Luxembourg	Tajikistan
Egypt	Macedonia	Thailand
Estonia	Malaysia	Turkey
Finland	Malta	Tunisia
France	Mexico	Ukraine
Georgia	Moldova	United Arab Emirates
Germany	Mongolia	United Kingdom
Greece	Montenegro	United States
Guernsey	Morocco	Uruguay
India	Netherlands	Uzbekistan
Indonesia	New Zealand	Vietnam
Iran	Nigeria	Zambia
		Zimbabwe

4. Taxation of companies

Main taxes applicable to companies operating in Poland	
Corporate income tax	19%
Withholding tax	
• Dividends	19%
• Interest	20%
• Royalties	20%
Branch profits tax	-
Net worth tax	-
Value added tax	23% (standard rate)
Stamp duty	0.5%
Tax on civil law transactions	0,1-2%

4.1 Overview

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

In general, a calendar year is deemed to be a tax year. However, a taxpayer may change its tax year by notifying the appropriate tax office and indicating a different period as a tax year.

As a result of its accession to the EU, Poland has implemented the Parent Subsidiary Directive (PSD) and merger directive and the Interest Royalty Directive (IRD).

Provided that certain requirements are met, a group of companies may establish a “tax capital group” which is treated as a single CIT taxpayer.

4.2 Taxable income

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 CIT.

Dividends

Dividends received by a company being a Polish resident

from another Polish company or an EU/EEA company may be exempted from taxation if certain holding and participation requirements are satisfied (e.g. the recipient has held at least 10% of the shares in the payer company for at least two years).

The above rule may apply also to dividend from a Swiss company provided that the requirement of holding of 25% of shares is met.

Dividends received from a non-EU/EEA/Swiss company are aggregated with other taxable income and are subject to the standard corporate income tax rate of 19%, with a credit granted for underlying corporate and withholding tax for foreign tax paid (although the credit cannot exceed the corporate income tax attributable to the dividend-type income).

As noted above, underlying tax related to dividends received by a Polish company from an entity resident in a non-EU member state with which Poland has concluded a tax treaty may be credited against the corporate income tax liability provided the Polish company has held at least a 75% stake in the payer company for at least two years before/after the distribution.

Capital gains

Capital gains are generally treated as regular income and subject to the standard CIT rate.

4.3 Deductions

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

Losses

Losses incurred by a taxpayer may be carried forward and set off against income over the 5 following tax years from the year the loss is incurred, but only up to 50% of the loss suffered in a given tax year may be deducted at once. Losses cannot be carried back.

In the case of a merger, only the tax losses of the surviving company can be utilised; 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 utilised.

Depreciation/ Amortization

Fixed assets and intangible assets are subject to tax depreciation/amortization if the projected useful economic life of the asset is longer than one year and they are 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, the reducing balance basis may be used for certain categories of assets. Basic (standard) depreciation rates (per annum) for commonly 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%

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

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

Under Polish depreciation rules, taxpayers may establish their own individual depreciation rates for second-hand (i.e. assets used for at least 6 months, or 5 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 percent of their initial value or 30 percent for buildings) which have been entered on the company's books for the first time. It should be noted that for both second-hand and improved assets, the period of depreciation cannot be shorter than:

Buildings	10 years
Non- residential buildings	10-40 years
Means of transport	30 months
Other assets:	
- If the initial value is not higher than PLN 25,000	24 months
- If the initial value is not higher than PLN 25,000	36 months
In other cases	60 months

In light of the depreciation rules, specified fixed assets (excluding passenger cars) may be also subject to reducing-balance depreciation. This means that the standard rates may be increased by 100 percent (the basic rate multiplied by two).

In the first year of the business activity, taxpayers may also make a complete depreciation deduction of defined fixed assets (excluding passenger cars) in the year when these assets were entered into the register of fixed and intangible assets. The total value of the depreciation deductions should not exceed EUR 50,000 in the tax year. Furthermore, generally the taxpayers are allowed to decrease the basic depreciation rates for all fixed assets (but not intangible assets) and increase them up to standard rates provided by the Polish CIT Act.

4.4 Exchange differences

A taxpayer is entitled to choose the method of calculation of exchange rate differences for CIT purposes. The available methods are the accounting method or the tax method. In general, exchange rate differences are treated as taxable revenues / tax deductible costs.

4.5 Rate

The corporate tax rate is 19%.

4.6 Corporate reorganizations

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

5. Related party transactions

5.1 Transfer pricing

Poland's transfer pricing rules generally follow the OECD guidelines. Thus, transactions between related parties need to 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 would otherwise have disclosed, tax authorities may adjust the taxable income of the taxpayer.

Tax authorities are obliged to use one of the 5 OECD methods (comparable uncontrolled price method, cost plus method, resale minus method, profit split method or transactional net margin method).

Transfer pricing rules apply both to domestic and cross-border transactions. They also apply to permanent establishments.

Documentation has to be prepared for domestic and cross-border related party transactions exceeding annual value thresholds (generally EUR 100,000 for tangibles (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 verdicts seem to indicate that the thresholds apply to all transactions with the same counterparty rather than to separate transactional flows.

Documentation requirements also apply to permanent establishments. The documentation has to 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.

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

Unilateral, bilateral and multilateral APAs may be concluded in the form of a decision of the Ministry of Finance.

Since 2007, Poland has been a party to the EU Arbitration Convention. Accordingly, taxpayers may seek double taxation protection either under the relevant double tax treaties or under the EU Arbitration Convention procedures.

Advance pricing agreements

Poland has had an advance pricing agreement (APAs) regime in place since 2006. The APA proceedings allow taxpayers to verify the correctness of the pricing methodology applied in domestic or foreign related party transactions and obtain the acceptance of the transfer pricing methodology by the tax administration. Unilateral, bilateral and multilateral agreements are possible.

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

A taxpayer requesting an APA is required 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 tax years to be covered by the APA.

An APA decision can be valid for the maximum period of five years. It may be extended for an additional 5-year period.

Business restructuring and other changes

In 2013 significant changes were introduced to transfer pricing regulations, including transfer pricing testing procedure (with emphasis put on comparability analysis), new low value added services documentation requirements and clear regulations on business restructuring. The changes are binding for all new audits (i.e., also for audits related to years prior to 2013).

In early 2014 the Ministry of Finance published guidance on the application of the business restructuring regulations introduced in 2013, emphasizing the importance of application of the transfer pricing regulation to conversions.



6. Taxation on individuals

Main taxes applicable to individuals in Poland		
Personal income tax - regular progressive rates (applicable e.g. to income from dependent services)	18% and 32% (for income exceeding PLN 85,528)	
Personal income tax – flat rate (may be applied to self-employment if certain conditions are met)	19%	
Dividends	19%	
Interest	19%	
Royalties	progressive (18% and 32%)	
Capital gains	19%	
VAT	23% (standard rate)	
Inheritance tax	3%-20%	
Special expatriate regime (only selected sources of income)	20%	

Social insurance contributions			
Insurance type	Cap on salary subject to contribution	Allocation of contribution cost	
		Employer	Employee
Pension	1 12,380 PLN	9.76% of the remuneration	9.76% of the remuneration
Disability	per annum	6.5% of the remuneration	1.5% of the remuneration
Sickness		-	2.45% of the remuneration
Accident		0.67% - 3.33% of the remuneration (it depends on risk category)	-
	No cap applies	1,67 % the most common rate	
Health		-	9% (7,75% tax deductible)
Other employer’s charges			
Labour Fund		2.45% of the remuneration	
Employees’ Guaranteed Payments Fund		0.1% of the remuneration	

6.1 Residence

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

Tax treatment of resident individuals

Individuals with a place of residence in Poland are subject to personal income tax on their worldwide income. Residents are individuals whose centre of vital (economic or personal) interests is in Poland or individuals who spend more than 183 days in a tax (calendar) year in the country. Poland’s ability to tax this income, however, may be limited by the provisions of a tax treaty.

Tax treatment of non-resident individuals

Individuals without a place of residence in Poland are subject to limited tax liability in Poland, i.e. only income earned on the territory of Poland is subject to taxation. Individuals who are considered nonresidents (i.e. subject to limited tax liability in Poland) may benefit from preferential taxation on certain types of income including board fees, management contracts, other types of civil law contracts and royalties, received by nonresidents are subject to a 20% flat rate (whereas such income received by tax residents is as a rule subject to progressive taxation up to 32%).

Tax treatment of families

A husband and wife may be taxed jointly (if conditions laid down by the Polish law are met). The income of a minor child is added to that of a resident parent. A preferential taxation regime is available for single parents.

6.2 Taxable income

Taxable income includes most cash and non-cash 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 the sale of movable or immovable property;
- other income.

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

Income from entrepreneurial or professional activities is taxable either as business income or 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.

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

In particular income such as. per diems, refund of business travel expenses, cost of professional training if requested by the employer, is exempted from taxation.

6.3 Deductions and reliefs

Taxpayers may deduct from taxable income donations to institutions performing public welfare goals up to the limit of 6% of taxable income (only in case of donations made to church organizations for charitable purposes, the

deduction has no limits). Social security contributions are fully deductible. Healthcare contributions (9% of gross income decreased by social security) are deductible from tax 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.

6.4 Personal income tax rates

The personal income tax rates are progressive at rates ranging from 18% to 32%, although individuals carrying out business activities may opt for special rules under which a 19% tax rate generally applies (with certain limitations as regards some allowances).

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

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

The personal tax rates for 2014 are as follows:

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 85 528.00

6.5 Social insurance 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 is actually 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 and second pillars. For details regarding social insurance rates and brackets, please refer to the attached table.

Employees can make voluntary payments to third-pillar funds, usually managed by insurers or banks. Fiscal incentives in 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.

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

7. Personal income tax charged from foreign individuals

6.6 Inheritance and gift tax

In general, inheritance and gifts are not taxed if the inheritance occurs or gifts are exchanged among the closest family members, i.e. spouses, descendants, ascendants, siblings, step children and step parents, provided that they comply with specific reporting obligations.

Other than that, the tax payers are divided into 3 groups depending on the closeness to the person from whom inheritance or gift is received:

- I group: spouses, descendants, ascendants, siblings, step-children, step-parents, children-in-law, parents-in-law
II group: descendants of siblings, siblings of parents, descendants and spouses of step-children, spouses of siblings, siblings of spouses, spouses of siblings of spouses, spouses of other descendants
III group: other

The applicable rates and brackets of inheritance and gift tax are as follows:

Surplus (in PLN) over amounts exempted*		Tax liability (in PLN)
over	up to	
1) I group recipients		
	10.278	3 %
10.278	20.556	308,30 plus 5 % of surplus over 10.278
20.556		822,20 and 7 % of surplus over 20.556
2) II group recipients		
	10.278	7 %
10.278	20.556	719,50 and 9 % of surplus over 10.278
20.556		1.644,50 and 12 % of surplus over 20.556
3) III group recipients		
	10.278	12 %
10.278	20.556	1.233,40 and 16 % of surplus over 10.278
20.556		2.877,90 and 20 % of surplus over 20.556

*) amounts exempted are:
1) I group recipients – PLN 9,637;
2) II group recipients – PLN 7,276;
3) III group recipients – PLN 4,902;
if inheritance or gift from given individual subject to tax take place for the first time in a five-year period.

7.1 General tax rules

Main PIT compliance requirements to be applicable to foreign individuals in Poland	
Registration for tax purposes, if PESEL is not applicable	Needs to be performed in the relevant tax office before the date when first PIT advance is due.
Tax free amount	PLN 3,091 (ca. EUR 750) for 2014
PIT progressive rates (applicable e.g. to employment income or income on dependent services)	18% and 32% for the excess over PLN 85.528 (ca. EUR 21.000).
PIT flat rate (applicable to board members, being Polish tax non-residents after having fulfillle certain requirements)	20%
PIT flat rate (applicable e.g. to interest, capital gains)	19%
Monthly tax compliance	PIT advances for a given month to be paid by 20th day of the following month.
Annual tax compliance	Annual tax return for a given year to be submitted by 30 April of the year following the given year (with some exceptions).
Relevance of the tax authorities	Both registration form as well as payment of PIT liabilities and submission of annual PIT return should be made to the tax office relevant for Polish tax non-residents in the region where a foreign individual stays or to the the III Tax Office Warszawa Śródmieście if the work is rendered on the territory of more than one region.

7.2 Tax residency

Foreign individuals arriving in Poland may become Polish tax residents if their centre of vital (economic or personal) interest moves to Poland or if they spend in Poland more than 183 days in a tax year.

Foreign individuals domiciled in Poland (i.e. having the status of Polish tax residents) are subject to unlimited tax liability in Poland, i.e. they are subject to taxation in Poland on their worldwide income, while individuals not domiciled in Poland (i.e. having the status of Polish tax non-residents) have a limited tax liability status in Poland, i.e. they are subject to taxation in Poland only with respect to income earned in the territory of Poland.

It should be noted that in order to determine the tax residency status, the regulations of the relevant Double Tax Treaty concluded by Poland should be also taken into consideration.

7.3 Legal basis for the right to work in Poland

Employment contract with a Polish entity

Regardless of the tax residency status of foreign individuals, income received by them under an employment contract concluded with a Polish entity is always subject to the Polish PIT in accordance with progressive rates at 18% and 32%. The Polish employer is obliged to pay monthly PIT

advances on the aforesaidincome calculated according to the progressive PIT rates. Foreign individuals are obliged to calculate their final annual tax liability for a given year as well as submit their annual PIT returns by 30 April of the following year.

Foreign employment contract and secondment to Poland

a) Polish tax non-residents

The foreign individuals are personally responsible for all PIT compliance activities required by Polish PIT law, i.e. neither foreign employer nor host entity have any obligations in this respect. Please also note that the taxable income for Polish PIT purposes includes 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.

Income earned by the foreign individuals in Poland may not be subject to PIT in Poland starting from the first day of his or her stay in Poland only if the following conditions defined in the relevant Double Tax Treaty are simultaneously met:

- presence in Poland lasts in the aggregate less than 183 days during the particular tax year or 12 consecutive months (depending on the Double Tax Treaty), and
- the remuneration is paid by, or on behalf of, an employer who is not a resident of Poland (it should be however noted that appropriate analysis of economic employer concept should be performed to assess if this condition is met), and
- the remuneration is not borne by a permanent establishment of the employer in Poland.

If one of the above conditions is not met, remuneration from the foreign employment contract is subject to progressive PIT taxation in Poland as of the first day of their stay in Poland. PIT advances on income received from foreign employment contract should be paid on a monthly basis for the months, in which the aforesaid income was received. PIT advance for a given month shall be paid by the 20th day of the following month with the use of 18% PIT rate (32% rate may be also applied). Foreign individuals are obliged to calculate their total annual tax liability using progressive PIT rates. Foreign individuals are also obliged to submit the annual PIT return by 30 April of the following year. Only income related to work performed in Poland is reported for Polish PIT purposes.

b) Polish tax residents

In general, the same rules applicable to Polish tax non-residents as mentioned in point a) above should also apply to foreigners who are Polish tax residents. As a consequence, foreign individuals are personally responsible for all PIT compliance activities required by Polish PIT law, i.e. neither the foreign employer nor host entity have any obligations in this respect. Please also note that the taxable income for Polish PIT purposes includes 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.

PIT advances on income received from a foreign employment contract should be paid on a monthly basis for the months, in which the discussed income was received. PIT advance for a given month should be paid by the 20th day of the following month. The monthly tax advances are generally payable at a rate of 18% (32% rate may be also applied) of income received in a given month, while the year-end final reconciliation is made according to progressive PIT rates. Foreign individuals are also obliged submit their annual PIT return by 30 April of the following year. The worldwide income received by a foreign individual is reported for Polish PIT purposes.

Board members

a) Polish tax non-residents

Income realised by foreign individuals, being Polish tax non-residents and appointed as members of the Management Board of a Polish entity based on the relevant shareholders’ resolution may be subject to 20% flat rate taxation in Poland. All PIT compliance obligations related to this scheme are performed by a Polish entity of which the individual is a board member.

b) Polish tax residents

If a foreign individual being a member of the management board of a Polish entity would become a Polish tax resident, income received from the membership in the Management Board based on the relevant shareholders’ resolution would be subject to progressive PIT taxation in Poland. In such a case the Polish entity would be obliged to pay monthly PIT advances on the aforesaid income calculated according to the progressive PIT rate of 18% (upon taxpayer’s choice 32% PIT rate can be also applied) while the year-end final reconciliation is made in accordance with progressive PIT rates up to 32%. Foreign individuals are also obliged to submit the annual PIT return until 30 April of the following year.



8. Withholding taxes

Type of income	Rate
Dividends	19%
Interest	20%
Royalties	20%
Fees	20%
Branch profits tax	-
Rates may be reduced under the PSD/IRD	

8.1 Dividends

Dividends paid by Polish companies to non-residents are subject to a 19% withholding tax, unless a tax treaty providing a lower rate or the PSD applies. The PSD applies, inter alia, where the recipient company holds at least 10% shares in the Polish payer company for at least two years. Dividends paid to a Polish resident individual are subject to a 19% withholding tax.

To benefit from a reduced rate under a tax treaty or the PSD, the foreign recipient should provide the Polish payer with a certificate of tax residence issued by tax authorities in the recipient’s home country. Additionally, in case of exemption under the PSD, the dividend recipient has to provide a signed declaration of tax obligation on the entire taxable income in the country of residence, regardless of the source of income

8.2 Interest

The withholding tax on interest paid to non-residents and resident individuals is 20%. The rate on payments to non-residents may be reduced or eliminated under a tax treaty. To obtain a lower treaty rate, however, the recipient has to present a certificate of tax residence issued by tax authorities in the non-resident’s country of residence, and additionally has to provide a signed declaration of tax obligation on the entire taxable income in the country of residence, regardless of the source of income.

As of 1 July 2013, interest payments are exempt from taxation in Poland under the IRD. To benefit from the reduced rates under the IRD, the following requirements have to be met:

- The company making the payment is an associated company of a company located in another member state that is the beneficial owner of the payment. A company is an “associated company” of another company for these purposes if (1) the company holds directly at least 25% of the capital of the other company; or (2) the other company has a direct minimum holding of 25% in the capital of the company; or (3) a third company has a direct minimum holding of 25% both in the capital of the company and the other company, and all are located within the EU; and
- Both companies are tax resident in (and, where applicable, their PEs are located in) an EU member state, are subject to corporate tax in the EU and are in the form of a company listed in the Annex to the IRD. The recipient must present a certificate of tax residence issued by the tax authorities in the recipient’s country of residence, and additionally has to provide a signed declaration of tax obligation on the entire taxable income at a country of residence, regardless of the income’s source

8.3 Royalties and fees

A 20% withholding tax is imposed on royalties paid to non-residents and resident individuals. The 20% rate may be reduced or eliminated under a treaty. To obtain a lower treaty rate, the recipient has to present a certificate of tax residence issued by the tax authorities in the recipient’s country of residence, and additionally has to provide a signed declaration of tax obligation on the entire taxable income at a country of residence, regardless of the source of income. As of 1 July 2013, no tax is withheld provided that IRD conditions are met. Fees paid to non-residents for intangible services (e.g. advisory services, market research, legal services, data processing) also 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 treaty provision, the payer has to be able to present (at the request of Polish tax authorities) a certificate of tax residence (i.e. a document issued by the competent tax authorities) of the recipient of the payment.

8.4 Salaries and wages

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.

9. Assessment, payment and appeals

9.1 Tax year

The tax year for companies and individuals is the calendar year, although corporate taxpayers may adopt any other 12-month period as their fiscal year and notify the appropriate tax office about that.

Assessment

A tax return for a tax year remains subject to adjustment by 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 above rule applies also to the collection of tax.

9.2 Returns

Each company has to file an annual corporate income tax return within three months after the financial year end and any outstanding tax liabilities have to be settled by that time. Individuals are required to file a tax return disclosing the aggregate annual 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 working day immediately following the holiday or holidays). No extensions are possible.

Married couples may file a joint return if they have unlimited tax liability and if they are married for the entire tax year and have marital co-ownership during the entire tax year. Joint tax returns also apply to single parents with dependent child/children.

9.3 Payment of tax

Companies are required to make monthly advance payments of corporate income tax by the 20th day of the following month, and advance payment 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) has to be made by the 20th 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 prior to this date (i.e. prior to the 20th of the first month of the new tax year). A simplified tax calculation and monthly tax advance payment also is permissible under the Corporate Income Tax Act, whereby taxpayers may make advance monthly tax payments of 1/12 of the tax due as disclosed in the tax return filed in the previous year (e.g. simplified advance payments for calendar tax year 2014 are calculated on the basis of the tax due for 2012).

Individuals are required to pay all their tax liabilities by 30 April after the end of the tax year (if 30 April is a Saturday or a public holiday, the last day of the deadline is considered the working day immediately following the holiday or holidays).

9.4 Appeals

In general, tax proceedings end with a decision, which may be challenged by an appeal filed within 14 days from the delivery of the decision to the taxpayer. Following the appeal, the tax case is reconsidered by the tax authority of second instance (higher-rank tax authority; in most cases by the tax chamber) which may uphold or repeal the decision of the first instance or discontinue the proceedings. In the case of appeal, the tax authority of second instance may discontinue the proceedings concerning the case, or amend in full or in part the challenged decision, or return the case for reconsideration to the tax authority of the first instance. The decision of the second instance is final and may not be challenged by an administrative appeal, although proceedings before an administrative court are possible.

A complaint to a regional administrative court may be filed against such a decision within 30 days from its delivery to the taxpayer. If the verdict of the regional administrative court is negative, the taxpayer – within 30 days from delivery of this verdict with its written justification – may file a complaint against the verdict to the Supreme Administrative Court. In certain cases, when a given act does not provide for any means of challenge in case being the subject of an appeal, an appeal (e.g. against tax ruling) may be submitted only after requesting the authority in writing within 14 days to remove the infringement of law.

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

9.5 Tax audits

Tax authorities may verify whether taxes are correctly calculated and paid. There are two main methods of the above-mentioned verification: (i) tax audit (kontrola podatkowa) governed by the Polish Tax Ordinance and (ii) tax inspection (kontrola skarbową) governed by the Polish Act on Fiscal Control. Additionally, in practice, tax authorities may also demand explanations without commencing a formal tax audit/tax inspection.

In general, frequency and duration of inspections of Polish entities/entrepreneurs (in particular, tax audits) carried out by the governmental agencies are limited. Consequently, Polish enterprises cannot be subject to more than one inspection at the same time and such an inspection cannot exceed a limit of 12 to 48 working days (the exact number of days depends on the size of the controlled entity). Nevertheless, Polish regulations provide for a number of exceptions in this respect. Generally, the taxpayer should be notified in writing of the intention to initiate a tax audit/inspection. The audit/inspection should be initiated no earlier than after the

lapse of seven days and no later than before the lapse of 30 days from the service of the notification of the intention to initiate the tax audit/inspection. If the audit/inspection is not initiated within 30 days from the said notification, the initiation of inspection requires another notification. However, in specific cases tax authorities may initiate a tax audit/inspection at the taxpayer's premises without any advance notice.

In principle, tax authorities may audit/inspect the tax settlements of the taxpayer within five years from the end of the calendar year in which the tax payment date expired (e.g. the tax settlements for calendar tax year 2014 may be audited/inspected until 31 December 2020). However, as regards cases settled by a final decision of the tax authorities, a tax audit/inspection may not be repeated.

The tax audit ends with an audit protocol. Generally, if the authorities conclude that an infringement of tax law has occurred, they may begin formal tax proceedings no later than six months from the end of the audit. If the audited entity does not agree with the conclusions in the protocol, it can present its reservations and explanations within 14 days from receipt of the protocol.

In most cases a tax inspection ends with a decision. If the audited entity does not agree with a decision, it can appeal against the decision to the appropriate tax chamber within 14 days from the date of receipt of the decision.

9.6 Penalties and interest

Late payments result in interest charges at a rate being a sum of: (i) 200% of the Lombard rate (the stopa lombardowa, announced by the National Bank of Poland) and (ii) 2% (the rate calculated in this way cannot be lower than 8%) on the amount of any tax arrears (in March 2014 penalty interest equalled 10% per annum). A taxpayer may be eligible for a preferential penalty interest rate (75% of the standard penalty interest rate) if the taxpayer corrects its tax settlements, informs tax authorities about the reasons for the correction and pays the outstanding tax liability in full within seven days from the correction date.

Additionally, if the tax authorities conclude that an infringement of the tax law has occurred (which is either an offence or a minor offence under the Polish Penal Fiscal Code), they may try to hold the taxpayer (in the case of individuals) or the company's representatives (in the case of companies) liable for the infringement. The maximum amount of the fine that may be imposed under the Penal Fiscal Code in 2014 is PLN 16,128,000. Additionally, under the rules on the liability of collective entities for acts prohibited under penalty, penal fiscal proceedings can lead to initiation of judicial proceedings against the collective entity (e.g. company), which may result in a financial penalty for the taxpayer. The maximum amount of the penalty may reach 3% of the revenues generated by the taxpayer during the financial year in which an offence or a minor offence was committed. However, the penalty cannot be less than PLN 1,000 or more than PLN 5,000,000.

10. Value added tax

10.1 General

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

10.2 Taxable supply

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

10.3 Rate

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 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 and related services. Usually, in order to apply zero VAT rate additional conditions need to be fulfilled.

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.

10.4 Registration

A Polish entity is required to register for VAT purposes once its annual turnover on transactions subject to VAT exceeds PLN 150,000. Foreign entrepreneurs have to register for VAT purposes in Poland before they start any VAT-able activity in Poland (except for limited and expressly listed cases).

Based on the Polish Fiscal Penal Code if an entity obliged to register for VAT purposes fails to fulfil this obligation, it is liable to pecuniary penalty for a fiscal offence at an amount determined in each case separately (multiples of the lowest monthly salary).

10.5 VAT grouping

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

10.6 Compliance

Invoicing

Transactions between VAT taxpayers have to be documented with invoices. The Polish VAT law strictly regulates the elements that should be included in invoices. In general, an invoice should contain at least the following obligatory data:

- 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 of the invoice that identifies the invoice;
- date of issue;
- date of supply of goods or services or the date of receipt of the prepayment in case this date is 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 the potential rebates, including these for the earlier payment, if they 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 divided according to particular VAT rates and tax exemptions*;
- VAT amount on total net sales value, divided according to particular VAT rates*;
- total amount due with the VAT amount due.

Please note that at the beginning of 2013 so called simplified invoices were introduced to the Polish VAT provisions. Such

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

EU VAT package

In January 2010 Polish VAT provisions were amended to accommodate the VAT package introduced into EU legislation. In general, the Polish provisions reflect the VAT Directive in this respect and services are subject to VAT in the country where the recipient of the services is established (with certain exceptions, especially concerning the services related to immovable property).

Filing

Registered VAT taxpayers are required to submit monthly or quarterly returns to the competent tax office and keep registers of purchases and sales subject to VAT. Additionally, registered VAT EU taxpayers performing Intra-Community acquisitions of goods into Poland and Intra-Community supplies of goods and services from Poland are also required to submit EC Listings returns on a monthly basis (or a quarterly basis – provided certain conditions are met).

Payment/refunds

The tax due to 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 has 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 is generally available.

Penalties

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

10.7 Application to non-residents

Entities without the status of a Polish resident (i.e. seated outside Poland) performing transactions taxable in Poland in accordance with the Polish VAT provisions (e.g. intra – Community acquisition of goods in the territory of Poland) are obliged to register for VAT purposes in Poland and, as a consequence, fulfil the obligations

imposed under Polish VAT law on registered VAT taxpayers. It should be noted however that the obligatory reverse-charge mechanism (settlement of tax by the purchaser) was introduced on 1 April 2011 in respect of the supply of goods and services by foreign taxpayers that do not have their fixed establishments for VAT purposes. Please note that starting from 1 April 2013 the reverse-charge mechanism is not applicable (with certain exceptions) to the supply of goods if the foreign taxpayer without fixed establishment in Poland being a supplier is registered for VAT purposes in Poland. In such a case a foreign supplier (not the purchaser) is obliged to charge VAT on these supplies in Poland.



11. Other Taxes

11.1 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 usufruct, and partnership or company deeds. The act provides however for a number of exemptions and exclusions.

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

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).

11.2 Transfer tax

Sale and exchange of goods, property and property rights may be subject to TCLT (as described in point 11.1 above). No other transfer taxes are levied in Poland.

11.3 Net worth/wealth tax

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

11.4 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 constructions is based on the tax book value.

11.5 Stamp duty

Stamp duty is imposed on certain activities undertaken by public administration, such as issuing 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 the public administration. The fixed fee varies approximately from EUR 1 to EUR 3,000. The amount can be higher for fees calculated on the basis of the value of certain investments.

11.6 Miscellaneous taxes

Local taxes

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

Customs duties

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, apply generally 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 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

Excise duties are levied on the 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 European Union. In particular, such goods can 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, seller of non-taxed excise goods, as well as any other entities explicitly specified by the law.

12. Office locations

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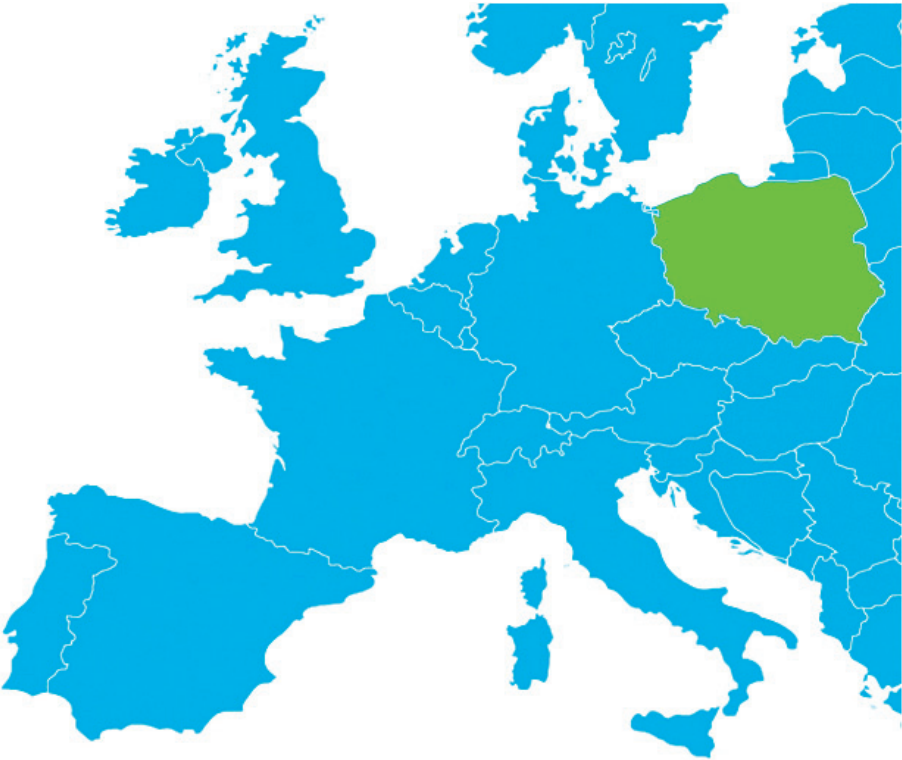
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