

# Doing Business in Poland

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# Contents

Section	Page
Introduction	04
Legal	05
• Political, legal and economic system	06
• Conducting Business	13
Taxes	23
• Corporate Income Tax (CIT)	24
• Standard Audit File	34
• Personal Income Tax (PIT)	35
• Tax on goods and services (VAT)	40
• Tax on civil law transactions	45
• Excise duty	47
• Local taxes and charges	48
Labour	49
Audit	57
Trade and finance	63
Infrastructure	68

# Introduction

This guide to doing business in Poland will shed light on the key aspects of undertaking business and investing in Poland. With over 38.5 million people, it is the largest market among Central and Eastern European countries and the sixth-largest economy in the European Union.

Over the past 25 years, Poland has emerged as an important and dynamic economy. The country's convenient location in the heart of Europe makes Poland the perfect investment destination between Eastern and Western markets.

After the political changes of 1989 and the transition to a market-oriented economy, Poland has achieved significant economic success. In 2004 it became a member of the European Union (EU). Driven by extensive domestic demand, exports and foreign investment, Poland has developed strong economic fundamentals. This was clearly visible in 2009 when Poland remained the only country in the EU that managed to maintain positive GDP growth. Between 2006 and 2016, the cumulative GDP growth in Poland reached 41.6 percent.

According to Eurostat data for 2015, the Polish economy grew by 2.7 percent, which was still one of the highest growth rates among EU countries. In 2017 Poland's real GDP growth is expected to average 4 percent. All this indicates that Poland will continue to be one of the EU leaders in economic growth rates also in the years to come.

There are several factors that contribute to the rapid growth of Poland's economy and make the country an attractive destination for foreign investors at the same time.

Poland offers a well-educated workforce with competitive labour costs. Finding suitable personnel should not be a challenge for potential investors. Salaries and wages in Poland, despite a visible rising trend, are still markedly lower than in Western European countries.

## People

Poland's population of over 38.5 million people forms a large and dynamic consumer market, again one of the biggest in Europe. Strong internal consumption is one of the key economic drivers that contribute to the country's economic stability. The ratio of exports to domestic demand in Poland stands at around 50 percent, setting it apart from other CEE countries where it exceeds 75 percent.

## Location

The country has a very favourable location in the centre of Europe at the intersection of major trans-European transportation routes. Goods can be easily shipped from Poland to all European countries, reaching more than 500 million consumers. Poland's major trade partners are, among others, Germany, Russia, China, France, the UK, Italy, Hungary, Ukraine and Spain.

## Government support

Poland's investment appeal is further augmented by a range of subsidies and tax incentives available to investors. There are 14 Special Economic Zones (SEZ) in operation today, offering such inducements as tax exemptions, employment incentives and well-prepared investment sites to companies willing to bring their business there. SEZs will operate until 2026.

## Potential for growth

Poland's economic growth is in part due to the sizable support from the EU structural and cohesion funds. Poland is the main beneficiary of these funds, having received EUR 68.7 billion from 2007 to 2013, and expecting EUR 82.5 billion pledged for the years 2014-2020. The second round of the EU funding is still earmarked for investments in transport infrastructure, but the highest increase in expenditure will be in the area of innovation and enterprise support.

Please note that this guide is intended to cover some of the most typical issues investors might encounter in Poland, while certain industries and areas of business are subject to special regulation and so companies intending to invest in these areas are encouraged to seek further legal advice.



**Legal**

# Political, legal and economic system

## Political and legal system

Poland's key political and socio-economic principles are enshrined in the Constitution of 2 April 1997. It states that Poland is a Parliamentary Republic with a democratically elected government. The system is founded on the principle of the separation of powers with the typical division of branches into a legislature, an executive and a judiciary.

Legislative power is executed by the Sejm (the lower house) and the Senat (the upper house) jointly creating a bicameral Parliament. There are 460 members of the Sejm, while the Senat comprises 100 senators. They are all elected directly by the People for four-year terms of office. The Parliament not only makes law, but also exercises control over government and is empowered to appoint officials to key Polish authorities.

Poland has a multi-party system with three main political parties that currently hold sway: Law and Justice (Prawo i Sprawiedliwość), the Civic Platform (Platforma Obywatelska), the "Kukiz 15".

Executive power is in the hands of the President and the Council of Ministers. The President is the head of state representing the country in the international arena and is elected directly by the People for a five-year term of office.

The Council of Ministers is led by the Prime Minister (appointed by the President), who then nominates Deputy Prime Ministers and other Ministers. The Council of Ministers determines both domestic and foreign policy matters. Judiciary power is vested in impartial and independent courts and tribunals and executed by the Supreme Court, common courts, administrative courts and military courts. Additionally, certain particular cases require a decision of the Constitutional Tribunal or the State Tribunal.

Historically, Poland's legal system belongs to the continental (civil) legal tradition, which means that exclusive law-making powers are vested in the legislative branch (the Parliament) which enacts statutes as the main source of generally applicable law. These written laws form a hierarchy in which lower-ranking laws are subordinate to higher-ranking laws. The highest ranking law in Poland is the Constitution, followed by international agreements ratified on the basis of prior statutory acceptance, acts of Parliament, ordinances and local legislation. Moreover, the provisions of European Union law apply according to the principles laid down in the European Treaties.

## Decentralisation of public authority

In accordance with the Polish Constitution, the public power is decentralised. Therefore, the country has three tiers of regional administration, with voivodeships (provinces, 16), poviats (counties, 380) and gminas (communes, 2478). Administrative responsibilities are divided between government (central) administration, headed by the Council of Ministers (as part of the executive), and self-government authorities at local and regional levels which are also empowered to adopt laws within the scope of their competence.

## Economic system

The Polish economic system is founded on the principles of freedom of establishment, freedom to provide services, and private ownership, guided by the spirit of solidarity, dialogue and cooperation of social partners.



# Political, legal and economic system

## Protection of personal data

Principles of personal data protection are laid down in the Personal Data Protection Act of 29 August 1997, which is in line with European Union law.

Pursuant to the aforesaid Act, the term **personal data** refers to any information related to:

- an identified person;
- an identifiable person.

Personal data protection provisions are binding upon entities referred to as **data administrators**, which include national authorities, local authorities, as well as state and municipal organisational units, and also non-public entities carrying out public tasks and non-public entities which process personal data in connection with their business or professional activity or the implementation of statutory objectives.

In accordance with statutory provisions, data processing is only allowed if:

1. the person that the data applies to (data subject) gives her/his consent, unless that person's data is being deleted;
2. it is necessary for the purposes of exercising a right or fulfilment of a duty stipulated by law;
3. it is necessary for contract performance and the person that the data applies to is a party to the contract, or where certain actions must be undertaken prior to executing the contract at the request of the data subject;
4. it is necessary in the performance of statutory tasks undertaken for the public good;
5. it is necessary to fulfil legally justified objectives realised by data administrators or data recipients, and such processing does not infringe upon the rights and freedoms of the data subject.

Personal data protection activities are spearheaded by the Inspector General for Personal Data Protection (GIODO), who keeps the GIODO register to which all data administrators are obliged to report data files.

If personal data protection provisions are breached, the offender – depending on the severity of the offence – is liable to a fine, restriction of liberty or imprisonment ranging from one year to three years.

## Exchange controls

Enforcing foreign exchange law is a duty of the President of the National Bank of Poland (NBP).

In principle, no restrictions apply to foreign exchange transactions between Poland and the Member States of the European Union, countries of the European Economic Area (EEA), or the Organisation for Economic Cooperation and Development (OECD).

In turn, exchange operations with third countries – non-EU, non-EEA and non-OECD – require exchange control approvals. Restrictions apply to currency transactions involved in trading in securities, acquisition of company stock and trading in receivables. General exchange control approvals are granted in the form of ordinances by the Minister of Finance, while individual approvals can be obtained from the President of the NBP.

Any international money transfers or domestic transactions involving foreign currencies in excess of EUR 15,000 must be processed through authorised banks. The bank is also authorised to request information on the currency transactions completed via the bank, and is obliged to report considerable amounts of national or foreign currency taken into and out of the country.

# Political, legal and economic system

## Anti-money laundering provisions

Under Polish law, certain institutions referred to as **obliged institutions** (including financial institutions, investment funds, insurers – applicable to life insurance, notaries, accounting services providers, businesses accepting cash payments for goods equivalent to EUR 15,000 or more) are obliged to undertake security measures with respect to all their customers – which includes risk assessment for money laundering and terrorist financing.

The institution of the Inspector General for Financial Information has been placed at the head of the anti-money laundering framework to receive information regarding suspicious transactions and activity collected by the obliged institutions as well as co-operating units – central and local administration bodies and other state organisational units, NBP, Polish Financial Supervision Authority and Supreme Audit Office.

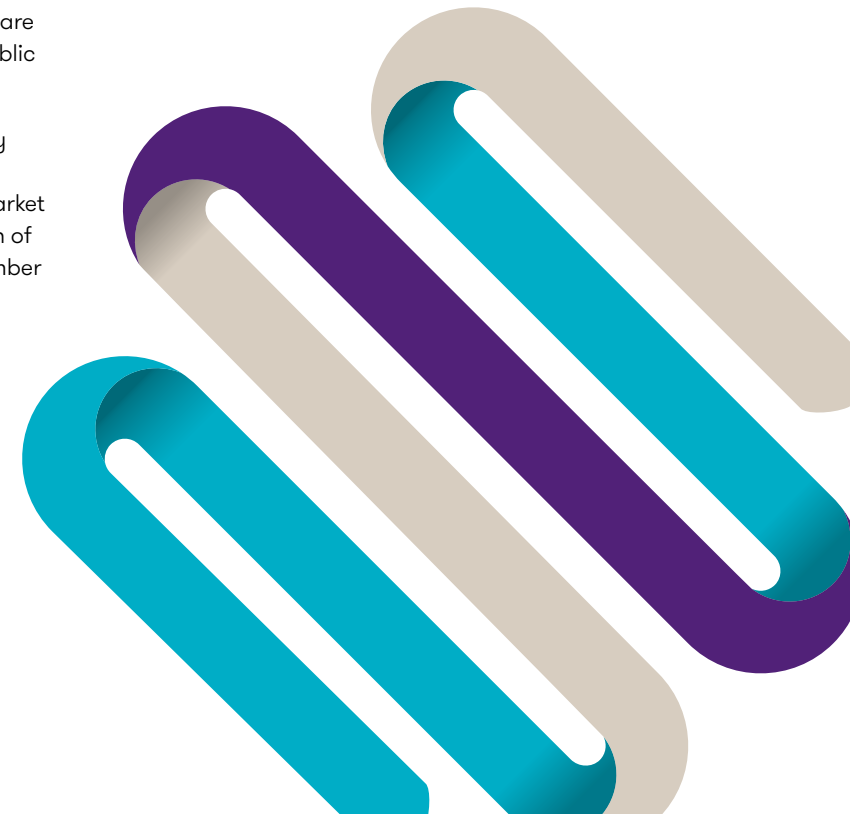
An infringement of the statutory requirements is punishable by a fine imposed by the Inspector General by way of decision. Moreover, individuals acting on behalf or in the interest of an obliged institution who fail to comply with the statutory requirements may face imprisonment.

## Intellectual property rights

In Poland, the protection of intellectual property rights is extended in accordance with the Industrial Property Rights Act of 30 June 2000 and under the Copyright and Related Rights Act of 4 April 1994.

Applications for intellectual property protection in Poland are examined and registered by the Patent Office of the Republic of Poland.

Moreover, Poland is covered by the protection extended by the European Patent Office based in Munich. Equally, the Alicante-based Office for Harmonisation in the Internal Market (Trademarks and Designs) is responsible for the protection of trademarks and industrial designs in European Union Member States.





# Political, legal and economic system

## COPYRIGHT

Copyright covers any work, i.e. manifestation of creative activity of an individual nature, established in any form, irrespective of its value, designation or manner of expression. In particular, original creative works may include: works expressed in words, mathematical symbols, graphic signs (literary, journalistic, scientific, cartographic and computer software); artistic works; photographic works; string musical instruments; industrial design works; architectural works, urban planning works; musical works, including any accompanying words; stage works, stage musical works, choreographic and miming works; audiovisual works (including cinematography).

### Protection granted

Protection is extended only to the manner of expression. On the other hand, inventions, ideas, procedures, methods, principles of operation and mathematical concepts are not subject to protection under copyright.

The work is protected by copyright once it is established, even though it may remain unfinished.

Copyright protection is extended to the author irrespective of compliance with any formalities.

The scope of copyright protection includes personal (moral) and property (economic) rights in compliance with the Berne Convention.

### Infringements

Proprietary copyright or related rights are infringed when a work or artistic performance is used without the consent of its author, performer or their legal successors, and without remuneration.

Examples of copyright infringement include: recording works without consent, reproduction, sale, public performance or broadcasting via radio or television.

### Duration

Economic rights are covered by protection for 70 years starting from:

- the author's death;
- the death of the last remaining co-author – for collaborative work;
- the first publication in the case of works whose author is not known;
- the publication of the work, and if that never took place – the date the work was established – in the case where the economic rights are owned by a person other than the author;
- the death of the last remaining of the following people: main director, screenwriter, author of dialogues, composer of the soundtrack accompanying audiovisual work.

The author's personal (moral) rights are subject to protection for an indefinite period of time.

# Political, legal and economic system

## PATENTS

Patents are a form of protection granted to inventions which are new, involve an inventive step and lend themselves to industrial applications – irrespective of the field of technology. Patents are awarded by the Polish Patent Office.

<b>Protection granted</b>	The patent holder enjoys a monopoly over their invention for a given period. If anyone else uses the invention for professional and/or commercial purposes without consent, it constitutes an infringement of the patent holder's rights. The monopoly is subject to certain exceptions.
<b>Infringements</b>	A patent infringement may involve: 1) production, use, offering, marketing or importing of the patented invention for professional and/or commercial purposes; or 2) using the invented method, as well as using, offering, marketing or importing of the products made through the use of this method for these purposes.
<b>Duration</b>	Patent protection runs for 20 years from the date of application to the Patent Office.
<b>European Patent</b>	Obtaining protective rights in Poland does not provide protection in the rest of Europe. In order to protect an invention in more than 30 European countries, an application needs to be submitted with the European Patent Office in Munich which awards European patents.
<b>Unitary Patent</b>	Poland (along with 25 other EU countries) has signed the Unitary Patent Agreement, providing for a new single patent right covering the majority of EU Member States. The Unitary Patent will enjoy unitary effect, which means that it will be enforceable across the entire territory through one action before the Unified Patent Court (in contrast to the existing European Patent which operates as a bundle of separate national patents in each of the designated jurisdictions). The Unitary patents has not yet been introduced to the EU Member States. Additionally, for the time being Poland has not signed the Unified Patent Court Agreement (along with Croatia and Spain).

# Political, legal and economic system

## TRADEMARKS

Any sign capable of being represented in graphic form can be a trademark if it can be used to differentiate the goods of one business from those of another business. A trademark may include a word, drawing, ornament, colour arrangement, spatial form, including the form of the product or its packaging, as well as a tune or other sound.

### Protection granted

Trademark applications are received and examined by the Patent Office of the Republic of Poland.

By securing trademark protection, the owner acquires the right to use the trademark for commercial or professional purposes across Poland to the exclusion of other persons who do not have the owner's consent.

In order to extend trademark protection to the rest of the European Union, an application needs to be submitted for a registration of a Community trademark, which may be done directly with OHIM in Alicante, or through the agency of the Polish Patent Office which is obliged to forward the application to OHIM.

### Infringements

A trademark infringement involves an unlawful commercial use:

- 1) of a sign identical to the registered trademark with regard to identical goods;
- 2) of a sign identical or similar to the registered trademark with regard to identical or similar goods if there is a risk of misleading customers, including but not limited to the risk of associating the sign with the registered trademark;
- 3) of a sign identical or similar to a well-known trademark, registered for any goods if such use takes unfair advantage of, or is detrimental to, the distinctive character or reputation of a prior registered mark.

Examples of copyright infringement include: recording works without consent, reproduction, sale, public performance or broadcasting via radio or television.

### Duration

Trademark protection runs for 10 years from the moment of submitting a trademark application with the Polish Patent Office.

At the owner's request, trademark protection may be renewed for additional 10-year periods.

# Political, legal and economic system

## DESIGNS

An industrial design is a new, individualised appearance of a product or its part, resulting in particular from the features of its lines, contours, shape, colours, texture or materials used in the product or in its ornamentation. A product is any object manufactured or hand-crafted, including but not limited to the packaging, graphic symbols and typefaces, excluding computer software.

### Protection granted

The legal protection of industrial designs takes effect following the filing of the application and depends on effective registration, confirmed by the protection certificate issued by the Patent Office.

Industrial design protection grants the right of exclusive use of the design in a commercial or business activity. A registration certificate confers its holder the right to exclude third parties from:

- manufacturing;
- offering;
- marketing;
- importing;
- exporting;
- using the product featuring the design;
- storing said product for such purposes.

To extend protection across all EU Member States, an industrial design may also be registered with the Office for Harmonisation of the Internal Market (OHIM).

### Infringements

An infringement of an industrial design takes place when a competing design does not give a different overall impression to users. Consequently, users of the product may be confused as to its origin.

### Duration

A right in registration of a industrial design is granted for 25 years from the date the application is filed with the Patent Office, divided into 5-year terms. An unregistered Community design is protected for a period of three years after the design is first made available to the public.

# Conducting Business in Poland

Poland's legal framework for conducting business is founded on the Economic Freedom Act of 2 July 2004 which defines economic activity as

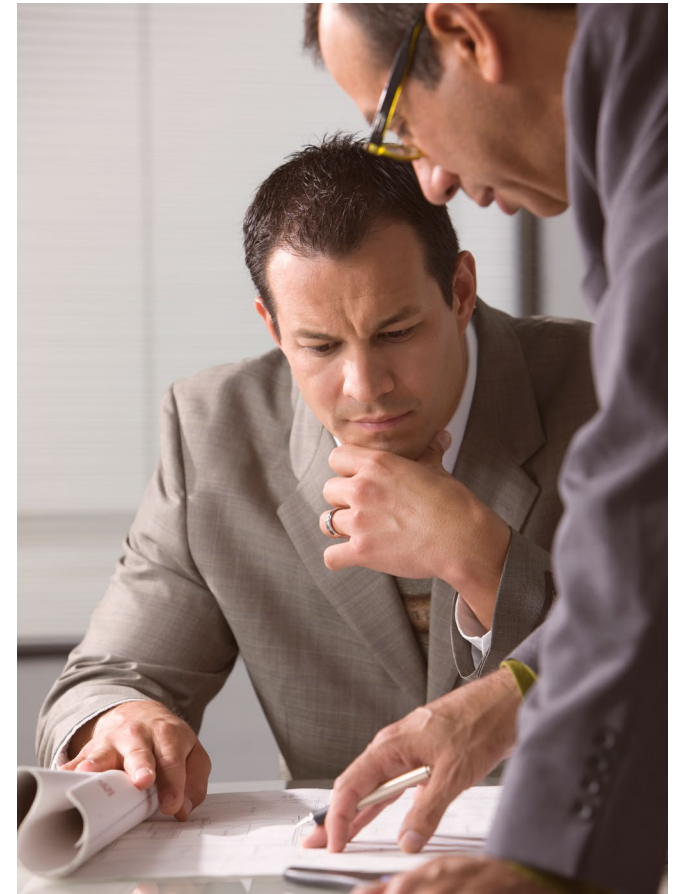
“profit-gaining activity in the field of production, construction, trade, service, prospecting for, exploration and extraction of natural resources, as well as professional activity entered into with an expectation of profit and conducted in an organised and continuous manner”.

The legal forms of conducting business in Poland are regulated by the Economic Freedom Act which lays down the key principles and legal forms for business activity in Poland, as well as in the Commercial Companies Code of 15 September 2000, which provides detailed regulations on companies and partnerships.

Being an EU Member State, Poland applies the same rules for setting up and conducting business to Polish citizens as to every citizen of a Member State of the European Union (EU) or the European Free Trade Association (EFTA) belonging to the European Economic Area (EEA). There is also a strictly defined group of non-EU and non-EFTA persons whose residence in Poland is duly regulated who are also subject to the rules applicable to Polish entities.

Investors originating from the EU, EFTA countries and other persons whose residence in Poland is duly regulated may choose from among the following legal forms of conducting business:

- sole trader;
- civil-law partnership – used for joint investment projects or consortia;
- companies and partnerships defined by the Commercial Companies Code, that is:
  - registered partnership;
  - professional partnership;
  - limited partnership;
  - limited joint-stock partnership;
  - limited liability company;
  - joint-stock company;
- European Company;
- European Economic Interest Group;
- additionally, foreign businesses may operate in the form of a branch office or a representative office in Poland.



# Conducting Business in Poland

## Characteristics of the most popular legal forms of running business in Poland for foreign investors

For many practical reasons, foreign investors are most likely to run their business in Poland through a limited liability company, joint-stock company or a branch office of a foreign entity. The choice between the aforesaid possibilities depends mostly on the investor's needs and expectations. Additionally, because of the many significant differences between the individual options, the legal framework can be easily tailored to a particular business model and the scale of investment being planned. The individual business forms are presented in detail below, however, as a rule they all need to be registered in the business register kept by the National Court Register and several other Polish institutions in order to enjoy full legal capacity and the status of entrepreneurs in Poland. Equally, they all need to comply with the provisions of both Polish and European law and perform the duties provided for by these laws.

It is also worth mentioning that foreign companies commonly run their business in Poland through a representative office, however, because of statutory provisions, the scope of activity of such offices is limited to representative and marketing functions only. A wider scope of operation is simply not allowed in this form. On the plus side, a representative office may employ both Polish and foreign nationals. The representative office must be registered with the register of representative offices which is held by the Ministry of Development.



### SPÓŁKA Z OGRANICZONĄ ODPOWIEDZIALNOŚCIĄ (SP. Z O.O.) – LIMITED LIABILITY COMPANY

- is the most popular legal form for newly established entities;
- has corporate personality, separate from its shareholders or directors and as a corporate person enjoys full legal capacity;
- is incorporated by signing its articles of association stipulating the internal regulations and from that moment on it can be a party to legally binding contracts, however, in order to obtain full legal capacity it needs to be registered with the business register;
- is subject to the minimum share capital requirement amounting to PLN 5,000 (approx. EUR 1,200), which can be raised through contributions in cash or in kind (must be paid up before registration);
- is obliged to keep accounting books;
- can be owned by one or more shareholders, but a limited liability company cannot be formed solely by another limited liability company with one shareholder;
- the formal bodies of a limited liability company are the general meeting (consisting of all shareholders) and the board of directors;
- there are no obstacles to foreign persons (legal or natural) becoming shareholders of Polish companies;
- there are no reasons why a foreigner could not be a director of a Polish limited liability company, however only natural persons are allowed to perform such duties;
- the supervisory board or audit committee are optional, unless the limited liability company has a share capital exceeding PLN 500,000 and more than 25 shareholders;
- shareholders are not liable for the debts of the limited liability company, even though the burden of responsibility for the company's business lies mainly with its directors.

# Conducting Business in Poland

## Characteristics of the most popular legal forms of running business in Poland for foreign investors



### SPÓŁKA AKCYJNA (S.A.) – JOINT-STOCK COMPANY

- has corporate personality, separate from its shareholders or directors and as a corporate person enjoys full legal capacity;
- is incorporated by signing its articles of association stipulating the internal regulations and from that moment on it can be a party to legally binding contracts, however, in order to obtain full legal capacity it needs to be registered with the business register;
- is subject to the minimum share capital requirement of PLN 100,000 (approx. EUR 24,000), which can be raised through contributions in cash or in kind;
- can be listed at the stock exchange;
- is obliged to keep accounting books;
- has one or more founding members (but a limited liability company with one shareholder cannot be the sole founding member of a joint-stock company);
- the formal bodies of a joint-stock company are: the general meeting (of shareholders), the board of directors and the supervisory board;
- there are no obstacles to foreign persons (legal or natural) becoming shareholders of Polish companies;
- there are no reasons why a foreigner could not be a director of a Polish joint-stock company, however only a natural person is allowed to perform such duties;
- the shareholders of a joint-stock company are not personally liable for the debts of the company, even though the burden of responsibility for the company's business lies mainly with its directors.



# Conducting Business in Poland

In order to establish either a limited liability company or a joint stock company, the following actions are required:

**1.** The founders should sign the company's articles of association in notary deed

**2.** The board of directors should be appointed

**3.** A bank account should be opened in a bank operating in Poland. The company shall also conclude the agreement for its registered office (tenancy agreement or to buy premises)

**4.** The contributions to cover the share capital should be paid into the Polish bank account of the company by shareholders. In case of limited liability company it shall be done in full before filing registration application with the National Court Register, whereas share capital of joint stock company does not have to be fully covered before that moment

**5.** The application shall be filed with the commercial register of the National Court Register in order to have the company fully registered

**6.** The company should be registered with the National Court Register and since that moment it enjoys full corporate personality

**7.** The company should be registered with several other institutions (e.g. the Tax Office for income tax or VAT purposes, or ZUS for social security purposes)

It shall be noted, however, that under the Polish law there are two possibilities for establishing the limited liability company. First one is the regular way (as described above), which is generally a slightly longer (approximately 3-4 weeks since collecting all the necessary documents) but on the other hand it allows to introduce to the articles of association of the company provisions adjusted to the investor's will. Alternatively, there is a possibility to establish the limited liability company via Internet on the basis of the template articles of association available in the Polish Government's electronic system which shall take less time (approximately 1 week) but on the other hand is very standardised and is not flexible to the investor's possible needs. The on-line registration of a limited liability company in Poland requires the use of qualified electronic signature in compliance with EU regulation 910/2014 of 23 July 2014 (eIDAS).



# Conducting Business in Poland

The costs related to setting up subsidiary in Poland in form of limited liability company (sp. z o.o.) joint-stock company (S.A.) are as follow:



## Costs of notary deed

Costs of notary deed depends on the value of share capital of the company (the minimum share capital for limited liability company is PLN 5 000 and for joint-stock company is 50 000). The fees looks as follows:

No.	Share Capital	Amount
1	up to PLN 3,000	PLN 100;
2	more than PLN 3,000 up to PLN 10,000	PLN 100 + 3% on the surplus over PLN 3,000;
3	more than PLN 10,000 up to PLN 30,000	PLN 310 + 2% on the surplus over PLN 10,000;
4	more than PLN 30,000 up to PLN 60,000	PLN 710 + 1% on the surplus over PLN 30,000;
5	more than PLN 60,000 up to PLN 1,000,000	PLN 1010 + 0.4% on the surplus over PLN 60,000;
6	more than PLN 1,000,000 up to PLN 2,000,000	PLN 4,770 + 0.2% on the surplus over PLN 1,000,000;
7	more than PLN 2,000,000	PLN 6,770 + 0.25% on the surplus over PLN 2,000,000, however no more than PLN 10,000

The remuneration of the notary public shall be increased by the VAT (23%).



## Court fees and stamp duty fees

- registering the company with the commercial register (National Court Register) and mandatory announcement in Monitor Sądowy i Gospodarczy – PLN 600;
- stamp duty on powers of attorney – PLN 17 per one application submitted.



## Tax

It is required to cover tax on civil law transactions equal to 0,5% of the value of share capital reduced by the remuneration of notary public and court fees.



## Other costs

Other related costs include in particular costs of sworn translation of foreign documents. The fee depends on the amount of pages of documents required to be translated. Additionally, the costs may be increased by costs of shipments, travels, etc.

It shall be noted, however, that registration of the limited liability company via Internet is significantly cheaper. The costs of such registration do not include notarial costs and the court fee is lower and equal to PLN 350.

# Conducting Business in Poland

## Characteristics of the most popular legal forms of running business in Poland for foreign investors



### ODDZIAŁ – BRANCH OFFICE OF FOREIGN ENTITY

- has no legal personality;
- is part of a foreign entity and nearly always leads to the formation of a permanent establishment;
- may only conduct activities within the scope of business of the foreign investor;
- has to be registered with the business register of the National Court Register under the name of the foreign business adding “branch in Poland”;
- is obliged to keep accounting books that should include all the data necessary to establish the taxable base;
- payments between the parent company and branch office are free of any taxes;
- the company pays corporate income tax at the standard rate of 19% on the income attributable to the operations of the Polish branch;
- if in light of the relevant double tax treaty, the business presence in Poland does not amount to a permanent establishment, its profits are not subject to Polish corporate income tax.

#### In order to establish branch of foreign entity in Poland the following actions are required:

- The foreign entity should adopt the resolutions on establishing the Polish subsidiary and providing it with particular assets;
- The subsidiary should be registered with the National Court Register and other institutions.

# Conducting Business in Poland

Crucial differences between branch and the limited liability company or joint stock company are presented in table below:

	The Branch	Limited liability company/joint stock company
Legal capacity	The branch is organizationally and technically separated part of founding company, conducting only a part of core activity of founding company. The branch does not have legal personality, as well as legal capacity. The founding company of the branch is responsible for branch's liability entirety	The company is a separate entity with legal personality and capacity. As the rule, the founders are not liable for the company debts
Minimum share capital	No share capital	PLN 5,000 for limited liability company and PLN 50,000 for joint stock company
Financing	The branch does not require any method of financing – as a legal part of a founding company is free to transfer financial means on its bank account.	Company shall be financed by signing contract for provision of services with mother company and charge it through VAT invoices.  It is also possible to finance the start-up of the company through equity (as an increase of share capital or additional payments which are put into the reserve capital) or debt.
Withdrawal of profits	Entire property belonging to the branch constitute property of Mother company (branch is only part of mother company, its founding company), so financial means accumulated by the branch may be transferred without necessity to fulfil any legal procedures.	The withdrawal of profits generated by the company need the be perform in a way of dividend payment which is taxed in Poland with the withholding tax.
Registration in Poland	Both need registration in the entrepreneurs register of the National Court Register which may take between 4 to 5 weeks.	
Costs of establishing and registration	The total costs include: 1. There is no notarial costs 2. There is no tax on civil law transactions 3. Court fees and stamp duty fees – PLN 600 + 17 4. Other fees such as sworn translation of documents, shipment, travels	The total costs include: 1. Notarial costs plus VAT 2. Tax on civil law transactions 3. Court fees and stamp duty fees – PLN 600 + 17 4. Other fees such as sworn translation of documents, shipment, travels
Accounting books	Both company and the branch needs to keep accounting books in Poland.	
Separate employee status	Both legal forms may have a status of independent employer in Poland.	

# Conducting Business in Poland

## Characteristics of other legal forms of doing business in Poland



### SPÓŁKA JAWNA (SP.J.) – REGISTERED PARTNERSHIP

- has no legal personality;
- has to be registered with the National Court Register;
- the deed of a registered partnership does not need to be made in notary deed form;
- each partner is personally liable for the partnership's debts with all their assets, jointly and severally with other partners and the partnership;
- there is a possibility to establish the registered partnership Internet on the basis of the template, however it requires the use of qualified electronic signature in compliance with EU regulation 910/2014 of 23 July 2014 (eIDAS).



### SPÓŁKA PARTNERSKA (SP.P.) – PROFESSIONAL PARTNERSHIP

- has no legal personality;
- has to be registered with the National Court Register;
- a professional partnership is established by partners for the purpose of practicing their profession and is thus only available to “free professions”, e.g.: architects, civil engineers, chartered accountants, insurance brokers, tax advisors, auditors, doctors, etc.;
- a partner is liable only for the obligations arising from activities conducted personally and by the people working for the partnership under his/her management;
- a notarial deed is required to establish a professional partnership;
- each partner is entitled to represent the partnership independently, unless stipulated otherwise in the articles of association.

# Conducting Business in Poland

## Characteristics of other legal forms of doing business in Poland



### **SPÓŁKA KOMANDYTOWA (SP.K.) LIMITED PARTNERSHIP**

- has no legal personality;
- has to be registered with the National Court Register;
- has two types of partners:
  - a limited partner, whose liability related to the partnership's business is limited;
  - a general partner, who shares unlimited joint and several liability with the other general partners and the partnership itself for the debts of the partnership;
- the deed of a limited partnership must be made in notary deed form;
- there is a possibility to establish the limited partnership Internet on the basis of the template, however it requires the use of qualified electronic signature in compliance with EU regulation 910/2014 of 23 July 2014 (eIDAS).



### **SPÓŁKA KOMANDYTOWO-AKCYJNA (S.K.A.) LIMITED JOINT-STOCK PARTNERSHIP**

- has no legal personality;
- has to be registered with the National Court Register;
- is a hybrid of a joint stock company and a limited partnership;
- has two types of partners:
  - a general partner, whose liability for all the debts of the partnership is unlimited;
  - a shareholder, who is not liable for the debts of the partnership but is obliged to acquire and pay up the shares;
- may have such corporate bodies as the general meeting and supervisory board (but there is no board of directors);
- the minimum contribution to the partnership is PLN 50,000 (approx. EUR 12,000);
- the deed of a limited joint-stock company must be made in notary deed form.

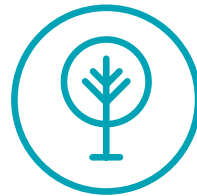
# Conducting Business in Poland

## Timeframes of setting up business in Poland

**It takes on average between one and two months to establish any type of partnership or company and prepare it for commencing operations. Several alternatives are available if this time is regarded as too long:**



The investor may buy a ready-made company/partnership (a shelf company) which has no operations or significant assets and was created with a view to such sale.



The investor may undertake operations while business registration is still in progress – this option is available in case of limited liability companies and joint-stock companies in the process of formation.



The company/partnership may be established through electronic filing, without involving a notary (option available with limited liability companies, registered partnerships and limited partnerships,). In this case, the registration process shall be completed within approximately 24 hours of filing an online application, however, in order for this to be possible, certain information and documents must be acquired in advance and the use of qualified electronic signature in compliance with EU regulation 910/2014 of 23 July 2014 (eIDAS) is required.



**Taxes**

# Corporate Income Tax (CIT)

## Scope

All matters related to corporate income tax are comprehensively regulated in the Corporate Income Tax Act (CIT Act).

The following entities are obliged to pay corporate income tax:

- legal persons (in particular companies and companies in the process of formation);
- organisations without legal personality (excluding partnerships);
- other entities, including:
  - limited joint-stock partnerships;
  - foreign partnerships without legal personality, established in another state under whose tax regime they are treated as legal persons and are subject to taxation on their worldwide income in that state;
- tax capital groups.

Corporate tax does not apply to partnerships constituted under civil law (apart from joint-stock partnerships) and registered in Poland. Any income earned by the partnership is allocated to its partners and then pooled together with their other earnings and taxable with corporate or personal income tax depending on the tax status of the partners.

Taxpayers established in Poland (having a registered office or place of management in the country) are subject to taxation on the entirety of their income, irrespective of where it is earned (the so-called unlimited tax liability). Taxpayers established outside of Poland are subject to taxation only on the income earned within the territory of Poland (the so-called limited tax liability). Since 01.01.2017 CIT Act specifies categories of revenues of non-residents which are subject of taxation if they are derived from the territory of Poland including inter alia revenues from:

- all kinds of activity carried out in Poland, including the permanent establishment located in Poland;
- real estate, rights to real estate including disposal of real estate and any sort of rights connected thereto;
- securities and derivatives which are not admitted for public trading in Poland on the regulated market, including disposal of these securities and derivatives and realisation of rights connected thereto;
- disposal of shares (stock) in company, all rights and obligations in partnership without legal personality or certificates of participation in investment fund, in which at least 50% of asset value is made of real estate located in Poland.

Branches of non-residents are taxed according to the same principles as Polish taxpayers (however on basis of Double Tax Treaties it may occur that branch may not be CIT taxpayer, especially if it performs activities of auxiliary character or realises function of representative office). In case of transfers between head office and its Polish branch, no withholding tax is deductible since from legal perspective, the head office and the branch constitute parts of the same legal person.

With regard to branches there are many practical problems which are not regulated by detailed tax provisions; taxable base has to be determined on the basis of accurate accounting records kept in PLN. Additionally the branch should take all measures to allocate revenues and costs to the branch's activity accurately.





# Corporate Income Tax (CIT)

## Scope of taxation

In principle, corporate tax is levied on net income (revenues less expenses) regardless of the sources of revenues from which this income was derived. In case of a few revenue items such as dividends, interest and royalties – gross income constitutes the taxable base.

Net income is defined as the surplus of the aggregate amount of revenues over the tax-deductible expenses related to earning the revenues, generated during a tax year. If the tax-deductible expenses exceed total revenues, the difference constitutes a loss.

Net income is calculated on the basis of accounting records and in practice it is determined through appropriate tax adjustments of accounting result.

## Tax loss carry-forward

Tax loss may be deducted from revenues over five tax years subsequent to the year in which tax loss was incurred; in any single year of that period, the deduction cannot exceed 50% of the generated annual tax loss.

There are exemptions relating to certain categories of losses, which cannot be taken into account and consumed, these are losses of business subject to transformation, merger, acquisition or division, with the exception of a transformation of a company which is a taxpayer of CIT into another company which is also a taxpayer of CIT.

## Tax capital group

Tax capital groups may only be created by joint-stock companies or limited liability companies, whose registered offices are within Polish territory. To establish such a group, such companies execute an agreement in a notarised form under which a tax capital group is constituted for a period of at least three years. The agreement is then subject to registration with the Head of the Tax Office. Additional requirements apply to establishing a tax consolidated group for example:

- the average share capital of each of these companies amounts to at least PLN 1,000,000;
- the holding company holds at least 95% of the share capital in subsidiaries;
- subsidiaries do not hold shares in the share capital of other companies in the group;
- none of the companies is in default of taxes constituting the income of the state budget;
- none of the companies enjoys statutory income tax exemptions;
- the companies are not involved in transactions with related parties in violation of the arm's length principle;
- the tax capital group as a whole generates net income accounting for no less than 3% of total revenues.

The companies making up a tax capital group elect one company to represent the group and pay the income tax and income tax advances. However, each member of the tax consolidated group is jointly and severally liable for income tax liabilities throughout the term of the agreement.

Tax is payable on net income, i.e. the difference between the total revenue of all the companies in the group over total losses in a given tax year.

## Revenues

Revenues are not defined under the Polish CIT Act. Taxable income may be generated from various sources, including those listed in the CIT Act:

- received money, monetary values, including also foreign exchange gains or losses;
- the value of things or rights received free of charge or partially free of charge;
- the value of liabilities redeemed or expired.



# Corporate Income Tax (CIT)

The approach to recognising the taxable income of business entities is known as the accrual principle which means that revenues are recognized as taxable on the day of releasing things, selling property rights, performing the service in whole or in part, but no later than as at the day:

- when the invoice is issued;
- when the amount due is paid.

Separate rules apply to the qualification of revenues in the case of services billed in the settlement period that should be recognised on the last day of the settlement period specified in the agreement or on the invoice, but not less frequently than once a year. Certain categories of revenues (as for example interest) are deemed to have arisen on the date when the payment is received.

At the same time, various inflows are not recognised as revenues, for example:

- payments collected or receivables accrued on account of the supply of goods and services which will be completed in future reporting periods;
- loans (borrowings) received or repaid;
- inflows related to the creation or increase of share capital;
- taxes and charges constituting the income of the state budget or budgets of local authorities not recognised as tax-deductible expenses, returned, redeemed or exempt;

- output VAT;
- additional contributions to a limited liability company.

## Tax-deductible expenses

In principle, tax-deductible expenses include the costs incurred for the purposes of generating revenues, retaining or protecting the source of revenues. Tax-deductible expenses include:

- direct expenses (i.e. expenses that can be assigned to particular revenues) pertaining to the revenues of the tax year should be recognized:
  - in the tax year when the related revenues were earned;
  - in the subsequent tax year if the expense is related to the previous year but it was incurred after the financial statements were prepared and/or the tax return was filed relating to the tax year when the related revenue was earned;
- indirect costs, which should be recognized as tax deductible:
  - on the day when the expense was incurred;
  - over the course of at least two tax years, if an indirect expense item is related to a period longer than one tax year and it is impossible to attribute it to a particular tax year.

There are also several categories of expenses listed in the CIT Act which cannot be classified as tax-deductible. For instance, representation expenses, payments for expenses made without using the payment account, outlay on the repayment of borrowings, certain penalties and fines, donations, benefits granted to supervisory board members (excluding remuneration), partial depreciation charges on valuable passenger cars, as well as certain liquidated damages which do not constitute tax-deductible expenses.

Complete catalogue of expenses which cannot be deducted from taxes includes over 70 items. Expenses related to revenues which are not subject to taxation or which are exempt from taxation are not tax-deductible. If the taxpayer performs activity which is partially exempt from CIT or out of the scope of CIT regulations, then a partial deduction of tax-deductible expenses may be necessary. Additionally, all expenses must be duly documented, which is of particular importance in the case of purchasing intangible services.



# Corporate Income Tax (CIT)

## Thin capitalisation

The thin capitalisation regime applies when loans are granted to the company by:

- a shareholder holding directly or indirectly at least 25% of the share capital of the company;
- several shareholders jointly holding directly or indirectly at least 25% of the share capital of the company;
- a sister company that has the same shareholder holding directly or indirectly at least 25% of shares.

Pursuant to the amended general rules applicable to loans granted by direct or indirect shareholders, the interest on borrowings extended to the taxpayer is not tax-deductible to the extent to which the company's debts to those shareholders exceed the shareholders' equity in the borrowing company.

There is another, alternative method for the calculation of the thin capitalisation limit. The most important aspect of the alternative method is that it determines tax deductibility caps on loans granted by related and unrelated entities

The method is based on two thresholds:

- the total tax-deductible interest cannot exceed the tax value of assets (with certain exemptions) multiplied by the central bank's reference rate plus 1.25%;
- the total interest deductible in a given tax year may not exceed 50% of the operational profit. The amount of interest exceeding the first threshold which could not be deducted in a given tax year due to the cap may be deducted in any of 5 consecutive tax years, also within the limit amounting to 50% of the operational profit in any given year.

In order to apply the new method, the taxpayer has to notify the Head of the Tax Office by the end of the first month of the fiscal year. The method then has to be applied for a period of at least three subsequent tax years.

## Bad debts

Bad debts, constitute tax deductible costs only if they were previously accounted for as revenues for tax purposes. Bad debts that are deemed to be uncollectible may be tax deductible if a few conditions specified in the CIT Act are met. In case of the uncollectible debts, an impairment write-down on receivables may be recognised as a tax deductible cost under certain conditions specified in the CIT Act.

## Depreciation/Amortisation

Depreciation and amortisation are used to distribute the cost of tangible assets (inter alia machines, equipment, buildings and structures) and intangible assets (e.g. licences, copyrights, rights to inventions and patents) used by the taxpayer in their business activity (or conveyed for use under a lease and similar agreements) with an anticipated period of use exceeding one year.

Tax depreciation rates are often different from those applied for accounting purposes, with the maximum tax depreciation rates fixed by the CIT Act. There are two methods of depreciation – straight-line and degressive. The degressive method may be applied only to machinery and equipment (excluding passenger cars). It is also possible to accelerate tax depreciation through applying multipliers, additional conditions have to be met, however. In the case of depreciation of used or improved tangible assets, taxpayers can set the depreciation rates independently, but the depreciation period cannot be shorter than that stipulated by the legislator.



# Corporate Income Tax (CIT)

The table below presents examples of annual depreciation rates:

Asset	Depreciation rate
Buildings	1.5%-2.5%
Computer hardware	30%
Office equipment	14%
Passenger cars	20%
Machinery	5%-20%
Assets of initial value under PLN 3,000	up to 100%
Licences (sub-licences) for computer software and copyrights	up to 50%
Goodwill	up to 20%

Additionally, taxpayers who have started their business in a given tax year as well as small taxpayers can recognise one-off depreciation charges on the entire initial value of tangible assets up to the equivalent of EUR 50,000. Small taxpayers are those whose sales revenues (including output VAT) for the previous tax year did not exceed PLN 1.2 million.

Land and perpetual usufruct are not depreciated for tax purposes.

## Tax year and duties of the taxpayer

As a matter of principle, the tax year is equal to a calendar year, however, a taxpayer can decide otherwise, as long as the tax year covers a period of 12 consecutive calendar months. The taxpayer is obliged to notify the Head of a competent Tax Office that their chosen tax year is different than a calendar year. The articles of association or the deed of the company should also specify the tax year.

Taxpayers are obliged to keep accounting records in a way ensuring the correct identification of the amounts of income (loss), taxable base and the amount of tax due for the tax year.

In the course of the year, taxpayers are obliged to pay monthly tax prepayments in the amount of the difference between the total tax due on the income earned from the beginning of the tax year and accrued advance payments made in preceding months. Monthly prepayments are paid to the Tax Office up to the 20th day of each month for the preceding month.

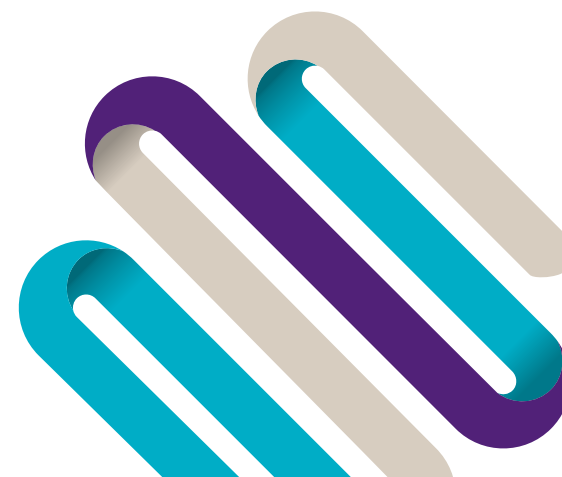
It is also possible to apply the so-called **simplified method** for the calculation and payment of tax prepayments. In the course of the year, taxpayers pay monthly advance payments amounting to 1/12 of the due tax reflected in the annual tax return submitted in the year preceding a given tax year (tax advance payments are estimated on the basis of the tax liability for the penultimate tax year).

If no tax was due under the said statement, taxpayers are entitled to make monthly advance payments amounting to 1/12 of the tax due, as shown in the annual tax statement for the year preceding a given tax year by three years.

The annual CIT settlement (filing of the CIT return and payment of the tax due) is due at the end of the third month of the year following the tax year.

## Tax rate

The standard rate of corporate income tax equals 19% of the taxable base. Starting from 1.01.2017 there is a reduced rate of corporate income tax rate of 15% which is applicable to small taxpayers earning revenues (VAT included) amounting to 1,2 mln EUR and for taxpayers starting a new business for their first year of operations.



# Corporate Income Tax (CIT)

In special cases, the CIT Act provides for other CIT rates:

- A special 50% penalty tax rate can be imposed if tax authorities assess a higher amount of the taxpayer's income (or a lower amount of loss) than the one declared with regard to related party transactions. The penalty tax rate will be imposed on the difference between the income declared by the taxpayer and that assessed by tax authorities. To prevent that, the taxpayer has to present the tax documentation within 7 days of the request from the tax authorities;
- Dividends and shares in profits of legal persons are taxable at 19% tax on the gross or net income;
- The following categories of payments to taxpayers who do not have their registered seat or place of residence in Poland are taxable at special tax rates:
  - for interest and royalties – the tax rate amounts to 20% of the gross income;
  - for services in the areas of art, entertainment or sports-related activity performed by legal persons having their registered office abroad, organised through the agency of natural or legal persons involved in artistic, entertainment or sports-related activity within the territory of the Republic of Poland – the tax rate amounts to 20% of the gross income;

- for services of an advisory nature as well as accounting, market analysis, legal services, management and control, data processing, recruitment and placement of personnel, guarantees and sureties, and performances of a similar nature – the tax rate amounts to 20% of the gross income;
- for cargo and passenger transport services out of the country, initiated in Polish ports by foreign commercial shipping enterprises, with the exception of transit cargo and passengers – the tax rate amounts to 10% of the gross income;
- for the revenue earned within the territory of Poland by foreign aviation enterprises – the tax rate amounts to 20% of the gross income.

In the case of payments to non-residents, the tax rate may be reduced in line with the relevant double tax treaties. Poland has an extensive tax treaty network, which can eliminate or reduce the levels of tax provided a certificate of residence is delivered. A comprehensive list of the Polish Tax Treaties in force can be found on the Minister of Finance website.

Poland has also implemented EU directives:

- 90/435/EEC of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States;
- 2003/48/EC of 3 June 2003 on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States.

On the basis of the abovementioned Directives and subject to certain conditions, the payments of dividends, royalties or interests between related companies registered in the European Union Member States, countries belonging to the European Economic Area, or in Switzerland can be exempt from withholding tax in Poland.

## Taxation of dividends and shares in profits of legal persons

Dividends and other profit-sharing revenues paid to entities, whether Polish residents or not, are subject to 19% income tax. The income (revenue) from profit distributions of legal persons includes the income (revenue) actually obtained from shareholding, including:

- dividends;
- income from automatic or compulsory redemption of shares;
- value of assets received in relation to the liquidation of a legal person;
- income used to increase share capital and in the case of cooperatives, income used to increase the share fund, as well as income equal to the amounts transferred to this capital (fund) from other capital (funds) of the legal person;
- in the case of merging or division of companies – cash top-up payments received by the shareholders of the company being taken over or companies being merged or divided.

# Corporate Income Tax (CIT)

Polish law is in line with Council Directive 90/435/EEC of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States. Income tax exemption applies to the dividends paid by Polish companies to Polish companies or foreign companies registered in the Member States of the European Union or other countries of the European Economic Area, provided that the company receiving the dividend has held a share of no less than 10% in the capital of this company for a period of two years. The condition of being a shareholder in a Polish company for a two-year-period may be satisfied after the dividend is paid. In the case of Switzerland, the dividend tax exemption is applicable if a 25% shareholding is maintained for a two-year-period.

The exemption is applicable if the beneficiary provides its certificate of residence together with a written statement that the receiving company is the beneficial owner of the interests and that it is eligible for the exemption.

Additionally, to benefit from the exemption, dividend payment should have a “real and genuine character” and its only purpose should not be obtaining withholding tax exemption.

Please note that in the case of dividends paid to foreign persons, the provisions of double tax treaties between Poland and other states can also be applied.

For the relevant double tax treaty to apply, prior to the payment the foreign taxpayer must present to the dividend payer a certificate of residence documenting the place of residence of such foreign taxpayer, issued by a competent tax administration authority.

## Taxation of royalties and interest

The income from interest and royalties paid to entities which are not Polish residents is subject to income tax at a rate of 20%, unless a relevant double tax treaty between Poland and the taxpayer's country provides for a different tax rate. For the tax rate provided for in the double tax treaty to apply, a certificate of residence must be presented.

Polish law is compliant with Council Directive 2003/49/EC of 3 June 2003 on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States. In line with the provisions in force as of 1 July 2013, royalties and interest are exempt from withholding tax provided that the company making the payments holds at least 25% of shares in the company receiving the payments (subject to taxation on their entire income in a state other than Poland) or that the company receiving the payment holds at least 25% of shares in the company making the payment. The exemption is applicable to companies having their registered offices in the Member States of the European Union or other countries belonging to the European Economic Area.

The exemption is conditional upon the beneficiary providing its certificate of residence together with a written statement that the receiving company is the beneficial owner of the interests and that it is eligible for the exemption.

## Transfer pricing

Poland's law on related party transactions is fashioned after the OECD Guidelines for multinational enterprises and tax administrations. The principle underlying such transactions between related parties (including agreements of a partnership without legal personality, joint undertaking and similar agreements, transaction between Polish entity and its foreign permanent establishment) is known as the arm's length principle, which means that the prices should be established in an equitable way, as if the parties were independent and equal. Otherwise, tax authorities are authorised to assess the income as they see fit.

Tax authorities pay special attention to transactions concluded between related parties. The parties are related if:

- an individual or a corporate entity who participates (directly or indirectly) in the management or control of, or holds at least 25% of shares in another corporate entity;
- an individual or a corporate entity takes part (directly or indirectly) in the management or control of, or holds stocks at least 25% of shares in multiple entities.

# Corporate Income Tax (CIT)

Tax authorities analyse transfer pricing issues because if they realise that related parties agreed or imposed conditions substantially different from those which would be agreed between independent subjects and, as a result thereof, a taxpayer does not disclose any income or discloses the income smaller than might be expected, if such relations did not exist – they can re-assess taxpayer's without taking into account the conditions resulting from such links. Tax authorities have the right to request that the taxpayer provide transfer pricing documentation, which must be done within 7 days of request. If the taxpayer fails to present such tax documentation, tax authorities will have the right to apply a 50% penalty tax rate on the increased income or decreased tax loss.

The tax documentation should provide comprehensive information including: the functions to be fulfilled by the parties to the transaction, risk assessment, assets involved, approach to profit calculation and, last but not least, the transaction price. In 2017 there were significant changes in transfer pricing regulations in Poland. The main change is an enlargement a scope of transfer pricing documentation for some entities.

In line with the new requirements the transfer pricing documentation should include:

- local file – obligatory part of transfer pricing documentation for taxpayers, which annual revenues or expenses exceed EUR 2 million;
- local file, benchmarking study and report of intercompany transactions submitted with the annual tax return – obligatory part of transfer pricing documentation for taxpayers, which annual revenues or expenses exceed EUR 10 million;
- the above documents and master file – obligatory part of transfer pricing documentation for taxpayers, whose annual revenues or expenses exceed EUR 20 million.

Transfer pricing documentation has to be prepared in case of entities:

- whose revenues or costs exceeded in the year preceding the tax year the equivalent of EUR 2,000,000 and who perform transactions with related parties;
- who are making, directly or indirectly, payment of dues for the benefit of a subject having its place of residence, seat or management office in a territory of or in a country applying harmful tax competition, if the total amount of matured performances actually paid in tax year is in excess of the equivalent of EUR 20,000; or who are concluding the following deeds or contracts with a subject whose place of residence, seat, or management office is in the territory of or in a country applying harmful tax competition:
  - a deed of a partnership, where the total value of the contributions made by the partners exceeds the equivalent of EUR 20,000;
  - or
  - contract of joint undertaking or another contract of a similar nature, in which the value of the undertaking implemented jointly and determined in the contract, exceeds the equivalent of EUR 20,000.

Taxpayers have the right to make unilateral, bilateral or multilateral advance pricing agreements and have the choice and application of the transfer pricing methodology verified. Such agreements are verified by the Minister of Finance. The agreement is executed by taxpayers for a period of five years.

# Corporate Income Tax (CIT)

## Country-by-country reporting

Capital groups in which:

- dominant company is located in Poland and consolidates financial statements of the group in line with Polish Accountancy Act;
- consolidated revenues exceed EUR750.000.000;
- have a permanent establishment in other countries;

are obliged to submit information on the profits and tax paid, tax jurisdictions where their subsidiaries and permanent establishments operate.

Polish entities which are members of such capital groups are obliged to inform tax authorities about entity what submits country-by country report.

## Controlled Foreign Company (CFC) taxation

Poland introduced CFC legislation, whereby Polish taxpayers are obliged to charge corporate tax on the income generated by their controlled foreign subsidiaries.

CFC restrictions are applicable if a foreign subsidiary meets the following conditions:

- the foreign subsidiary is registered in a tax haven jurisdiction, as determined by an ordinance of the Minister of Finance;
- or
- the foreign subsidiary is registered in a country other than a tax haven jurisdiction, but one that has not entered into a double tax treaty with Poland or an international agreement with the European Union providing for the exchange of tax information;
- or
- the foreign subsidiary meets **both** criteria below:
  - the Polish taxpayer has held directly or indirectly at least 25% of shares, voting rights or rights to participate in profits of the subsidiary for an interrupted period of no less than 30 days;
  - at least half of the income of the subsidiary in the tax year is generated from dividends, other income from profit distributions of legal persons, revenues from the disposal of shares, liabilities, interests, financial instruments, royalties, etc., and at least one of the sources stipulated herein is taxable in the country of the subsidiary's jurisdiction at a rate lower than 14.25%.

CFC regulations do not apply in the following circumstances:

- if the foreign subsidiary is an unlimited tax resident taxable on its worldwide income in one of the EU Member States or a state belonging to the European Economic Area and conducts real business activity there;
- or
- if the annual revenues of the foreign subsidiary do not exceed EUR 250,000;
- or
- if the foreign subsidiary conducts its actual business activity in a country other than EU Member States or states belonging to the European Economic Area, its income does not exceed 10% of the revenues from the actual business activity, providing that there exists an agreement on the exchange of tax information between Poland or the EU and the country where the worldwide income of the foreign subsidiary is taxable.

The taxable income is the part of income of the foreign controlled subsidiary which was generated in the period when the Polish shareholder kept at least 25% of shares, reflecting the share in the profits of the subsidiary after the deduction of:

- dividends received by the taxpayer from the foreign controlled subsidiary;
- amounts resulting from the sale of shareholding in the foreign controlled subsidiary.



# Corporate Income Tax (CIT)



After assessing the 19% tax on the income as presented above, the taxpayer is entitled to deduct part of the income tax paid abroad.

Additionally, Polish taxpayers who have foreign controlled subsidiaries are obliged to keep a register of such companies, as well as to adequately document all taxable events to allow for the assessment of the amount of income, taxable base and tax due of the subsidiary in a given tax year.

Fixed assets registers are also required under the CIT Act to assess the tax deductible depreciation charges.

## Tax reliefs

Some tax incentives are provided under the Polish CIT Act. The most commonly used tax relief include:



Exemption due to operations in a Special Economic Zone (SEZ)



The income derived from operations in the SEZ is exempt from corporate tax subject to certain conditions stipulated by the special permits obtained by the taxpayer. The exact amount of tax holiday granted in relation to SEZ operations may differ depending on factors such as the amount invested in the SEZ or the labour costs of newly created jobs.



R&D Activities



The Amendments to Certain Acts Related to Supporting Innovation Act, which came into force on 1 January 2016, introduces a new tax relief for R&D activities. The tax relief allows taxpayers to deduct certain qualified expenditures incurred for R&D activities from the taxable base. Deductions may be made up to certain limits, depending on the type of activity/taxpayer:

- Employment costs (wages and employer's social contributions): up to 50%;
- Other qualified expenditures (as for example: purchase of services and materials directly linked with R&D activity, expertise, advice, results of scientific research, lease of certain science and research equipment): 50% or 30%.

# Standard Audit File



As of 01.07.2016 some Polish companies are obliged, at the request of tax authorities, to transmit data in an unified format – the so-called Standard Audit File (Jednolity Plik Kontrolny). Standard Audit File provides to the tax authorities an easy access to accounting and tax data of taxpayers. It comprises strictly defined data from: accounting books, bank statements, warehouses, VAT evidence, VAT invoices, Tax revenue and expense ledger, record of revenue.

Since preparation of Standard Audit File requires adaptation in accounting systems and IT environment transitional periods for different categories of taxpayers were determined:



**Large taxpayers** provide VAT Standard Audit File from **01.07.2016**



**Small and medium size taxpayers** provide VAT Standard Audit File from **01.01.2017**



**Micro companies** provide VAT Standard Audit File from **01.01.2018**

Beginning from 01.07.2018 all taxpayers that carry out their accounting records in electronical form will be obliged to provide other parts (so called “structures”) of Standard Audit File on Tax Authorities demand.

The Polish Ministry of Finance decided that the Standard Audit File obligation will also apply for companies with a ‘foreign’ VAT registration in Poland without any establishment for Polish VAT purposes.

# Personal Income Tax (PIT)



## Individuals

Taxation in Poland depends upon the residence status of the individual:

- non-residents pay tax only on the income generated in Poland;
- residents pay tax on their worldwide income (Polish and foreign sourced income).

The tax year for individuals is equivalent to the calendar year ending on 31 December.



## Residence

An individual is regarded as resident within the territory of Poland, if that person:

- has a center of vital interests (close personal and/or economic relations) in Poland;
- or
- is present in the country for more than 183 days in the course of the tax year;

unless a relevant Double Taxation Treaty states otherwise.

Generally speaking, an individual who stays in Poland for more than 183 days in a 12-month period is treated as a Polish tax resident subject to taxation on his/her worldwide income. However, if the individual is also a resident in another country, he/she shall be deemed to be a resident of that state with which his/her personal and economic relations are closer (center of vital interests). As a rule, natural persons in Poland pay income tax assessed according to a progressive tax scale (with the rates of 18% and 32%), with certain exceptions to this rule.

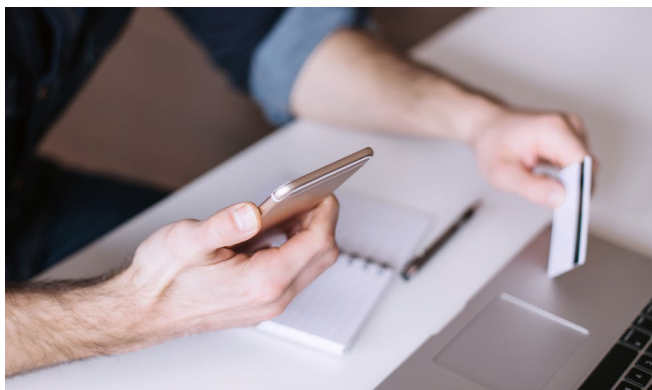
# Personal Income Tax (PIT)

## Business profit

Subject to certain conditions, natural persons involved in a business activity (sole proprietors) can pay income tax at a flat 19% tax rate or according to provisions regulating lump-sum taxation laid down in a separate tax act.

Depending on the scale of business conducted and the type of business activity, and upon meeting specific criteria, the taxpayer may request that simplified forms of taxation be applied, i.e.:

- tax on registered income (tax calculated without deducting tax-deductible costs);
- fixed-amount tax (tax determined by the tax office depending on the type of business).



## Lump-sum taxation

Separate rules of taxation apply in the case of the following income categories:

- private lease (at the taxpayer's request – 8.5% of the income);
- dividends, interest on savings, gains from the sale of securities (19%);
- sale of privately-owned properties.

Some revenue categories (e.g. management contracts, supervisory board service) disbursed by Polish paying agents to non-residents are subject to a flat-rate tax of 20% of the revenue.

The tax rates provided for in the relevant Double Tax Treaty (DTT) can be applied only upon presentation of a valid certificate of residence issued by the tax authorities in the home country.

## Investment income

In principle, the investment income of individuals is subject to a special tax regime and taxed at a flat rate of 19%, unless specifically exempt. Investment income may not be set off against revenues subject to progressive taxation.

Directly related costs may be deducted from investment income, unless such deduction is excluded.



## Dividends

Dividends are generally subject to a 19% rate, unless a tax treaty provides for a lower rate or the PSD applies.

According to most DTTs between Poland and other states, withholding tax (WHT) paid abroad may be credited against Polish tax.

A final 19% WHT is levied on dividends paid by Polish paying agents to individual beneficial owners who are Polish residents. In such circumstances, the WHT is final and the dividend need not be reported in the annual tax return.



## Interest income

A final 19% WHT is levied on interest income paid by Polish paying agents to individual beneficial owners who are Polish residents. In such circumstances, the WHT is final and interest income need not be reported in the annual tax return.

The 19% WHT does not apply to the interest on current accounts related to business activity and treated as business profits.

The interest received from abroad is to be reported in the annual tax return. The tax paid abroad at source may be credited against Polish tax. Interest income is taxed on the difference between the gross amount of interest income and directly related expenses of the calendar year.

# Personal Income Tax (PIT)

## Capital gains

Generally, a special tax regime applies to gains on the disposal of investment assets. Instead of being accumulated together with other items, they are taxed separately at a special flat rate of 19%, unless specifically exempt.

Unless tax has been withheld by the paying agent, capital gains have to be reported in the annual personal tax return to be filed by 30 April of the following calendar year.

This obligation applies in particular to the gains derived from sale of shares in incorporated companies, sale of bonds, securities and derivatives, or profits from the execution of derivatives.

The tax base of capital gains is represented by the margin between the sales price and the acquisition cost, increased by directly related costs. Transactions involving financial instruments (such as calls, puts, swaps, futures, forwards, foreign exchange transactions, etc.) have to be analysed in detail in order to identify their tax treatment.

## Taxation of salaries and wages

Taxable income from employment includes all wages, salaries, overtime pay, bonuses, gratuities, perquisites, benefits in kind, etc.

If work was carried out in Poland, the remuneration is treated as Polish sourced income, even if the employer is based elsewhere.

If an employee derives remuneration from an employer resident in Poland or from a permanent establishment operated by a foreign enterprise in Poland, the said employer or establishment are obliged to:

- assess and declare advance tax payments applying the 18% and 32% PIT rates;
- prepare the annual tax settlement for any employee who opts for it (in a tax form known as PIT-12);
- prepare information (in the tax form known as PIT-11) on the income derived and tax loss sustained if the employee submits the tax return on his/her own.

If an employee is paid directly from abroad (by an employer who has the place of business or abode abroad), he/she is obliged to pay personal income tax in the form of advance payments by himself/ herself. The advance payment is to be assessed using the 18% tax rate (the taxpayer can also apply the 32% tax rate as appropriate).

## Special exemptions under Double Tax Treaties (DTTs)

As a general rule of thumb, DTTs based on the OECD Convention, to which Poland is a signatory, provide that an individual's salary will not be taxed in Poland if all of the three conditions below are met:

- an employee is present in Poland for a period or periods totalling no more than 183 days over a twelve month period starting or ending in a given tax year (rolling months); and
- the remuneration is paid by or on behalf of an employer that does not have a place of business or residence in Poland; and
- the remuneration is not paid through a permanent establishment of the employer in Poland.

If any of the above conditions is not met, the employee's salary will be taxed in the country where the work is performed. Consequently, if a seconded employee remains in Poland for a period exceeding 183 days (or the remuneration is paid by a Polish employer, as the economic employer within the meaning of the OECD Convention), his/her salary paid for the work performed e.g. in Poland, will be subject to Polish income tax, as the income of a non-resident.

# Personal Income Tax (PIT)

## Tax scale 2017

The table below presents the tax brackets applicable in 2017.

Taxation Base (PLN)		Tax Amount in 2017
Over	Up to	
	85,528	18% minus the amount decreasing tax*
85,528		PLN 14,839.02 + 32% on the surplus over PLN 85,528.00

\* The amount decreasing tax varies from PLN 1,180 to PLN 0.01 and needs to be calculated individually based on taxable income. Starting from 2017 individuals with yearly net earnings under PLN 6,600 are not liable to pay personal income tax. In case of earnings higher than PLN 6,600 the allowance will be decreasing depending on the income. Where yearly earnings exceed PLN 127,000 the personal allowance will not apply at all.



## Tax deductions

There is a standard deduction of 111.25 PLN per month on income earned under an employment contract. If a taxpayer works away from his/her place of residence, the deduction goes up to 139.06 PLN per month, unless the taxpayer receives a family separation allowance. Those with more than one contract of employment are entitled to an increased deduction up to 1.5 times of the above amounts.

An annual tax credit of 556.02 PLN is available to all individuals who have a taxable presence in Poland.

## Tax allowances

There are many tax allowances applicable to taxable income from an employment contract. The following types of income are exempt from personal tax:

- reimbursement of moving expenses and allowance when relocating for business purposes (up to 200% of the remuneration due for the month in which an individual was transferred). It should be noted, however, that this deduction according to Polish administrative courts does not apply to ordinary employees;
- amounts due for business travel assignments;
- income earned abroad if international or bilateral agreements so provide (applicable to Polish tax residents);
- certain types of benefits in kind, provided that they are funded in whole from the employer's social benefit fund or from the employer's trade union fund – up to PLN 380;
- the value of free benefits defined as income from other sources, e.g. related to the advertising activities of the benefit provider – provided that the value of any single benefit does not exceed PLN 200 (the exemption does not apply if such a benefit is given to an employee of a benefit provider or another individual who is bound by a civil-law contract with the benefit provider);
- obligatory social security contributions paid in Poland (and those paid in an EEA country if not deducted in the country of origin).



# Personal Income Tax (PIT)

## Healthcare contributions

Healthcare contributions (9% of gross income after deducting social security) are deductible from tax up to 7.75% of the assessment base.

## Child deduction

Parents bringing up children can claim child deductions (provided that certain conditions are met) – in 2017, they can deduct from taxable income up to PLN 1,112.04 annually for one child; PLN 2,224.08 for two children; PLN 4,224.12 for 3 children; PLN 6,924.12 for 4 children; with an additional PLN 2,700 for each extra child.

## Monthly advance payments

The consecutive advance payments should be paid by the 20th day of the month following the month when the income was obtained (e.g. the advance for income obtained in September is payable by 20th October). The tax due for December is payable upon submitting the annual tax return in Poland.

## Tax Returns

The tax year in Poland begins on 1st January and ends on 31st December. Individuals submit their annual tax returns by 30th April of the year following a given tax year (or before leaving Poland if that takes place earlier).

Married couples may send in a joint return if:

- they have unlimited tax liability; and
- they have been married for the entire tax year; and
- they have been subject to community of property for the entire tax year.

This scheme is also available to non-residents from any EEA country as long as no less than 75% of their global income is derived in Poland. A joint tax return can also be submitted by single parents with dependent children. The joint tax return is particularly beneficial if the other person (spouse or dependent child) does not earn any taxable income or if the income is low.

Revenues subject to regulations on tax on inheritance and donations, actions that cannot be the object of a legally binding agreement, and revenues subject to tonnage tax are not covered by the provisions of the Personal Income Tax Act.



# Tax on goods and services (VAT)

## Introduction

As Poland is a member of the European Union, its provisions concerning tax on goods and services (VAT) have been brought into line with Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, even though some differences occur.

In principle, VAT is levied on certain taxable activities at each stage of the supply chain and then is ultimately paid by the end consumer.

## Scope of taxation

Polish VAT is imposed on the following activities:

1. supply of goods and provision of services against payment within the territory of the country;
2. export of goods;
3. import of goods;
4. intra-Community acquisition of goods against payment within the territory of the country;
5. intra-Community supply of goods.

It should be noted that intra-Community acquisition of goods and intra-Community supply of goods also takes place when goods that belong to the taxpayer's enterprise are transported by them or on their behalf from one Member State of the European Union to another.

In certain particular cases, gratuitous performances (of goods and/or services) are deemed to constitute taxable activities, too.

The following activities are not subject to VAT:

- transactions involving the disposal of an enterprise or an organized part of an enterprise;
- activities, which cannot be the object of a valid and legally binding agreement.

## Taxpayers

VAT taxpayers include legal persons, legal entities without legal personality and sole proprietors (natural persons), irrespective of the purpose or effects of activities.

Business activity, as defined for VAT purpose, refers to all activities of producers, traders, service providers, including entities extracting natural resources and farmers, as well as the activity of independent professionals. Moreover, business activity involves using goods or intangible assets in a continuous manner for commercial purposes. All entities whose business activity meets the criteria defined in the Polish VAT Act shall be deemed subject to VAT.

VAT regulations define the conditions which need to be met for certain activities to be excluded from taxation. The activities of a natural person acting as a mandator may be excluded from VAT, if the contractor and the mandator have executed a contract for these activities which specifies remuneration, terms of the mandate and, importantly, that the responsibility for performing these activities to third parties lies with the mandator.





# Tax on goods and services (VAT)

The law stipulates that the obligation to pay VAT also applies to such legal persons, legal entities without legal personality and natural persons who:

1. are not normally taxpayers as they do not perform a taxable business activity, but are treated as taxpayers when they supply new vehicles to persons in other EU Member States (intra-Community supplies), unless the circumstances indicate that this activity will be conducted regularly;
2. make an intra-Community acquisition of goods;
3. use services provided by a taxpayer not established in Poland (reverse-charge);
4. acquire goods delivered to Poland by a taxpayer not established in Poland (reverse-charge);
5. act as taxpayers and acquire certain goods listed in the VAT Act delivered by a non-exempt taxpayer (domestic reverse charge).

## Registration for VAT purposes

Before starting any VAT-able activity, taxpayers are obliged to submit an application for registration to the head of a competent tax office. Businesses whose sales volume in the previous tax year did not exceed PLN 200k and entities performing VAT-exempt activities can file the registration form, but are not obliged to do so. If, in the course of the year, revenue exceeds PLN 200k, VAT exemption expires immediately. Foreign entities which do not have their registered office within the territory of Poland are not allowed to exercise the non-registration privilege and hence are always obliged to register, regardless of their revenue. Moreover, it should be noted that businesses performing certain listed activities may not benefit from not registering.

Taxpayers whose scope of activity includes intra-Community transactions need to register additionally for a special EU VAT number preceded with “PL” for the purposes of such transactions.

## Permanent place of business

In some circumstances a taxpayer's business may be deemed to take place at a permanent establishment (also known as a fixed establishment for VAT purposes). The concept is not defined in Polish regulations, but it can be interpreted explicitly from Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax. Fixed establishment shall be any establishment, other than the place of establishment of a business, characterised by a sufficient degree of permanence and a suitable structure in terms of human and technical resources to enable it to provide and receive services. All taxable activities performed via a fixed establishment in Poland shall be taxed in Poland. All foreign entities performing taxable activities in Poland should analyse whether a fixed establishment exists.

# Tax on goods and services (VAT)

## VAT rates and tax base

### VAT rates

At present the standard VAT rate is 23%. There are also reduced rates of 8%, 5% and 0%, and the so-called exempt rate – “zw”.

There is a closed (exhaustive) catalogue of goods and services that may be taxed using the reduced rates. Where the Polish VAT Act does not allow for the use of a reduced rate, all supplies and services shall be taxed using the standard rate.

The reduced 8% rate applies e.g. to supplies of certain food items, medical accessories and equipment, housing supplies and services, hospitality services and passenger transport, as well as highly labour-intensive services such as services of hairdressers, house cleaners, etc.

The super-reduced 5% rate may be applied inter alia to foods and beverages (staples: bread, dairy, meat), books and specialist publications.

The 0% VAT rate is levied on the export of goods or on the intra-Community supply of goods as well as certain supplies to shipowners and certain supplies and services related to sea and air transport.

VAT exempt services include for instance financial agency services (with exceptions) or educational services.

### Tax base

The VAT tax base is the whole consideration to be received from the purchaser, including any grants, donations and similar contributions received, which have a direct impact on the price (amount due) of goods or services supplied by the taxpayer. The tax base includes:

- taxes, customs duties, charges and other similar duties except the VAT amount;
- additional costs, commission, packing, transport and insurance charged by the supplier.

The general rules also apply to intra-Community transactions and exports. For imports, VAT is calculated as a percentage of the customs value plus custom duties due. If the imported goods are subject to excise duty, that is included in the assessment, too. The tax base includes elements such as commissions, packing, transport and insurance costs, incurred up to the first destination within the territory of the country. The aforementioned elements are also included in the tax base if they are related to the transport to another destination within the territory of the Community if the latter is known at the time of importation.

## Tax obligation

### General rules

As a general rule, the tax obligation arises at the moment of delivery of the goods or completion of the service performance.

Nevertheless, it should be taken into account that VAT regulations in Poland provide for a special tax obligation in respect to certain types of services, such as e.g. construction services, letting, leasing, rental services, supply of electricity and heat, gas by pipes, supplies of printed books.

In the case of advance payments received before services are performed or goods are delivered, the tax is chargeable upon the receipt of payment.

### Export of goods

The above-presented general rules also apply to the export of goods.

### Import of goods

For imports of goods, the tax is chargeable upon the recognition of customs debt.

# Tax on goods and services (VAT)



## Intra-Community acquisition of goods

In the case of intra-Community acquisition of goods, the tax obligation arises once the invoice is issued by the VAT taxpayer but not later than on the 15th day of the month following the month when goods subject to intra-Community acquisition of goods were delivered.

## Intra-Community supply of goods

In the case of intra-Community supply of goods, the tax obligation arises once the invoice is issued but not later than on the 15th day of the month following the month when goods were supplied.

## Small taxpayer

The Polish VAT Act makes special provisions for taxpayers who choose to settle VAT as a small taxpayer (whose gross revenues did not exceed EUR 1,200k in the preceding tax year). Small taxpayers can select a special settlement method under which VAT is chargeable upon receiving the whole or a part of payment with regard to supplies to taxpayers and, in the case of supplies to non-taxpayers, upon receiving the whole or a part of payment, but not later than by the 180th day from the date of the supply of goods or provision of services. The simplified settlement method is conditional upon prior notification to the head of the tax office, which must be made by the end of the month preceding the period during which the taxpayer wishes to apply this method (the so-called “cash method”). If only a part of the amount due has been received, VAT is charged only on this part.

## Deduction of tax on goods and services

Taxpayers can deduct input VAT on purchases of goods and services from output VAT arising from sales for which the tax obligation arose during the settlement period. Input VAT can be deducted if the goods and services have been purchased for the purposes of activities subject to taxation. If a business performs taxable and tax-exempt activities at the same time, the taxpayer is obliged to match the expenditures to the particular activities, or – where it is not possible to assign the expenditure – a certain percentage should be applied

and then the taxpayer should deduct the corresponding fraction of input VAT. To this end, the taxpayer should calculate the ratio (in line with the principles set out in the regulations on the goods and services tax), which will represent the share of turnover related to VAT-able activities in the total turnover. The ratio calculated as above is adjusted at the end of each tax year. For tangible and intangible assets, the taxpayer should apply the appropriate adjustment over five subsequent years and in the case of real estate – over 10 subsequent years.

Even if the conditions underlying the right to deduct input VAT have been met, the taxpayer may not deduct the full amount of VAT on the purchases of fuel for passenger cars (except where the cars are used exclusively for business purposes and subject to certain conditions on reporting to the tax office and providing vehicle mileage). As of 1 July 2015 taxpayers are able to deduct 50% of input tax on purchases related to passenger cars used for mixed purposes – business and non-business. Special rules on deducting input tax are applicable to the purchase and use of passenger cars.

Taxpayers are not allowed to deduct VAT on purchases of hospitality and gastronomic services.

# Tax on goods and services (VAT)

## Refund of VAT

If input VAT in any given settlement period exceeds the amount of output VAT, the taxpayer can deduct the surplus from output VAT in subsequent periods or choose to be reimbursed for the difference into their bank account.

The refund of surplus input VAT is to take place within 60 days.

If certain requirements are met, the refund may take place within 25 days.

If a taxpayer didn't perform any taxable activity during a settlement period, they can receive a refund of input VAT within 180 days provided they submit an application including a statement of reasons.

Entities that do not have a registered office or permanent place of business, or place of residence within the territory of Poland, but are established in another Member State of the European Union, and are not obliged to register for VAT purposes in Poland, may recover VAT incurred in connection with purchases within the territory of Poland applying for a refund under Council Directive 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State.

The refund is made on the basis of regulations of the Member State where the tax was incurred, therefore, certain restrictions can be applied (e.g. on purchases of hospitality and gastronomic services, as well as some restrictions referring to the use of passenger cars).

## Reporting duties

Taxpayers are obliged to prepare VAT returns on a monthly or quarterly basis. VAT returns are submitted by the 25th day of the month following the reporting period. Alternatively, if the head of the competent tax office has been duly notified of quarterly settlements periods – by the 25th day of the month following each quarter (except for small taxpayers, whose turnover did not exceed EUR 1,200k, submitting quarterly VAT returns). Taxpayers report electronically.

Taxpayers involved in intra-Community transactions are obliged to submit EC Sales Lists to report intra-Community supplies of goods, intra-Community acquisitions of goods, triangular transactions as well as supply of services to which reverse charge mechanism is applicable. EC Sales Lists are submitted for monthly periods. The EC Sales Lists are submitted electronically by the 25th day of the month following the month when the tax obligation arose.

Additionally, INTRASTAT information is to be prepared for monthly periods and submitted by the 10th day of the month following the month during which the reported transactions took place.

## Special procedures

Polish VAT regulations include special procedures for:

1. small entrepreneurs;
2. farmers subject to lump-sum tax;
3. Tour Operators Margin Scheme (VAT margin scheme for travel agents);
4. supply of second-hand goods, works of art, collectors' items and antiques;
5. supply of investment gold;
6. supply of electronic services to non-taxable persons (Mini One Stop Shop Procedures);
7. special procedure for the provision of services to international occasional road passenger transportation;
8. simplified scheme for intra-Community triangular transactions;
9. traveller VAT refund scheme.

# Tax on civil law transactions

Tax on civil law transactions is regulated by the Act of 9 September 2000 on the tax on civil law transactions.

## Object of taxation

Tax on civil law transactions is levied on:

- civil law transactions – sales agreements and agreements on the exchange of goods and property rights (also in execution and bankruptcy proceedings), loan agreements, donation agreements – to the extent regarding the acquisition of debts and encumbrances by the recipient or the donor's liabilities, annuity agreements and agreements on the dissolution of co-ownership (with regard to repayments or contributions) and the partial dissolution of co-ownership, establishment of mortgages, establishment of usufruct for consideration (including improper usufruct) and servitude for consideration, irregular deposit agreements, company deeds (articles of association);
- amendments to the aforementioned agreements if they increase the tax base;
- court decisions and settlements if they have the same legal effects as civil law transactions subject to taxation.

## Taxpayers

The tax on civil law transactions applies to natural persons, legal persons and entities without legal personality who are the parties to civil law transactions.

In the case of notarised civil law transactions, the tax on civil law transactions is collected and paid by the notary.

In the following types of agreements, the following persons are obliged to pay the tax:

1. sales agreements – the purchaser;
2. exchange agreements – parties to the transaction;
3. donation agreements (gift agreement) – the donee;
4. lifetime estate agreement – the purchaser of the ownership of real property;
5. agreement for the partition of the estate or termination of co-ownership – the entity which acquires tangible property or property rights exceeding their share in the estate or co-ownership;
6. establishment of usufruct for consideration, including improper usufruct, and servitude for consideration – usufructuary or the servitude holder;
7. loan agreement and irregular deposit agreement – borrower or custodian;
8. establishment of mortgage – the party making the statement of intent to establish the mortgage;
9. formation of a civil law partnership – members, formation of other types of companies – the company.

If the tax obligation is imposed on more than one entity or on parties to an exchange agreement, or on members of a partnership, then those entities, parties, or members respectively are jointly and severally obliged to pay that tax.

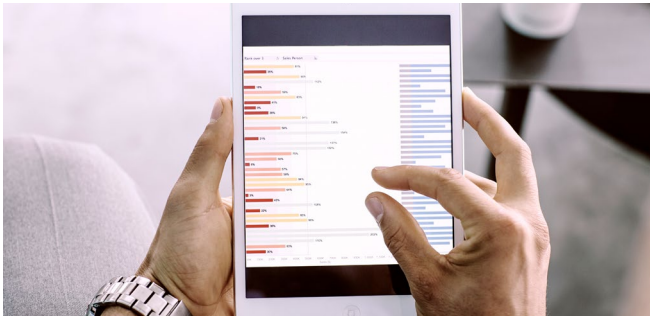
Paying agents (notaries) are obliged to ensure that the tax is paid by the relevant party prior to the execution of the civil law transaction.

## Tax chargeability

The tax liability is recognised at the following moments:

- upon the execution of a civil law transaction;
- upon of each payment of loan (instalment of the loan), if the loan agreement specifies that the payment of cash occurs frequently and their sum is not known at the time of conclusion of the agreement;
- upon the adoption of a resolution to increase the capital of an incorporated company;
- upon the submission of a declaration on the establishment of a mortgage or execution of an agreement for the establishment of a mortgage.

# Tax on civil law transactions



## Assessment base and tax rates

The maximum tax rate of 2% is imposed on transactions including sales agreements (e.g. real estate, chattels), loans and irregular deposits. The tax rate applicable to the articles of association (foundation act) or increasing capital equals 0.5% of the capital (or its increase). For securing a debt whose amount is not specified, a fixed amount of tax is charged – PLN 19.

In principle, the tax is assessed at the market value of a thing or property right subject to the civil law transaction, taking into account the average prices applied in the trade of items of the same type and grade, condition, as well as the level of wear and tear, or in the trade of property rights, at the date of executing the transaction, without deducting debts or encumbrances.

## Activities and documents related to the tax on civil law transactions; tax payment method

Unless the tax is collected by the paying agent (notary), taxpayers are obliged to submit a tax return on civil law transaction (PCC-3), and to assess and pay the tax due within 14 days from the date of recognising the tax liability, without prior request from the tax authority. The tax may be paid at the cash desk at the competent tax office or by bank transfer to the bank account of that office.

## Exclusions and exemptions from the tax on civil law transactions

The tax on civil law transactions is not levied on some transactions, in particular the following:

- sales agreements and agreements for the exchange of goods, the subject of which is a real estate or its part, perpetual usufruct, housing cooperative member's ownership right to residential premises, right to a house in a housing cooperative, right to a parking place at a multi-space garage or share in rights, to the extent that they are taxable of the value added tax;
- contracts for the sale of shares in a joint-stock company executed through investment companies or foreign investment companies (e.g. a brokerage house);

articles of association with their subsequent amendments referring to:

- mergers and acquisitions of companies;
- re-registration of a company as a different type of company;
- contribution of the following to a company, in exchange for shares in the company:
  - a company's enterprise or an organised part thereof;
  - shares in another company corresponding to a majority vote in that other company, or subsequent shares, if the company to which the shares are contributed already holds a majority vote.
- if the object of a transaction is tangible property located abroad or property rights exercised abroad, if the purchaser is not established in Poland, or the civil law transaction was not performed within the national territory of Poland;
- if in case of the exchange agreement at least one of the things is in the territory of Poland or one of property rights is carried out on Polish territory.

# Excise duty

The Excise Duty Act is the key source of information for all entrepreneurs who intend to do business in Poland involving excise goods. The Excise Duty Act entered into force on 1st March 2009. The consolidated version was published in 2017 in the Journal of Laws at item 43. There is a range of related secondary legislation which is crucial if one is to be fully informed as to their excise duty rights and obligations.

Polish excise duty legislation is in line with the European Union's provisions. However, there are some local differences which in general do not create a conflict of laws.

## Taxable goods

According to Article 1 Excise Duty Act, excise duty is payable on excise goods and passenger cars.

Excise goods include:

- energy products;
- electricity;
- alcohol and alcoholic beverages;
- tobacco.

The above-mentioned goods are listed in Appendix 1 to the Excise Duty Act.

It should be noted that, unlike in Poland, passenger cars are not subject to excise duty under EU law.

## Taxable activities

According to Article 8 of the Excise Duty Act, excise duty is levied on:

- production of excise goods;
- entry of excise goods to an excise warehouse;
- import of excise goods;
- intra-Community acquisition of excise goods.

There are also some other specific situations where excise duty is levied, such as:

- shortages and losses of excise goods;
- use of excise goods exempt from excise duty for any purpose other than that underlying the exemption.

According to Article 100 Excise Duty Act, excise duty on passenger cars is levied on the following activities:

- import of passenger cars not previously registered in Poland;
- intra-Community acquisition of passenger cars not previously registered in Poland;
- first sale of passenger cars manufactured in Poland.

The rate of excise duty applicable to passenger cars depends on engine size and amounts to:

- 1) 18.6 % of tax base if engine capacity exceeds 2000cc;
- 2) 3.1% of tax base for other passenger cars.

With regard to electricity, coal products, gas and tobacco, separate regulations define the scope of taxable activities because of the special nature of these products (Articles 9–9c Excise Duty Act).

## Exemptions

The Excise Duty Act provides for a complicated system of exemptions. The criteria that must be met in order to benefit from certain exemptions can be divided into unified exemption criteria and more restrictive exemption criteria. For example:

- coal products are exempt when used for heating purposes in the process of generating electricity;
- coal products are exempt when used for heating purposes in the homes of individual consumers;
- gas is exempt when used for heating purposes in agriculture;
- alcohol is exempt when used in the production of medication.

In some cases, the exemption is conditional on the fulfilment of other requirements like adequate record-keeping etc.

Generally speaking, running a business involving excise goods requires substantial attention and knowledge, seeing as the obligations stipulated by both Polish and EU regulations must be complied with.

All the activities connected with excise duty are supervised by Polish Tax Authorities.



# Local taxes and charges

Local governments impose a range of local taxes and charges. The tax rates are determined individually by relevant local governments (e.g. the municipal council). However, the legislator has imposed certain restrictions on local governments' freedom as to levying local taxes and charges by defining the maximum tax rates.

Local taxes include: real estate tax, road vehicle tax and dog ownership tax.

## Real estate tax

Real estate tax is imposed on land, buildings and their parts, structures or their parts used for business purposes.

Real estate tax is collected from:

- the owner;
- perpetual usufructuary;
- autonomous possessor;
- in some cases – dependent possessor of the real estate, or parts thereof owned by the state or local governments.

Real estate tax rates differ depending on a range of factors, such as e.g. the type of real estate and its location or the type of activities conducted by the tax payer.

For instance, in the case of land the tax is assessed according to its surface area, in the case of buildings or their parts – usable floor area, and in the case of structures – their value used as the base for tax depreciation for the purposes of income tax.

Some of the maximum rates are listed below:

Real estate annual tax maximum rates (in 2017)	
Land designated for the conduct of business	0.89 PLN/m <sup>2</sup>
Residential buildings	0.75 PLN/m <sup>2</sup>
Buildings designated for the conduct of business	22.66 PLN/m <sup>2</sup>
Structures	2 percent of the property value (used as the basis for depreciation)

The municipal council may, by way of a resolution, exempt entrepreneurs from real estate tax as a form of state aid.

In addition, exemptions from real estate tax may be granted in connection with business activities conducted in special economic zones.

## Road vehicle tax

Road vehicle tax is levied on trucks, buses, truck-tractors and ballast tractors, trailers and semi-trailers according to defined criteria.

In general, road vehicle tax applies to the following types of vehicles:

- trucks with a permissible gross weight of over 3.5 tons;
- truck-tractors with a total permissible gross weight of over 3.5 tons;

- trailers and semi-trailers with a total permissible gross weight of over 7 tons, except for those used for agricultural purposes;
- buses.

The tax is payable by owners of road vehicles, whether natural persons, legal persons or legal entities without legal personality.

Road vehicle tax rates can differ according to the environmental impact of the vehicle.

## Advertising fees

Fee is levied on advertising panels and advertising equipment, such as billboards, banners, advertising stickers and other forms of advertisement which are defined broadly and imprecisely.

The fee (if implemented by the municipal council) will be imposed by way of a formal resolution of the municipal council. The advertising fee is composed of a fixed element (not more than 2.5 PLN daily) and a variable element (not more than PLN 0.20 for each square meter of the surface used for exhibiting the advertisement per day).

## Dog ownership tax

Natural persons – dog owners are obliged to pay dog ownership tax.

## Local charges

Local charges include a market-place fee, local fee, spa fee and administrative fee. The principles for collecting local fees, their due dates and rates are stipulated by municipal councils by way of a resolution, but the adopted local charge rates cannot exceed the caps defined by the legislator.





**Labour**

# Labour Code

Employment relations in Poland are regulated by the Labour Code. Its provisions are accompanied by secondary legislation, including ordinances laying down detailed rules of conduct in specific employment situations and a range of special regulations.

Key issues covered by the provisions of the Labour Code include:

- types of employment contracts that may be concluded with employees (for an indefinite/definite term, probation, for the duration of replacement, or time needed to perform a specific task);
- general rules governing the payment of remuneration;
- rights and duties of contracting parties, working hours, leave entitlements;
- arrangements related to parenthood;
- occupational health and safety provisions;
- provisions for the employment of minors;
- anti-discrimination provisions.

Since February the 22nd 2016 there is only two types of contracts: permanent or fixed term. Each of them may be preceded by an employment contract for a trial period of up to 3 months.

## Minimum wage

The state policy on pay, especially the institution of minimum wage, aims to ensure that one of the key principles of labour law, i.e. fair pay, is implemented. The rate of minimum wage is agreed every year by the Trilateral Commission for Socio-Economic Affairs and published by the Prime Minister in Monitor Polski of every year.

The minimum monthly wage in 2017 was fixed at PLN 2000,00 PLN, which means that a person employed full-time from 1 January 2017 cannot be paid less.

Pursuant to Article 6.2 Minimum Wage Act of 10 October 2002 (Journal of Laws no 200, item 1679 as amended), only during the first year of employment can an employee's remuneration be reduced to 80% of the minimum wage.

The following components of remuneration are not taken into account when calculating the minimum wage:

1. service anniversary award;
2. retirement allowance;
3. overtime pay;
4. pay for night time work;

According to Article 8.1 Minimum Wage Act, if an employee works part-time in any given month, the statutory minimum pay requirement applies proportionately to the number of working hours to be completed by the employee in the month.

If a full-time employee were to be paid less than the minimum wage in any given month, because of the due dates for the payment of certain pay components or distribution of working hours, then the employer must compensate the remuneration so that it is not lower than the currently applicable minimum wage.



# Labour Code

The minimum wage also serves as an important parameter underlying the calculation of certain employment benefits, including:

1. night work allowance;
2. severance pay due to collective redundancies;
3. minimum compensation for breaching the principle of equal treatment in employment;
4. compensation due to harassment-related termination of employment;
5. minimum standby pay;
6. minimum benefits base.

As the minimum pay goes up, so do the following:

1. amount exempt from deductions;
2. labour costs;
3. social security contributions paid by employers on preferential terms;
4. night duty allowance;
5. minimum incapacity benefit.

## Working hours

In Poland, the standard working hours are:

- 8 hours a day;
- 40 hours in a five-day working week, over the adopted reference period which can be no more than four months;
- including overtime, the working hours in any adopted reference period may not exceed 48 hours a week (this limit does not apply to the management staff of the establishment).

There are groups of employees, listed in secondary legislation, to whom reduced working hours apply (e.g. employees with disabilities, healthcare employees).

## Annual leave

An employee's annual leave entitlement varies depending on the number of years worked by that employee. It amounts to respectively:

- 20 days – if the employee has worked less than 10 years;
- 26 days – if the employee has worked 10 years or more.

The provisions of the generally applicable labour law specify the legal minimum entitlements. An employer can elect to offer more leave in its internal regulations.

In the case of part-time employees or those who have only worked for part of the year, the leave entitlement is calculated

pro-rata (to the working hours or period of employment with the given employer during the year, respectively).

## Additional leave entitlements

There are some special circumstances when employees are entitled to a leave of absence:

- 2 days – in connection with their marriage or birth of their child, or death and burial of the employee's spouse or child, father, mother, stepfather or stepmother;
- 1 day – in connection with the marriage of the employee's child or death and burial of the employee's sister, brother, mother-in-law, father-in-law, grandmother, grandfather, as well as any other person who is the employee's dependant or under their direct guardianship;
- and in certain other situations provided for in labour law.



# Labour Code

## Parental leave

On 2 January 2016 in Poland they will apply new powers related to parental leave - presents them in the table below.

maternity leave		additional maternity leave	parental leave	
1 child	more than one child	not applicable	1 child	more than one child
20 weeks	31-37 weeks	not applicable	Up to 32 weeks	Up to 34 weeks



- **maternity leave**  
(from 20 to 37 weeks depending on the number of children born at one time);
- **additional maternity leave**  
(it is replaced with longer parental leave);
- **parental leave**  
(from 32 to 34 weeks, depending on the number of children born at one time).

Anyone who has a total of at least 6 months' employment record is also entitled to 36 months of unpaid parental leave, of which 1 month is dedicated exclusively to the other parent. The leave may also be taken in up to five parts, until the end of the calendar year when the child is six years' old.

## Fringe benefits

Apart from their apparent cash value, employee (fringe) benefits also have other advantages in the eyes of employees, foremost – utility. Instead of earning money, which has to be exchanged for something of practical use, the employee receives ready-to-use products. Benefits also carry certain prestige. They are designed to meet the diverse needs of employees.

One of the most popular and coveted employee benefits is private healthcare. Medical services in Poland are provided by public institutions as well as by the private sector which offers comprehensive diagnostics and treatment. Where such services are offered as a fringe benefit, the employer takes out a healthcare package for employees with a service provider so that medical treatment is not paid directly by the employee. The cost depends on the package selected.

## Probation

Probationary periods vary depending on the type of employment contract concluded. However all contracts are subject to a maximum probationary period of three months. As from February the 22nd 2016 it is possible to conclude more than one probationary contract if the type of work changes. For the same type of work it will be possible to repeat probationary contract but only after 3 years from termination or expiration of the previous employment.

# Labour Code

## Termination of employment

According to Polish labour law, a contract of employment can be terminated earlier through one of the following legal actions:



### Agreement between the parties

This method may be used to dissolve any contract and either party can initiate the process. This means that a contract of employment may be terminated in such a way at any time regardless of the parties involved, even if the employee enjoys special protection against dismissal, such as e.g. pregnant women and employee on maternity leave, employees at pre-retirement age, etc. The only condition is that both parties must agree on the terms and conditions for terminating employment.



### Notice of termination

A unilateral declaration of intent made by one of the parties to the contract of employment, entailing a period of notice which depends on the type of contract and its duration. The notice period, depending on the contract, may range from 3 working days to three months.

In principle, a notice of termination does not need to provide any grounds, unless it is a contract of employment for an indefinite period. When terminating an indefinite-term employment contract, the employer is obliged to provide grounds for the termination (and the grounds provided must be true and specific) and to notify in writing the relevant trade union organisation which represents the employee (if such exists) of their intent.

On the other hand, the employee does not have to provide any grounds, even when terminating an indefinite-term employment contract.

Since February the 22nd new rules were implemented. As a result of these changes total time of employment under such contracts will be limited up to 33 months /4 agreements and the new rules of termination will appear (equalizing with a contract of indefinite duration: variable notice periods).



### Termination without notice

An employment contract can be terminated without notice, i.e. with immediate effect, by the employer as well as the employee in the presence of circumstances that warrant such termination as provided for in labour law. These circumstances may involve the fault of the employee (the so-called termination for cause, as in disciplinary action) or reasons beyond their control (as in long-term absence, especially related to illness).

A written declaration of intent to terminate the employment contract without notice does not have to specify the date when employment comes to an end, for it always takes effect as of the date the declaration is received by the addressee in such a way as to enable them to properly familiarise themselves with its contents.

The employer may only terminate the contract for cause in the first month of becoming aware of the circumstance underlying the termination.

An employment contract may not be terminated without notice for reasons beyond the employee's control if the employee is absent due to providing child care while on attendance allowance.

# Labour Code

## Severance pay and compensation

In Polish labour law, the following types of severance pay and compensation are provided for employees upon termination of employment:

1. **Severance pay upon retirement** – paid out to employees who retire due to old age or disability. It is a one-off benefit and is equivalent to one-month's pay of that employee;
2. **Bereavement allowance** – paid out to eligible family members if employment ends due to the employee's death. The amount depends on seniority with a given employer and can range from one month's to six months' pay;
3. **Redundancy pay for employees laid off without cause** (under the Collective Redundancy Act) – ranging from one month's to three months' pay depending on seniority with a given employer (applicable for employers having at least 20 employees);
4. **Termination pay** – equivalent to monthly pay for each month of the notice period if it is shortened unilaterally by the employer;
5. **Compensation for wrongful termination** – awarded by the court if the court finds the termination of an employment contract (with or without notice) to be unlawful.

## Collective redundancy

Polish law affords special protection to employees in the case where an employer of 20 employees or more seeks to lay off 10 of them or more within 30 days. Collective redundancies arise when, depending on the headcount, certain thresholds regarding the numbers of employees to be laid off are reached in any 30-day period. The law provides for a special procedure which requires that the employment office must be notified of collective redundancies so as to prepare the labour market for the resulting increase in unemployment.

Moreover, certain employee groups enjoy special protection due to their personal or occupational status, e.g. pregnant women and those on maternity leave, union activists, members of councils and organisations existing in the workplace for the protection of workers' rights. Under these protection rights contracts cannot be terminated at all or can be terminated in a limited scope. The law also stipulates obligatory severance pay for redundant employees, according to the duration of employment with the employer. The statutory employee protection measures can be somewhat eased in extraordinary circumstances, e.g. when the employer faces bankruptcy or overall liquidation.

## Social insurance

Poland has a national social insurance system which is made up of several elements, including:

- **retirement insurance**, which goes towards old-age pensions and expenditure to cover insufficiencies from capital pensions;
- **disability insurance**, which goes towards:
  - disability allowance, training allowance, survivor's pension, supplements to survivor's pensions for orphans, carer's allowance;
  - old-age pensions granted by administrative decision to replace disability allowance;
  - funeral allowance;
  - back-to-work schemes;
  - benefits to be paid by the social insurance institution (ZUS) which are subject to financing from the state budget;
- **sickness insurance**, which goes towards:
  - sick pay;
  - maternity pay;
  - attendance allowance;
  - compensation benefit;
  - rehabilitation benefit;

# Labour Code

- **accident insurance**, which goes towards:
  - industrial injury pension and disability pension supplements;
  - one-off compensation;
  - sick pay; due to incapacity for work caused by an industrial injury or occupational disease;
- **health insurance**, which is used to pay for the costs of primary healthcare and hospital treatment;
- **labour fund**, which is used to mitigate the consequences of unemployment, i.e.:
  - unemployment benefit;
  - subsidised employment;
  - public works;
  - training and retraining of the unemployed;
  - development of careers guidance;
  - development of IT systems and labour market research;
- **guaranteed employee benefits fund**, which is intended to protect employees against loss of remuneration due to employer insolvency. It is used to satisfy claims related to job remuneration and other contractual remuneration components.

## Social insurance contributions deducted from remuneration amount to:

Type of insurance	Rate %	Rate payable by the employee	Rate payable by the employer
<b>Retirement</b>	19.52	9.76%	9.76%
<b>Disability</b>	8.00	1.5%	6.5%
<b>Sickness</b>	2.45	2.45%	
<b>Accident</b>	0.40-3.60		0.40%-3.60%*
<b>Health</b>	9	9%	
<b>Labour Fund</b>	2.45		2.45%
<b>Guaranteed Employee Benefits Fund</b>	0.10		0.10%

\* The accident insurance rate is different for individual employers and is based on the level of occupational risk and its potential consequences.

# Labour Code

## Employment of foreign nationals

For a foreign national to be employed in Poland, their legal status in the country must be legal. Non-EU nationals may stay in Poland legally under a visa or another document authorising their stay. EU nationals may stay in Poland legally for up to 3 months and they do not have to report this fact or obtain any permits. After that, their stay will continue to be legal if they have entered employment, undertaken studies or if they meet other conditions stipulated in the Foreign Nationals Act. Otherwise, they are required to legalise their stay.

In certain situations, a work permit has to be obtained to enable employment in Poland, especially for non-EU nationals. However, there is a category of foreign nationals who are not EU citizens and who enjoy the privilege of being able to work without a permit for less than six months, on condition that the employer makes an appropriate declaration in the employment office. This privilege applies mainly to nationals of neighbouring countries, including Ukraine, Belarus, the Russian Federation, Georgia and Moldova.

Work permits are not required of EU nationals, as well as those of Switzerland, Norway, Iceland and Liechtenstein, long-term residents, people with permanent employment in one of the EU member states seconded to Poland for temporary work, as well as individuals with refugee status or a settlement permit, tolerated stay permit, holders of temporary residence permits in cases provided for in the Foreign Nationals Act, students, certain academic employees and holders of Karta Polaka (Polish Card).

Work permits are issued by the voivode. The procedure for obtaining a work permit specifies that the employer needs to submit an application and conduct a market test to verify that it is not possible to fill the vacancy through the unemployment register. An employer of foreign nationals is obliged to treat them in compliance with Polish labour law.

## Trade unions

The fundamental right to organise trade unions, occupational, social and economic organisations is enshrined in the Polish Constitution. In turn, separate acts regulate in detail the activities of individual unions and organisations. The right to establish and join trade unions, as well as the principles of organisation and members' rights are laid down in the provisions of the Trade Unions Act. The above act grants every employee the right to collectively bargain, which includes joining and establishing trade unions. It also stipulates special rights necessary in the performance of trade union duties, such as e.g. paid leave of absence or special protection against dismissal due to trade union activism. The act imposes certain obligations on the employers to enable the performance of trade union functions, e.g. by providing dedicated office space for trade union activity. The focus of trade union activity in Poland is on protecting employee rights and representing workers before state and local authorities, as well as other bodies, e.g. employers' organisations.







**Audit**

# Audit

The primary piece of legislation governing financial accounting and reporting is the Accounting Act of 29 September 1994, which also lays down the principles governing the provision of bookkeeping services. The subsequent amendments to the Act gradually bring its provisions in line with the solutions adopted in IFRS, especially following the amendments of 2001 which came into force as of 1 January 2002.

Secondary legislation, in the form of regulations of the Polish Minister of Finance, accompany the Act, notably:

- regulation on accounting for financial instruments;
- regulation on the preparation of consolidated financial statements of capital groups.

In addition, the Minister of Finance has published separate regulations governing the accounting of banks, credit unions and investment funds.

## Accounting Standards

As a matter of principle, all business entities having their registered office or principal place of business in Poland must keep their books in line with the provisions of the Accounting Act. This requirement also applies to branches and representative offices of foreign enterprises, but there is an exception for partnerships whose revenue and finance income does not exceed the equivalent of EUR 2 million. For those entities, application of the provisions of the Accounting Act is voluntary.

The financial year matches the calendar year or another period of 12 consecutive full calendar months which is used for tax purposes. The financial year can be changed, and in such a case the first year following the change should be longer than 12 months. If the entity starts its operations in the second half of its adopted financial year, it may merge the accounting books and financial statements for that period with those of the following year.

Entities are obliged to follow the adopted accounting principles so that their records present a true and fair view of their assets, financial position and performance. They recognise events and operations according to their economic substance in accounting records and then disclose them in financial statements. Whatever accounting principles are adopted, they should be applied in a consistent manner: following a uniform approach to grouping business operations in subsequent periods and measuring assets and liabilities so that the data reported in subsequent years are comparable.

The scope of accounting documentation covers:

- definition of the financial year;
- methodology adopted for measuring assets and liabilities and determining the financial result;
- bookkeeping system (chart of accounts, list of accounting books, description of the data processing system);
- data protection system (of accounting books and underlying documents).

Within the framework of the adopted accounting principles, entities are allowed to simplify their approach to a certain extent, as long as it does not have a negative impact on the true and fair presentation of assets, financial position and the financial result of the entity.

The responsibility for the fulfilment of accounting responsibilities is vested in an entity's managers.



# Audit

In matters not covered by the provisions of the Accounting Act, businesses may apply Polish National Accounting Standards (NAS) which are developed by the Accounting Standards Committee, and where there are no national standards, IFRS may be applied.

The following National Accounting Standards have been published to date:

- NAS 1 – Cash flow statement
- NAS 2 – Income tax
- NAS 3 – Unfinished construction services
- NAS 4 – Impairment of assets
- NAS 5 – Lease, rental and tenancy
- NAS 6 – Provisions, accrued expenses, contingent liabilities
- NAS 7 – Changes in accounting principles (policy), estimates, adjustment for errors, events after the balance sheet date - recognition and presentation
- NAS 8 – Property development
- NAS 9 – Report on activities
- NAS 10 – Public-private partnership agreements and concessions for construction works or services
- NAS 11 – Property, plant and equipment

## Accounting records and financial statements

It is required that accounting books be kept in the Polish language and in the Polish currency.

As a matter of principle, accounting books are kept by the entity, but the law provides for subcontracting this duty to a bookkeeping service provider.

Books of accounts, as well as most of the documents underlying the records are to be stored for no less than 5 years.

Financial statements are prepared at the end of each financial year or at any other balance sheet date with respect of the provisions of the Accounting Act on measuring assets and liabilities and determining the financial result. Polish branches of foreign enterprises must also prepare financial statements.

The following financial statements are prepared:

- balance sheet;
- profit and loss statement;
- statement of changes in equity;
- cash flow statement; and
- notes.

The Accounting Act prescribes the applicable reporting templates as well as the minimum scope of information to be provided in the notes.

The Accounting Act also defines a small entity. A small entity is a business which meets two out of the three criteria listed below in the financial year for which the statements are being prepared and in the preceding financial year:

- annual average employment of no more than 50 FTEs;
- total assets – no more than PLN 17 million;
- revenue – no more than PLN 34 million.

If an entity meets these criteria it may choose not to:

- apply lease classification rules (finance or operating);
- apply financial instruments accounting;
- recognise deferred income tax.

Also, a small entity is exempt from preparing statements of changes in equity and cash-flows. Balance sheet and profit and loss statements and the notes are prepared in a condensed form.



# Audit

If an entity is even smaller it might meet the definition of a micro-entity. To be a micro-entity, businesses should meet at least two out of the three criteria listed below in the year for which the financial statements are prepared and in the preceding year:

- annual average employment of no more than 10 FTEs;
- total assets – no more than PLN 1.5 million;
- revenue – no more than PLN 3 million.

The requirements for micro-entities with regard to the application of selected accounting principles and preparation of financial statements have been simplified even further.

In the case of capital groups, consolidated annual financial statements are prepared by parents which have their registered office or principal place of business in Poland. These statements present the data for the parent and all its direct and indirect subsidiaries compiled in such a way as if the group was a single entity.

There is no obligation on the parent to prepare consolidated financial statements if at least two of the following criteria were met in the year for which the financial statements are prepared and in the preceding year:

- if combined data of the parent and all its subsidiaries without eliminating intercompany transactions are considered:
  - total annual average employment – no more than 250 FTEs;
  - total assets – no more than PLN 38.4 million;
  - total revenue – no more than PLN 76.8 million;
- or
- if combined data of the parent and all its subsidiaries after elimination of intercompany transactions are considered:
  - total annual average employment – no more than 250 FTEs;
  - total assets – no more than PLN 32 million;
  - total revenue – no more than PLN 64 million.

A parent does not have to prepare consolidated financial statements if it is controlled by another entity and:

- the immediate controlling entity holds no less than a 100 percent share in this parent;  
or
- the immediate controlling entity holds no less than a 90 percent share in this parent, and all other shareholders of this parent consent;  
and
- the immediate controlling entity will prepare consolidated financial statements in accordance with IFRS or any EEA member state GAAP covering this exempt parent as well as all its subsidiaries.

Another situation where the parent is not obliged to produce consolidated financial statements is when all its subsidiaries are exempt from consolidation (e.g. they were acquired exclusively with a view to subsequent disposal or there are restrictions in exercising control over them, or their financial data are insignificant for the consolidated statements as a whole).

# Audit

The majority of entities are also obliged to produce a report on activities providing important information on their assets and financial situation, evaluation of their performance and description of threats and risk factors. Larger entities and groups are obliged to disclose non-financial and diversity information in their reports on activities or as separate reports.

Financial statements and the report on activities are to be prepared in the Polish language and in the Polish currency.

The responsibility for assuring that the financial statements and report on activities comply with the requirements stipulated in the Accounting Act is vested in the members of the management board and supervisory board (or another supervisory body).

## IFRS

Consolidated financial statements prepared by banks and public companies must comply with International Financial Reporting Standards (IFRS). Applying IFRS in their separate financial statements is optional.

Moreover, applying IFRS is optional in both separate and consolidated financial statements prepared by entities that are a part of a group in which the parent (Polish or foreign, public or otherwise) prepares consolidated statements under IFRS. The decision is up to the approving body (supervisory board or general meeting of shareholders) of such entities.

Branches of foreign enterprises may prepare IFRS-compliant financial statements if the foreign enterprise prepares its financial statements under IFRS.

If a company intends to go public, it may elect to prepare IFRS-compliant consolidated and separate financial statements.

Otherwise, preparing financial statements according to IFRS is not permitted. The accounting principles laid down in the Accounting Act apply.

## Filing and submission of statutory financial statements

Once prepared, financial statements are signed off by the person who prepared them and by the management. If there is more than one person on the management board, all its members must sign off. If any member refuses to sign off, grounds for the decision must be provided in written form and attached to the financial statements.

Annual financial statements are subject to approval within 6 months of the balance sheet date at the latest. For some entities, annual financial statements must be audited by a certified auditor prior to approval. Distribution of profit (coverage of net loss) in entities which are obliged to have their annual financial statements audited may only take place after the certified auditor has expressed an (unqualified or qualified) opinion about those statements and after said statements have been approved by the approving body. Failing to do so renders

any distribution of the profit invalid under applicable law.

Annual financial statements are to be submitted to the court register within 15 days of approval.

Public companies:

- publish separate and consolidated quarterly statements no later than 60 days after quarter-end (no obligation to prepare quarterly statements for Q2 and Q4);
- publish separate and consolidated semi-annual statements no later than 3 months after half-year-end (this only applies to the first half of the financial year);
- publish separate and consolidated annual statements no later than 4 months after financial year-end.

Approved annual financial statements are to be stored indefinitely.

# Audit

## Audit requirements

The Accounting Act provides for the obligation of auditing financial statements. In turn, most of the principles governing the performance of financial audit activities (including financial statement audit) are laid down in the Certified Auditors Act. Certified auditors are also obliged to comply with National Standards on Auditing, which as of the end of 2017 will be consistent with International Standards on Auditing. The performance of audit activities is supervised by the Audit Oversight Commission.

Statutory audits are mandatory for annual consolidated financial statements.

Statutory audits are required for separate annual financial statements prepared by banks, insurers, credit unions, public companies, investment funds, retirement funds and joint-stock companies.

Other entities are subject to statutory audits if they met at least two of the following criteria in the year preceding the financial year for which the financial statements are prepared:

- annual average employment of no less than 50 FTEs;
- total assets at the financial year-end of no less than the equivalent of EUR 2.5 million;
- total revenue and finance income for the financial year of no less than EUR 5 million.

Financial statement audit is conducted by a certified auditor in a scope sufficient to express an opinion on whether the financial statements comply with the accounting principles adopted by the entity and whether they provide a true and fair view of the audited entity's assets, financial position and its financial result.

The auditor is chosen by the body which approves the entity's financial statements, usually its supervisory board or the general meeting of shareholders. The auditor may not be chosen by the entity's management. The agreement for the audit has to cover at least two consecutive years.

The agreement for the audit engagement may only be terminated for cause. Importantly, differences of opinion between the entity and the auditor regarding the application of accounting principles or auditing standards may not be cited as grounds for terminating the contract. The National Council of Certified Auditors is to be notified whenever an audit engagement is terminated.

Any audit of financial statements performed in violation of the independence principles is invalid under applicable law.

As of 2017 the Regulation no. 537/2014 of the European Parliament and of the Council applies to the audits of financial statements of public-interest entities. This introduces additional independence requirements. Also, the auditor election procedure has been introduced and involves Audit Committee actions.





**Trade & Finance**

# Trade

## Foreign Direct Investment

Poland has for some time enjoyed sustainable economic growth, creating stable conditions for doing business and planning long-term investment projects. From Poland's accession into the European Union in 2004 up to 2013, the combined net foreign direct investment (FDI) liabilities, increased threefold and amounted to approx. EUR 169.0 billion. Nearly 30% of the liabilities of this period were related to industrial processing investments, including but not limited to the manufacture of metal products, food, beverages and tobacco products as well as motor vehicles. Investments in the financial sector accounted for a considerable share, too – approx. 24%, and so did wholesale and retail, car and motorcycle repairs, at approx. 14%. In 2013, projects executed by foreign investors in Poland were worth EUR 2 billion, a lot of which constituted reinvested earnings – a sign of the growing confidence of foreign investors in Poland, showing willingness to incur additional expense to develop their existing investments. Geographically speaking, most of the capital invested came from the EU Member States, notably United Kingdom, Germany, Belgium.

According to NBP data, in 2015 Poland's top foreign direct investment liabilities were recorded with investors from the Netherlands, Germany, Luxembourg and France. Combined net foreign direct investment liabilities amounted to approx. EUR 167.1 billion. The highest share of the capital went into industrial processing investments, insurance and finance,

as well as wholesale and retail, motor vehicle repairs and activities related to real estate services. At the same time, the total amount of new foreign investment in the country amounted to EUR 12.2 billion and was intended mainly for investments in industrial processing, as well as wholesale and retail, motor vehicle repairs and professional, scientific and technical activities, with the highest inflows recorded from the Netherlands, Great Britain and Germany.

## Government incentives

There is a range of investment incentives offered in Poland to foreign investors. Key incentive measures include:



### Government grants

Grants are given in the form of a subsidy pursuant to a bilateral agreement between the investor and the Ministry of Economy. Such agreements specify in detail the terms that the investor must comply with for the subsidy to be paid out with a proviso that the subsidy shall be paid out proportionately to the degree of compliance with contractual provisions.

Support is available for businesses which plan to invest in priority sectors for the national economy:

- aviation;
- automotive;
- electronics and home appliances;
- food processing;
- biotechnology;
- research & development (R&D);
- modern services.

Moreover, manufacturing investment projects in other business sectors are eligible for support if they create no less than 200 new jobs and the minimum investment outlay is PLN 750 million, or if they create no less than 500 new jobs with the minimum investment outlay of PLN 500 million. The amount of subsidy depends on a number of factors, including the number of jobs created, location, business sector and the amount of investment outlay.



# Trade



## Investment incentives in Special Economic Zones

Special Economic Zones (SEZ) are designated geographic areas of Poland where investors enjoy preferential conditions when setting up business. Special Economic Zones are intended to promote growth in the least developed areas of the European Union by supporting new investment projects and job creation. When setting up a business in a Special Economic Zone, the investor may take advantage of incentives such as:

- income tax exemption;
- real estate tax exemption;
- available investor-ready sites with all the necessary infrastructure in place at a competitive price;
- free support from SEZ management companies regarding legal and organisational issues related to the investment process.

The amount of regional aid that may be provided to the business depends on the amounts invested in the project, cost of employing new employees, location of the investment and size of the enterprise applying for tax support.



## European Union subsidies

EU subsidies are funds aimed at supporting EU Member State economies. Such subsidies are provided to e.g. new investments or innovative undertakings. How much aid is given depends on the business sector of the prospective investment, the amount of investment outlay planned and the location. Specific eligibility criteria and available amounts of aid also differ between individual calls for proposals, which are announced to select the best investment projects.

## Imports

In 2016, Poland's imports were worth about EUR 180.9 billion a year. Since Poland joined the European Union, international trade revenues have doubled. A majority of imported goods, that is some 61%, originate from the EU Member States, and Poland's key partners include Germany, Italy, France, the Netherlands and the Czech Republic.

In turn, the main business partners from outside of the European Union are China and Russia, which put together account for almost 18% of all imports. Value-wise, the leading import category is machinery and equipment, including electrical and electronic equipment, accounting for 25,20% of all imports. Other products frequently brought into Poland include mechanical and electrical equipment, mineral products, chemicals, plastics, rubber and similar articles, precious metal and articles thereof, as well as transport equipment.

# Finance

## Capital markets

In Poland, the institution responsible for enabling public trading in financial instruments is the Warsaw Stock Exchange. The Warsaw Stock Exchange organises and handles transactions across three markets: the WSE Main Market, the NewConnect, which is organised as an alternative trading system, and the debt instruments market – Catalyst, which functions both as a regulated market, and as an alternative trading system.

The Warsaw Stock Exchange is the largest national stock exchange in Central and Eastern Europe. As of 31 August 2017 capitalisation exceeded PLN 1 409 billion, which is comparable to the combined capitalisation of the stock exchanges of Vienna, Prague, Budapest, Bucharest, Sofia, Bratislava and Ljubljana. Moreover, in the same period the Warsaw Stock Exchange ranked first in terms of the number of IPOs out of all the stock exchanges of Europe.

As of 31 August 2017, there were 487 companies listed on the regulated market, representing 28 different business sectors, of which 52 were foreign companies. To illustrate stock exchange performance or the condition of a selected business sector, various stock indices are compiled based on the prices of selected stocks. The best known index is WIG20, which reflects the performance of the 20 top listed companies. In turn, the main index of the NewConnect, a market dedicated mainly to start-ups and companies in their early days, is NCIndex30. As of 31 August 2017, there were 405 companies listed on this market.

The Catalyst is a bond market for trading in corporate, co-operative, municipal and Treasury debt instruments. As of 31 August 2017, the Catalyst listed 597 series of bonds issued by 166 issuers. The total value of listed bonds in 2016 was more than PLN 2.352 million.

## Banking system

The Polish banking system comprises a range of financial institutions, starting with the nation's central bank, the National Bank of Poland, through the Polish Financial Supervision Authority, Bank Guarantee Fund, to the banking sector itself, including commercial banks, co-operative banks, foreign bank branches and credit unions (SKOKs).

As of 31 December 2016, there were 36 commercial banks in operation in Poland, which together handled in excess of 31 million bank accounts. The largest bank is PKO BP, whose assets exceed PLN 273 billion. The second largest bank in terms of the assets held is Bank PEKAO – with almost PLN 171 billion. The third largest is BZ WBK, whose assets are in the range of PLN 131.4 billion. In recent years, increasing concentration in the banking sector has been observed. The five largest banks have accumulated a market share of nearly 50% in terms of assets, loans as well as deposits.

Apart from commercial banks, an important role is played by co-operative banks, associated in two banking groups – Spółdzielcza Grupa Bankowa and Bank Polskiej Spółdzielczości.

As of 31 December 2015, there are 560 such banks in Poland, and their assets account for close to 7% of Poland's banking system. There are also 47 credit unions (Spółdzielcza Kasa Oszczędnościowo-Kredytowa, SKOK) in the banking system, with 2.04 million members according to the data as of Q4 2015. To complete the picture, the banking system includes 28 foreign bank branches and credit institutions, which mainly deal with international corporations, and Bank Gospodarstwa Krajowego, Poland's only state-owned bank. The total number of branches, agencies, or other banking customer service centres as of December 2015 accounted approx. 14,400. 8% of all banks in Poland are controlled by foreign investors (with the majority of those being commercial banks) from countries such as Germany, France, USA and Italy.



# Finance

## Insurance industry

The insurance market in Poland is divided into life and non-life products, the latter of which includes motor, property, health and accident, as well as general liability insurance. In 2016 68.85% of insurance companies, are part-owned by foreign capital: for life insurance, its share accounts for 61.1%, and for non-life insurance, as much as 69.53% of total core capital. Shareholders originate mainly from Austria, France and Germany. The combined assets of insurance companies as of 31 December 2016 amounted to PLN 185.1 billion, of which PLN 103.2 billion was in life insurance assets, and almost PLN 82 billion constituted the assets of non-life insurance providers.

The leader in the life insurance market is PZU Życie, with gross premiums written in 2016 year amounting to PLN 8.03 billion, which translates into a market share of 33.69%. Other significant players in this segment are AVIVA TUŃŻ S.A., with an 8.11% share, followed by OPEN LIFE TU ŻYCIE, METLIFE TUŃŻIR S.A. and NATIONALE-NEDERLANDEN S.A. TUŃŻ S.A. holding market shares of: 6.2%, 5.77%, and 5.69% respectively.

With regard to non-life insurance, the market is led by another company from the PZU group – PZU S.A., which in 2016 reported gross premiums written totalling PLN 10.68 billion, corresponding to more than 33.28% of all premiums paid by customers. Considerable market shares are also held by STU ERGO HESTIA (13.35%), TUiR WARTA S.A. (12.83%) and TUiR Allianz Polska (5.58%).

As of 31 December 2016 in Poland there were 35 non-life insurers and 27 life insurers.

## Investment management industry

According to the data for 4Q 2015, in the Polish market there were 59 investment fund companies, which managed 806 investment funds, with 39 open-end funds, 49 specialised open-end funds and 718 closed-end funds. Among them, the most popular types are debt, mixed, share as well as cash and money market funds, accounting together for 62.9% of assets managed by investment funds. Out of all the categories mentioned above, debt securities funds are the single most popular type of fund, with a market share of 41.8%. Other, less frequent, types of funds include private market and absolute return funds.

The investment funds in Poland have accumulated total assets amounting to more than PLN 296.41 billion (December 2015). Looking at the investor structure, investment fund units in Poland are held predominantly by domestic investors. Foreign investors as of the end of 2014 held 698 million participation units, and in the past two years their capital involvement increased at a growth rate of more than 20% per year.





**Infrastructure**

# Infrastructure

Business across all sectors relies heavily on the overall quality and reliability of infrastructure.

Just after the economic transformation of 1989, Poland's public infrastructure was relatively poorly developed, notably in the area of transport, which posed a serious obstacle to business development. Since then – particularly after 2004, when Poland joined the European Union and gained access to EU funds – the country has significantly caught up with Western Europe. Great strides are being made to gradually bridge the infrastructural gap between Poland and other EU Member States. Since EU accession, the annual spending on public infrastructural investment projects has ranged between PLN 60 and 80 billion (EUR 14–19 billion).

## Roads

Road infrastructure projects have received a large portion of investment outlay. At the end of 2016, Poland had 3,213 km of roads for high-speed vehicular traffic, including 1,566 km of motorways and 1,680 km of expressways, which is a threefold increase over a period of eight years. The current multi-annual government plan for the coming years provides for the expansion of the road network by an extra 4.2 thousand km, of which approximately 500 km will be motorways. Most of those projects are now already under way.

## Air transport

Poland's air transport network has also significantly expanded in recent years. There are 13 airports in operation nationwide, which handle a total of 25 million passengers a year. The country's busiest airport is Warsaw Chopin Airport, with 11.8 million passengers departing and arriving every year (data for 2015). It is followed by Kraków Balice (3.6 million passengers) and Katowice Pyrzowice (2.5 million). The infrastructure in place satisfies domestic demand.

## Railway

Regrettably, rail transport continues to pose challenges to the government. Even though the railway network density is sufficient (the length of rail lines exceeds 19 thousand km and there are 1.6 thousand railway stations for passengers to use), a considerable percentage of railway lines need to be renovated. Due to the poor condition of infrastructure, a speed limit is imposed on many lines and travel times are long. The government has earmarked EUR 10.5 billion from EU funds allocated to Poland for 2014–20 on rail investments. This amounts to one in eight euro of available funding going towards rail infrastructure.

## Electricity

Among the obstacles to business development in Poland, the power supply system sometimes looms surprisingly large. While the grid itself is quite well developed, bureaucracy can stand in the way of businesses getting connected. According to the World Bank's Doing Business survey, it takes an average of 161 days to obtain an electricity connection to a warehouse in Poland, which ranks the country 65th in the world in this respect.

## Telecommunications

IT infrastructure is another area which still requires major investment. Despite significant progress in recent years, Poland's broadband network lags behind those of the majority of other EU Member States. The network covered 75 percent of Polish households at the end of 2015, while the EU average at the time was 81 percent. On the other hand, the telecommunications network covers almost the entire territory of Poland. Access to broadband internet using mobile networks is available to 96 percent of Polish households, which is comparable with the EU average.

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