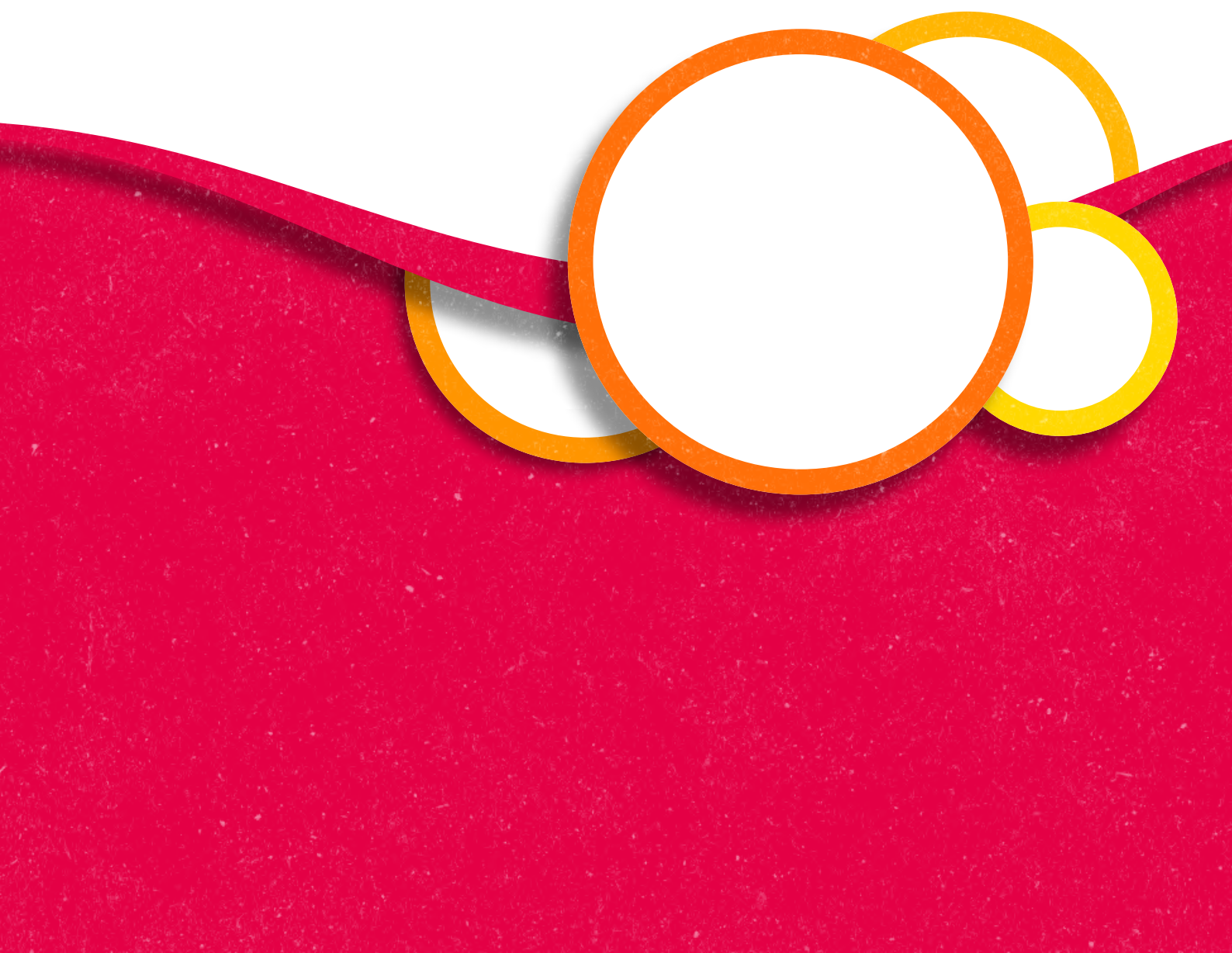


# Doing Business

in Poland



# 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 2008 and 2013, the cumulative GDP growth in Poland reached 20.1 percent and the country is now the EU's sixth-largest economy.

According to Eurostat data for 2013, the Polish economy grew by 1.7 percent, which was still one of the highest growth rates among EU countries. After a robust recovery in the first half of the year, when real GDP grew by 3.4 percent, Poland's



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real GDP growth is expected to average 3 percent in 2014. Then it is forecast to ease marginally to 2.8 percent in 2015 before bouncing back up to 3.3 percent in 2016. All this indicates that Poland will continue to lead the EU 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.

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.

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.

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.

Poland's economic growth is in part due to the sizable support from 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 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.

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A graphic design featuring three overlapping circles in orange, yellow, and magenta. A thick magenta wavy line passes through the circles. The word "LEGAL" is centered in the orange circle.

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 Senate (the upper house) jointly creating a bicameral Parliament. There are 460 members of the Sejm, while the Senate 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 four main political parties that currently hold sway: the Civic Platform (Platforma Obywatelska), Law and Justice (Prawo i Sprawiedliwość), the Democratic Left Alliance (Sojusz Lewicy Demokratycznej) and the Polish People's Party (Polskie Stronnictwo Ludowe).

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. Since 2014 the post of Prime Minister has been held by Mrs. Ewa Kopacz, who replaced Mr. Donald Tusk (the current President of the European Council).

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, 314) 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.

### **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:

- the person that the data applies to (data subject) gives her/his consent, unless that person's data are being deleted;
- it is necessary for the purposes of exercising a right or fulfilment of a duty stipulated by law;
- 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;
- it is necessary in the performance of statutory tasks undertaken for the public good;
- 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 (in excess of EUR 10,000).

### 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 of up to PLN 750,000, 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 face imprisonment for up to three years.

### 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 countries.



## 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	<p>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.</p> <p>The work is protected by copyright once it is established, even though it may remain unfinished.</p> <p>Copyright protection is extended to the author irrespective of compliance with any formalities.</p> <p>The scope of copyright protection includes personal (moral) and property (economic) rights in compliance with the Berne Convention.</p>
Infringements	<p>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.</p>
Duration	<p>Economic rights are covered by protection for 70 years starting from:</p> <ul style="list-style-type: none"> <li>• the author's death;</li> <li>• the death of the last remaining co-author – for collaborative work;</li> <li>• the first publication in the case of works whose author is not known;</li> <li>• 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;</li> <li>• the death of the last remaining of the following people: main director, screenwriter, author of dialogues, composer of the soundtrack accompanying audiovisual work.</li> </ul> <p>The author's personal (moral) rights are subject to protection for an indefinite period of time.</p>

## 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.

Protection granted	<p>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.</p>
Infringements	<p>A patent infringement may involve:</p> <ol style="list-style-type: none"> <li>1. production, use, offering, marketing or importing of the patented invention for professional and/or commercial purposes; or</li> <li>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.</li> </ol>
Duration	<p>Patent protection runs for 20 years from the date of application to the Patent Office.</p>

PATENTS - continued	
European Patent	Importantly, under a patent obtained in Poland protective rights do not extend to 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 which awards European patents.
Unitary Patent	<p>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.</p> <p>The Unitary Patent enjoys unitary effect, which means that it will be enforceable across the entire territory through one action at 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).</p> <p>However, for the time being Poland has not signed the Unified Patent Court Agreement (along with Croatia and Spain), therefore, it is not covered by the Unitary Patent.</p>
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	<p>Trademark applications are received and examined by the Patent Office of the Republic of Poland.</p> <p>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.</p> <p>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.</p>
Infringements	<p>A trademark infringement involves an unlawful commercial use:</p> <ol style="list-style-type: none"> <li>1. of a sign identical to the registered trademark with regard to identical goods;</li> <li>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;</li> <li>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.</li> </ol>
Duration	<p>Trademark protection runs for 10 years from the moment of submitting a trademark application to the Polish Patent Office.</p> <p>At the owner's request, trademark protection may be renewed for additional 10-year periods.</p>

## 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	<p>Industrial designs are covered by legal protection as of the moment of registering the application, providing that the registration has been successful, as confirmed by the protection certificate issued by the Patent Office.</p> <p>Industrial design protection confers the exclusive rights to use the design for commercial and/or business purposes. Under the registration certificate, the holder has the right to exclude third parties from:</p> <ul style="list-style-type: none"> <li>• manufacturing;</li> <li>• offering;</li> <li>• marketing;</li> <li>• importing;</li> <li>• exporting;</li> <li>• using the product featuring the design;</li> <li>• storing said product for such purposes.</li> </ul> <p>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).</p>
Infringements	<p>A breach of industrial design protection occurs when a competing design does not give a different overall impression to users, which means that users of the product may be confused as to its origin.</p>
Duration	<p>Protection resulting from the registration of a national industrial design continues for five years from the date of submitting the application. The holder may extend this period for a fee up to the maximum of 25 years from the application date.</p> <p>An unregistered Community design is protected for a period of three years after the design is first made available to the public.</p>





# 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 "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 proprietorship;
- civil-law partnership – used for joint investment projects or consortia;
- companies and partnerships defined 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.

### **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, and 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 privileges 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 business 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 Economy.



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## Spółka z ograniczoną odpowiedzialnością (Sp. z o.o.) – Limited liability company

- is the most popular legal form for newly established entities;
- has legal 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, equally 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.



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## Spółka akcyjna (S.A.) – Joint-stock company

- has legal 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 burden of responsibility for the company's business lies mainly with its directors.
- 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, equally 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

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

- The founders should sign the company's articles of association in notarised form;
- A bank account should be opened in a bank operating in Poland;
- The contributions to cover the share capital should be paid into the Polish bank account of the company;
- The board of directors should be appointed;
- The company should be registered with the National Court Register and several other institutions (e.g. the Tax Office for income tax or VAT purposes, or ZUS for social security purposes).

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## 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 either a limited liability company or a joint stock company, the following actions are required:**

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- A bank account should be opened in a bank operating in Poland;
- The contributions to cover the share capital should be paid into the Polish bank account of the company;
- The board of directors should be appointed;
- The company should be registered with the National Court Register and several other institutions (e.g. the Tax Office for income tax or VAT purposes, or ZUS for social security purposes).

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### 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 prepared by a notary;
- each partner is personally liable for the partnership's debts with all their assets, jointly and severally with other partners and the partnership.

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### 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.

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### Spółka partnerska (Sp.p.) – Professional partnership

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- 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.



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### Spółka komandytowa (Sp.k.) – Limited partnership

- has no legal personality;
- has to be registered with the National Court Register;
- the deed of a limited partnership must be prepared by a notary;
- 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.

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### Spółka komandytowo-akcyjna (S.K.A) – Limited joint-stock partnership

- has no legal personality;
- has to be registered with the National Court Register;
- the deed of a limited joint-stock company must be prepared by a notary;
- is a hybrid of a joint stock company and a limited partnership;
- may have such corporate bodies as the general meeting and supervisory board (but there is no board of directors);
- 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;
- the minimum contribution to the partnership is PLN 50,000 (approx. EUR 12,000).

### 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:

#### OPTION 1

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.

#### OPTION 2

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

#### OPTION 3

The company/partnership may be established through electronic filing, without involving a notary (option available only with limited liability companies). 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.

# Establishing business in Poland

## Establishing partnerships, companies, branches and representative offices

A good beginning is half the battle! For businesses starting their operations (start-ups), adopting an adequate legal form and ownership structure in Poland is relatively easy and inexpensive.

The alternative is to change the existing structure at a later date, which will entail additional expense and often disrupt operations, too, wasting the resources and time of the enterprise. That is why we recommend that you focus on the important matters when establishing a business right from the beginning to prevent expenses at a later time.

Examples of such important elements include: the legal form of the business, options for growth, tax optimisation to prevent expenses at a later time.

## Important Polish abbreviations

**KRS** - National Court of Register

**GUS** - Central Statistical Office

**ZUS** - Social Insurance Institution

**NIP** - VAT identification number



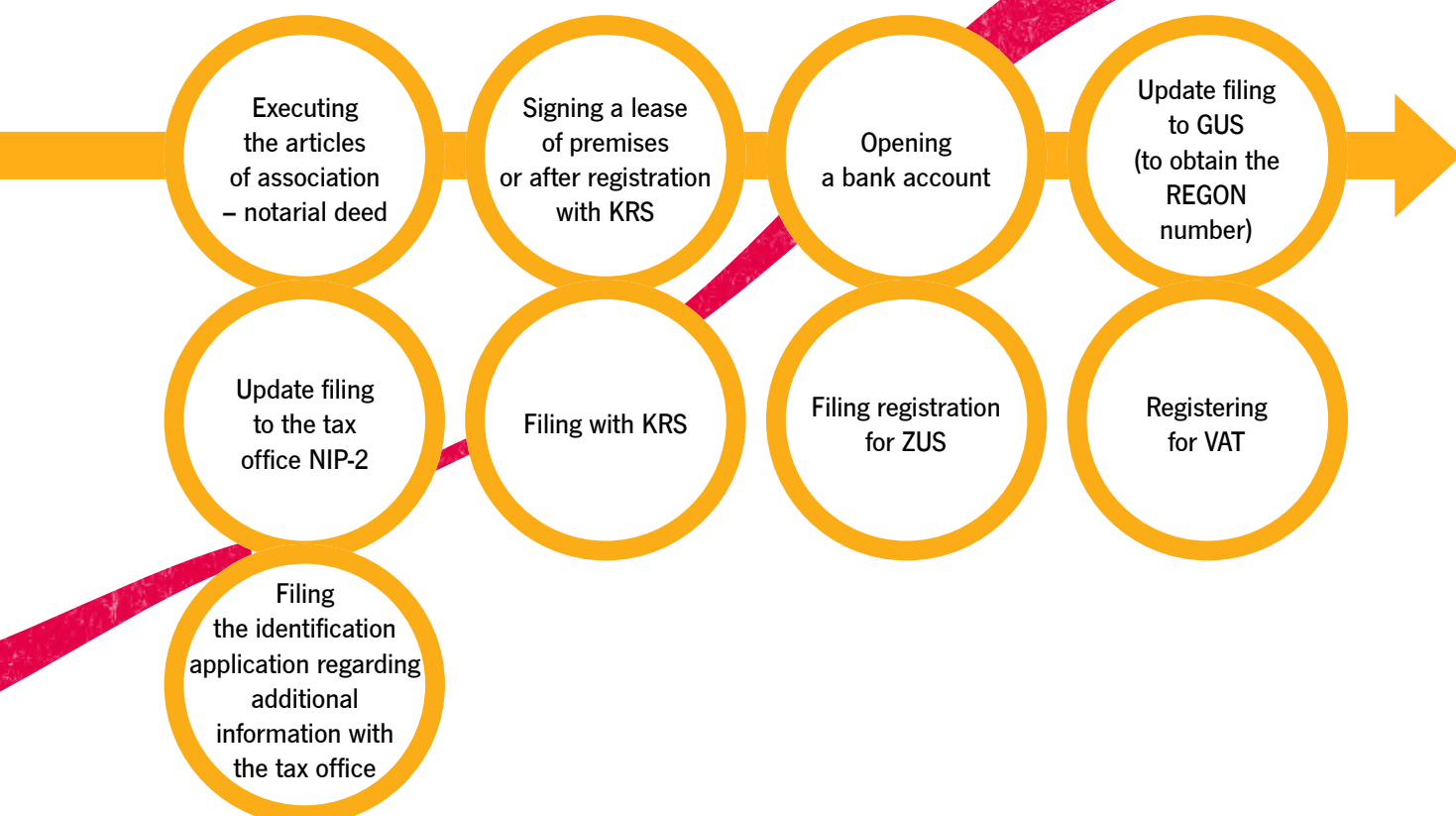
## The procedure for establishing a limited liability company (spółka z ograniczoną odpowiedzialnością)

A limited liability company is one of the most popular legal forms of business organisation.

### VERSION 1



### VERSION 2



**Table presenting the documents needed during the formation of a limited liability company**

No.	Description	Comments
1	Articles of association in notarised form signed by all partners of the company	A limited liability company may not be formed solely by another one-person limited liability company
2	Power of attorney granted by the partners in notarised form	Required if the articles of association are to be signed by an attorney authorised by the partners
3	Excerpt from the business register relevant for a foreign partner, with an apostille clause affixed, and translated into the Polish language by a certified translator	Required if a foreign legal person is a partner
4	Resolution of the partner's relevant governing body consenting to engagement in the limited liability company	

**Table presenting the documents needed during registration with the National Court Register (KRS)**

No.	Description	Comments	Number of copies
1	Proof of payment of PLN 600 (PLN 500 registration fee into KRS and PLN 100 for announcement in MSiG)		1
2	Statements from all members of the management board confirming that contributions towards the share capital have been made by all the partners in full	Signed by all members of the management board of the limited liability company	1
3	List of partners	Signed by all members of the management board of the limited liability company	1
4	Statement of names and addresses of management board members	Signed by the person or persons authorised to represent the company in the registration procedure (i.e. by the management board or the company's attorney, but not necessarily all management board members).	1
5	Statement that one/all members of the management board of the limited liability company do not have PESEL identification numbers	If a Member of the Management Board is a foreign individual not registered in the Polish PESEL register; Signed by the person or persons authorised to represent the company in the registration procedure (i.e. by the management board or the company's attorney, but not necessarily all management board members).	1

No.	Description	Comments	Number of copies
6	Statement of address (and registered office) of the sole member of the limited liability company	If the limited liability company has only one member; Signed by the person or persons authorised to represent the company in the registration procedure (i.e. by the management board or the company's attorney, but not necessarily all management board members).	1
7	A national identity card/passport certified by a notary, including an apostille clause, and translated into the Polish language by a certified translator	If a Member of the Management Board is a foreign national	1 copy per Member of the Management Board
8	Power of attorney including proof of payment of stamp duty amounting to PLN 17	If the application is filed by an attorney; stamp duty to be paid according to the location of the office where the filing is made	A legal adviser may certify the power of attorney to be a true copy of the original document
9	Registration filing forms with KRS	Signed by management board members in line with the rules of representation or by the attorney	1 copy per form

After the company is registered, an application on form NIP-8 is to be submitted to the Tax Office.

#### Post-registration requirements:

No.	Description	Comments	Number of copies
1	Update form NIP-8	Company data in the Tax Office are updated	1
2	Registration notification VAT-R – the fee is optional – if the application is submitted without making the payment, the office will register the company but will not issue a confirmation	Not covered by the one-stop-shop system	1
3	Share register	Partners are entered into the share register	

## Additional fees

The fees payable in connection with establishing a company include:

- registering the company with the National Court Register – PLN 500;  
Establishing a company online – PLN 250
- Mandatory announcement in Monitor Sądowy i Gospodarczy – PLN 100
- Registering for VAT – PLN 170
- Required certified translation – PLN 0-100 per page
- Stamp duty on powers of attorney – PLN 17 per document submitted
- Tax on civil-law transactions

$$\text{Tax on civil-law transactions} = \left( \text{Company's Share Capital} + \begin{pmatrix} \text{notary's total remuneration} \\ + \\ \text{court registration fee} \\ + \\ \text{fees for the announcement in Monitor Sądowy i Gospodarczy} \end{pmatrix} \right) * 0.5\%$$

**Company's Share Capital** – minimum PLN 5000.00,

**Notary's total remuneration** – depending on the Company's Share Capital (see: notarial fees),

**Court registration fee** – PLN 500.00,

**Announcement in Monitor Sądowy i Gospodarczy** – PLN 100.00,

- Notarial fees – charged according to the amount of Share Capital

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, and in the case of transactions between individuals classified into the 1st tax group within the meaning of the provisions of the Inheritance and Donation Tax Act of 28 July 1983 no more than PLN 7,500.



## Selected forms of partnerships and companies

Selected legal forms of partnerships and companies	Spółka jawna (Sp.j.)  General partnership	Spółka komandytowa (Sp.kom. )  Limited partnership	Spółka z ograniczoną odpowiedzialnością (Sp. z o.o. )  Limited liability company
Minimum capital	None	None	PLN 5,000
Minimum number of partners	A national identity card/ passport certified by a notary, including an apostille clause, and translated into the Polish language by a certified translator.	If a Member of the Management Board is a foreign national.	1 (one person company).
Taxation of profits generated by the company	None	None	19%
Taxation of partners' profits	Flat rate 19% or progressive tax at 18% and 32%.	Flat rate 19% or progressive tax at 18% and 32%.	Dividend taxed at a flat rate of 19%.
Partners' liability	Joint and several, and subsidiary with the partnership, unlimited responsibility and liability of all partners.	The general partner shares unlimited joint and several, and subsidiary liability with the partnership;  The limited partner is liable up to their capital contribution	Partners are not liable. Liability, if any, may occur on the part of the management.
Representation	Each partner has the right to represent the partnership, unless the articles of association provide otherwise.  In line with the rules of representation laid down in the articles of association.	The general partner represents the partnership in line with the rules of representation laid down in the articles of association.	Members of the management board in line with the rules of representation laid down in the articles of association.

**Limited partnership** combines the benefits of firmly securing the partners' personal assets (to a similar extent as in the case of a limited liability company) with cost-effective taxation (flat-rate tax of 19%), which makes it one of the most optimal forms of business activity for small and medium-sized enterprises.

The appeal of limited partnerships is reflected in the growing number of entities operating within such a framework. Limited partnerships are established for new business undertakings. In the case of entities already in operation, it is possible to change their legal form to a limited partnership.





A decorative graphic consisting of three overlapping circles in orange, yellow, and orange. A thick, wavy magenta line passes through the circles. The word "TAXES" is centered in the largest orange circle.

# TAXES

# Corporate income tax (CIT)

## Scope

All matters related to corporate income tax are comprehensively regulated in the Corporate Income Tax Act (CIT Act). At present, the tax rate amounts to 19% and it is the only corporate income tax levied on Polish tax residents.

The following taxpayers 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;
  - 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**).

## 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. For some revenue items such as dividends, interest and royalties – the taxable base is gross income.

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.

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



## 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.

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, outlay on the repayment of borrowings, donations, liabilities written off as expired, partial depreciation charges on valuable passenger cars, as well as certain liquidated damages which do not constitute tax-deductible expenses.

In line with new legislation introduced in 2013 the taxpayer cannot deduct amounts from purchase invoices if those invoices have not been paid within 30 days of the due date. This rule applies to situations in which the parties had agreed payment terms of no more than 60 days. For longer payment terms, the rule applies to invoices which remain unpaid for 90 days after the issue date. Similarly, in the case of purchases of fixed assets, if purchase invoices are not paid within the timeframes mentioned above, depreciation charges on the part of the price which corresponds to outstanding purchase invoices constitute nondeductible expenses.

The catalogue of expenses which cannot be deducted from taxes includes over 60 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.

### Thin capitalisation

Thin capitalisation provisions recently underwent significant amendments with new legislation entering into force as of 1 January 2015. The new provisions are applied to borrowings transferred to the borrower's account after 1 January 2015, and the most important amendments are:

- a broader scope of entities which fall under the thin capitalisation regime (in the past, only direct shareholders and sister companies were treated as qualified lenders);
- change of the debt-to-equity cap on the deductibility of interest which was based on the value of shareholders' equity with certain adjustments;
- a new (alternative) method of calculating the tax deductibility of interest.

As of 1 January 2015, 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.

A new alternative method has been introduced for the calculation of the thin capitalisation limit. The most important aspect of the new 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.

## 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.

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.

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%



## 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.

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.

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.



For comprehensive list of  
the Polish Tax Treaties in  
force click here ►►►

### **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.

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.

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.

## 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 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. They 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.

Tax documentation is to be prepared for transactions exceeding the following thresholds in a tax year:

**EUR 100,000**

if the transaction price does not exceed 20% of the share capital;

**EUR 30,000**

with respect to services, sale or use of intangible assets;

**EUR 50,000**

in all other cases (including the total value of partners' contributions to a partnership without legal personality as well as the value of a joint venture determined in a contract; however, if one of the partners of the joint venture or partnership is an entity registered in a country involved in harmful tax practices, then the limit of EUR 20,000 is applicable);

**EUR 20,000**

in the case of taxpayers registered in countries designated as tax havens.

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.





## **Controlled Foreign Company (CFC) taxation**

On 1 January 2015, Poland introduced new CFC legislation, whereby Polish taxpayers are obliged to charge corporate tax on the income generated by their controlled foreign subsidiaries. Unfortunately, the new provisions on CFC are deemed to be some of the strictest and most complicated in the European Union.

First of all, 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.

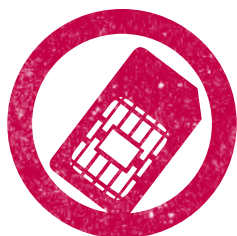
After assessing the 19% tax on the income as presented above, the taxpayer is entitled to deduct part of the income tax paid abroad.

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.

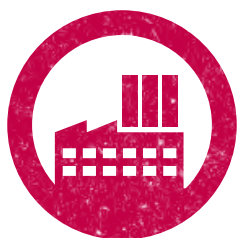
## Tax reliefs

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



### Acquisition of new technology

The taxpayer who has acquired new technology in an intangible form has the right to deduct an extra 50% of the expenditures incurred. To benefit from this relief, taxpayers have to meet certain restrictions relating to their tax status, and need to obtain a certificate confirming the novelty of the new technology as well as maintain the asset for a certain period. This relief does not impact depreciation charges.



### 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.



### Research & Development Centres

The taxpayer with the status of an R&D centre who allocates up to 20% of their monthly revenue to a special innovation fund may deduct contributions to this fund from taxes as long as the means accumulated in the innovation fund are spent according to the listed 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.

## 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.

## 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.

### Tax scale 2015

The table below presents the tax brackets applicable in 2015:

Taxation Base (PLN)	Tax Amount in 2015:	
Over	Up to	
	85,528	18% minus the tax reducing amount PLN 556.02
85,528		PLN 14,839.02 + 32% on the surplus over PLN 85,528.00

### 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).

### 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 2015, 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.

## **Social security contributions**

### **Individuals employed by a non-Polish enterprise**

Pursuant to EU regulations governing social insurance systems in the Member States, employees are only subject to one obligatory social insurance system.

The place of work decides which system applies (the so-called place of work rule). However, these regulations provide for certain exceptions concerning employee posting. After obtaining appropriate attestation (A1, formerly E-101 certificate), an individual delegated to Poland from another EU state can remain insured in his/her home country. Such a certificate remains valid for a period of 24 months

In exceptional cases, an employee may remain subject to the legislation applicable in the home country for more than 24 months where this is in the interest of the worker concerned.

Such an extension requires the consent of the relevant institutions of both the Member States involved, and it is up to the employer of the worker concerned to submit a request with the social insurance authority in the home country to reach an agreement.

Individuals who work permanently in several EU countries shall be subject to social insurance in only one EU country (usually, the country where they reside). Subject to certain additional conditions, they may receive the E-101 (A1) certificate and not pay social security contributions in Poland.

Where no exemptions apply, the foreign entity should contact the First Branch of ZUS in Warsaw, ul. Senatorska 6/8, with a copy of their NIP certificate and a completed registration application for a paying agent of ZUS contributions (ZUS ZPA form). Please note that the employee should take over the obligation to act as the paying agent (formalised in an agreement).

The above regulations do not apply to individuals from non-EU countries who work in Poland. As a rule, such individuals should be covered by the Polish social security system (ZUS) only when they are employed by a Polish entity (they are subject to the Polish social security system in the same way as Polish employees). Social security contributions are payable by the employer and employee. However, when the source of remuneration is outside of Poland (i.e. the individual is paid under a contract signed with a non-Polish entity), the obligatory Polish social security contributions do not apply.

### Individuals employed by a Polish enterprise

If work is carried out within the territory of Poland and is performed by employees engaged by a Polish enterprise, no exemptions apply and they are subject to Polish social security contributions.

Employees (insured persons) are subject to the following mandatory social insurance schemes:

- retirement pension insurance,
- disability pension insurance,
- sickness insurance,
- insurance against accidents in the workplace.

Contributions under the above-mentioned insurance schemes are deducted from remuneration. The base for the assessment of contribution rates is income, within the meaning of the provisions on personal income tax, earned by an employee during a calendar month for the work performed under an employment contract.

Social security contributions towards retirement and disability pensions are paid only up to an annual income cap. In 2015, the cap is PLN 118,770 of gross income.

Moreover, there is a contribution towards the Labour Fund, which is payable by the employer. The contribution amounts to 2.45% of the cumulative earning limit. The employer is also obliged to pay contributions to the Employees' Guaranteed Benefits Fund amounting to 0.1% of the cumulative earning limit.

Persons eligible for social insurance are subject to health insurance amounting to 9%. 7.75% of the healthcare contributions paid in a given tax year may be deducted from tax.

Contributions are paid both by the insured person (employee) and the paying agent (employer):

Social security contribution	Contribution as a percentage of the assessment base	Payable by	
		Employer	Employee
Retirement	19.52	9.76	9.76
Disability	8.00	6.50	1.50
Sickness	2.45		2.45
Industrial injuries	1.80*	1.80	
Contribution to Labour Fund	2.45	2.45	
Employees' Guaranteed Benefits Fund	0,1%	0,1%	
Total in 2015	32,92 - 36,12	19,21 - 22,41	13,71

\* The rate of contributions towards industrial injury insurance is generally determined every year. The contributions range from 0.40 to 3.60 percent, depending on the type of business. Generally, for newly established and small businesses, the rate is 1.80 percent.



# 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 mandatory 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.

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).

### **Tax representative**

If a taxpayer does not have a registered office, permanent place of business or place of residence within the territory of a Member State of the European Union, and is required to register as “an active VAT taxpayer”, such a taxpayer is obliged

to appoint a tax representative. Taxpayers having their registered office or permanent place of business within the territory of a Member State may, but are not obliged to, appoint a tax representative in Poland.

A natural person, legal person or legal entity without legal personality can act as a tax representative provided that they meet certain conditions stipulated in the VAT Act (such as they must be a Polish-based taxpayer without tax arrears and a licensed provider of tax advisory and/or bookkeeping services). The taxpayer and tax representative are jointly and severally liable for tax liabilities of the taxpayer represented by the tax representative. For this reason very few entities provide tax representation services in Poland.

### **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.

## 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.

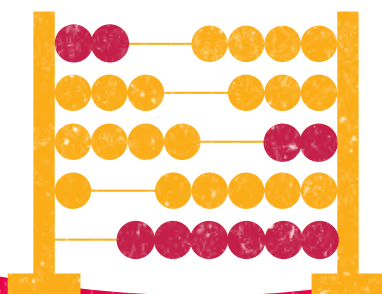
VAT exempt services include for instance financial agency services (with exceptions) or educational services.

### 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.

### **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 invoices issued 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 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; moreover, as of 1 July 2015 taxpayers will be able to deduct 50% of input tax on purchases related to passenger cars used for mixed purposes – business and non-business), or purchases of hospitality and catering services.

Special rules on deducting input tax are applicable to the purchase and use of passenger cars.

### **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.

Foreign entities from outside the European Union may apply for a VAT refund on the basis of the reciprocity principle. At present, reciprocity agreements have been signed with Croatia, Iceland, Macedonia, Norway, and Switzerland.

The tax may not be recovered e.g. on purchases of hospitality and catering services or on purchases of fuel, diesel or gas related to passenger cars used for mixed (business and private) purposes (prior to 1 July 2015). In the case of purchase or lease of a passenger car, partial recovery of input VAT is allowed.

### 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 may 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. As a general rule, EC Sales Lists are submitted for monthly periods, but subject to certain thresholds they may be submitted on a quarterly basis.

The EC Sales Lists are submitted by the 15th day of the month following the month (for taxpayers reporting monthly) or following the quarter (for taxpayers reporting quarterly) during which the tax was incurred. Taxpayers reporting electronically may submit EC Sales Lists by the 25th day respectively.

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

## 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, 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), 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.

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

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 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

### **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.



## **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;
- 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: at is:
    - 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.
- contracts for the sale of shares in a joint-stock company executed through investment companies or foreign investment companies (e.g. a brokerage house);
- 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.

## **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.



# 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 new Excise Duty Act entered into force on 1st March 2009. The consolidated version was published in 2014 in the Journal of Laws at item 752. 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.

All the activities connected with excise duty are supervised by Customs Offices and Customs Chambers.



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.

# 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 2015)

Land designated for the conduct of business	0.90 PLN/m <sup>2</sup>
Residential buildings	0.75 PLN/m <sup>2</sup>
Buildings designated for the conduct of business	23.13 PLN/m <sup>2</sup>
Structures (used as the basis for depreciation)	2 percent of the property value

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 criteria defined in the Act .

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.

### **Dog ownership tax**

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

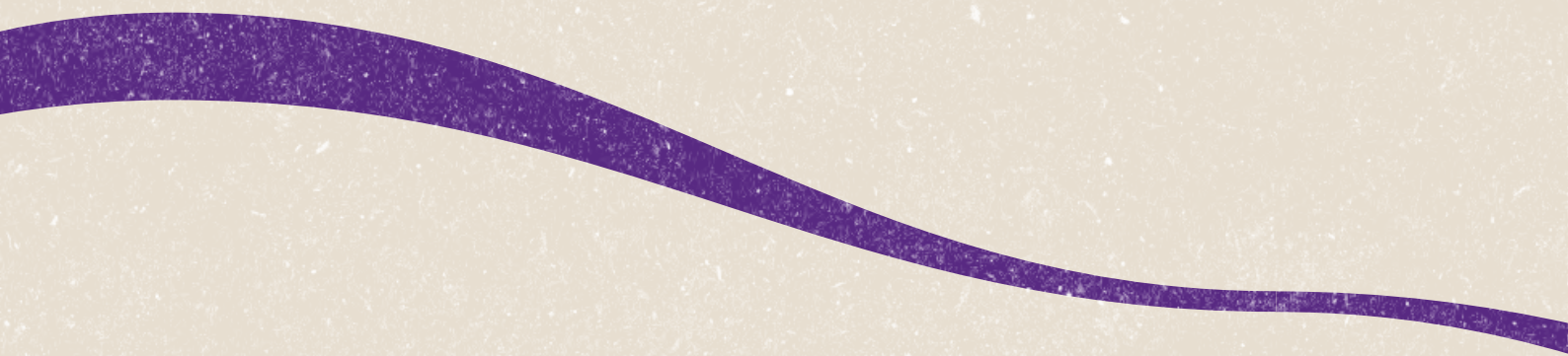
### **Local charges**

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.

## 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 by 15 September of every year.

The minimum monthly wage in 2015 was fixed at PLN 1,750, which means that a person employed full-time from 1 January 2014 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.

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.

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

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

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

- amount exempt from deductions;
- cost of labour;
- social security contributions paid by employers on preferential terms;
- night duty allowance;
- 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 cap 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.

### Parental leave

The provisions on paid maternity leave and parental leave were last amended in 2013.

At present, a female employee who has given birth may take between 52 and 71 consecutive weeks of leave:

- maternity leave (from 20 to 37 weeks depending on the number of children born at one time);
- additional maternity leave (6 to 8 weeks);
- parental leave (26 weeks).

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 child is 5 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. More and more often, private healthcare providers offer not only medical consultations (with a GP or specialist), but also hospital care.



The list of fringe benefits includes :

- Private healthcare – the most popular benefit;
- Group life insurance – quite a popular fringe benefit;
- Company telephone for private use – with unlimited calls;
- Company car for private use – probably the single benefit with the most value to the user;
- Gym/health club membership, swimming pool passes, etc. – Multisport, Fit-Profit and other similar programmes provide employees with access not only to sports facilities (gyms, swimming pools, football pitches, tennis courts, fitness clubs), but also to other forms of leisure and wellness centres;
- Entertainment vouchers – cinema, theatre or opera discounts;
- Subsidised meals at work – financing of meals bought at the in-house canteen;
- Food vouchers – can be used in restaurants or shops;
- Various types of retail vouchers and prepaid gift cards – shopping vouchers for Empik (retail chain with books, press and media products), supermarkets or clothing retail chains;
- Holiday gift packages – for employees' children, of varied size or number depending on the number of children;
- Employee discounts on employer's own products – employees of a given company may buy its products at special reduced prices, which can turn into tens of thousands of zlotys in tangible savings, depending on the employer's business sector;
- Employee pension plans – i.e. when the employer deposits money for its employees in their individual savings accounts (known in Poland as the 3rd pillar). A very good benefit, which has a direct impact on how much money employees will have once they retire;
- Training and language courses – the employer may offer additional vocational training or pay for training chosen by the employee;
- Higher education, e.g. MBA – if the employer provides a course of study or training to their employee as a benefit, apart from the tuition the employee may get time off for the duration of training and/or additional days of leave;
- Loans provided to employees – some employers offer interest-free loans to their employees – both small amounts and bigger, e.g. for housing purposes;
- Corporate child care – the employer provides and/or pays for child care during parents' working hours;
- Transportation benefits – attractive for employees who commute every day.

## Termination of employment

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

### Agreement of 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 those on maternity leaves, 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.

There are plans to amend the rules on definite-term employment contracts in the near future. The planned changes include a limitation of the total period of employment under such contract (up to 33 months) and new rules regarding termination (to be put in line with those for indefinite-term contracts with varied notice periods and the requirement to provide grounds).

### 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.

## 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.
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;
- 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
Retirement	19.52	9.76%	9.76%
Disability	8.00	1.5%	6.5%
Sickness	2.45	2.45%	
Accident	0.67-3.80		0.67%-3.80%*
Health	9	9%	
Labour Fund	2.45		2.45%
Guaranteed Employee Benefits Fund	0.10		0.10%



## 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 under 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 procedure for certified auditors to follow when auditing financial statements as well as 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 the Republic of Poland must keep 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 1.2 million. For those entities, compliance with the provisions of the Accounting Act is voluntary.

The financial year can match 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 case the first year following the change should be longer than 12 months. If a business starts operating 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.

Businesses are obliged to follow the adopted accounting principles so that their records present a true and fair view of their assets, finance and performance. They recognise business 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 principles 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, businesses are allowed to simplify to a certain extent, as long as it does not have a negative impact on the true and fair presentation of assets, finance and the financial result of the business.

The responsibility for the fulfilment of accounting obligations is vested in business managers.

In matters not covered by the provisions of the Accounting Act, businesses may apply Polish National Accounting Standards (NAS) which are developed by the Polish 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 no 1 - Cash flow statement
- NAS no 2 - Income tax
- NAS no 3 - Unfinished construction services
- NAS no 4 - Impairment of assets
- NAS no 5 - Lease, rental and tenancy
- NAS no 6 - Provisions, accrued expenses, contingent liabilities
- NAS no 7 - Changes in accounting principles (policy), estimates, adjustment for errors, events taking place after the balance sheet date - recognition and presentation
- NAS no 8 - Property development
- NAS no 9 - Report on activities





## 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 business entity, but the law provides for subcontracting this duty to a certified 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 accounting cycle or at any other adopted balance sheet date, as laid down in 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.

Businesses may prepare simplified financial statements on condition that they meet 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 balance-sheet assets at the end of financial year of no more than the equivalent of EUR 2 million;
- revenue and finance income of no more than the equivalent of EUR 4 million.

As of 2014, the Accounting Act also defines the concept 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:

- PLN 1.5 million – total assets at the end of the financial year;
- PLN 3 million – revenue for the financial year;
- 10 FTEs – annual average employment.

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 business groups, consolidated annual financial statements are prepared by controlling entities (parent) which have their registered office or principal place of business in the Republic of Poland. These statements present the data for the parent entity 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 controlling entity to prepare consolidated financial statements if at least two of the following criteria were met at the last two year-ends, taking into consideration the combined data of the controlling entity and all its subsidiaries (without eliminating intercompany transactions):

- total annual average employment – no more than 250 FTEs;
- total assets – no more than the equivalent of EUR 7.5 million;
- total revenue and finance income – no more than the equivalent of EUR 15 million.

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

- the immediate controlling entity holds no less than a 90 percent stake in this parent, and all the other shareholders of this parent consent;
- the immediate controlling entity will prepare consolidated financial statements covering this exempt parent as well as all its subsidiaries.

Another situation where the controlling entity 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).

The majority of business 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.

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

The responsibility for making sure 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). IFRS compliance in their separate financial statements is optional.

Moreover, IFRS compliance is optional in both separate and consolidated financial statements produced by entities that are part of a group in which the controlling entity (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 inadmissible. 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 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 net 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 net financial result invalid under applicable law.

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

Public companies:

- submit separate and consolidated quarterly statements no later than 45 days after quarter-end (and in the case of reports for the final quarter of a financial year – no later than within 60 days of that quarter-end);
- submit separate and consolidated semi-annual statements no later than 2 months after half-year-end (this only applies to the first half of the financial year);
- submit separate and consolidated annual statements no later than 4 months after financial year-end.

Approved annual financial statements are to be stored indefinitely.

## Audit requirements

The Accounting Act provides for the obligation of auditing financial statements. In turn, 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 Financial Audit Standards, which will soon be replaced by 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 and 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.

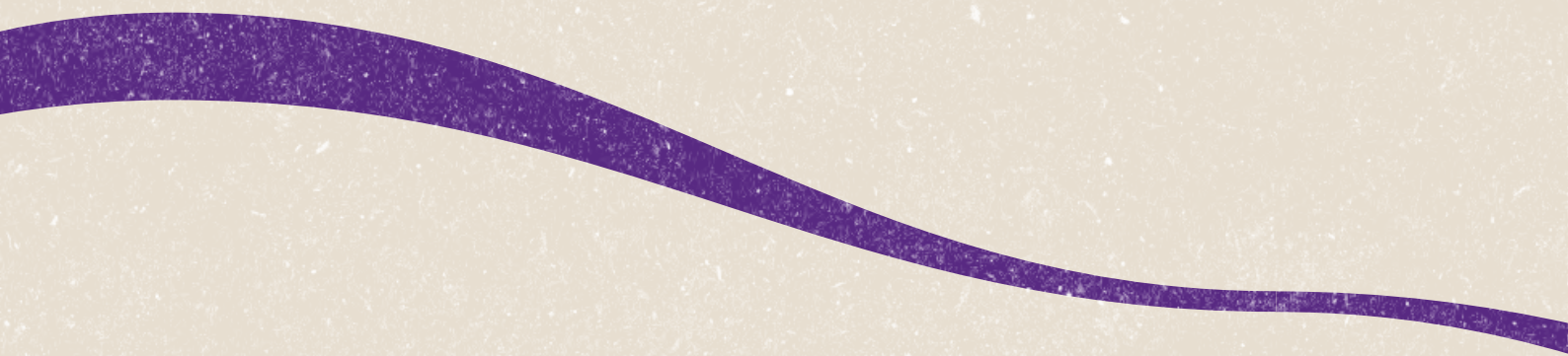
Financial statement audit is conducted by a certified auditor in a scope sufficient to warrant an opinion (which is prepared in writing) on whether the financial statements comply with the accounting principles adopted by the entity and whether they provide a true and fair view of the audited entity's assets, finance 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 board.

The contract 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 Audit Oversight Commission is to be notified whenever an audit (review) engagement is terminated.

Any audit (or review) of financial statements performed in violation of the independence principle is invalid under applicable law.







A decorative graphic featuring three overlapping circles. The central circle is white with a thick purple border. The two circles on either side are white with thick blue borders. A thick, wavy purple line enters from the left, passes behind the central circle, and exits to the right, passing behind the rightmost circle.

# TRADE & FINANCE

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# Trade

## Foreign Direct Investment

Poland has for some time enjoyed low inflation rates and 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 2012, the combined net foreign direct investment (FDI) liabilities, increased threefold and amounted to approx. EUR 178.0 billion. Nearly 32% 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%.

Geographically speaking, most of the capital invested came from the EU Member States, notably Germany, France and the United Kingdom. According to NBP data, in 2013 Poland's top foreign direct investment liabilities were recorded with investors from Germany, the Netherlands, France and Luxembourg. 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 2.2 billion and was intended mainly for investments in information technology and communications businesses, wholesale and retail, including motor vehicle repairs, with the highest inflows recorded from the United Kingdom and Germany.

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In 2012, projects executed by foreign investors in Poland were worth EUR 4.8 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.

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## 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;
- agri-food;
- 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.

## Investment incentives in Special Economic Zones

A Special Economic Zone (SEZ) is a designated geographic area 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

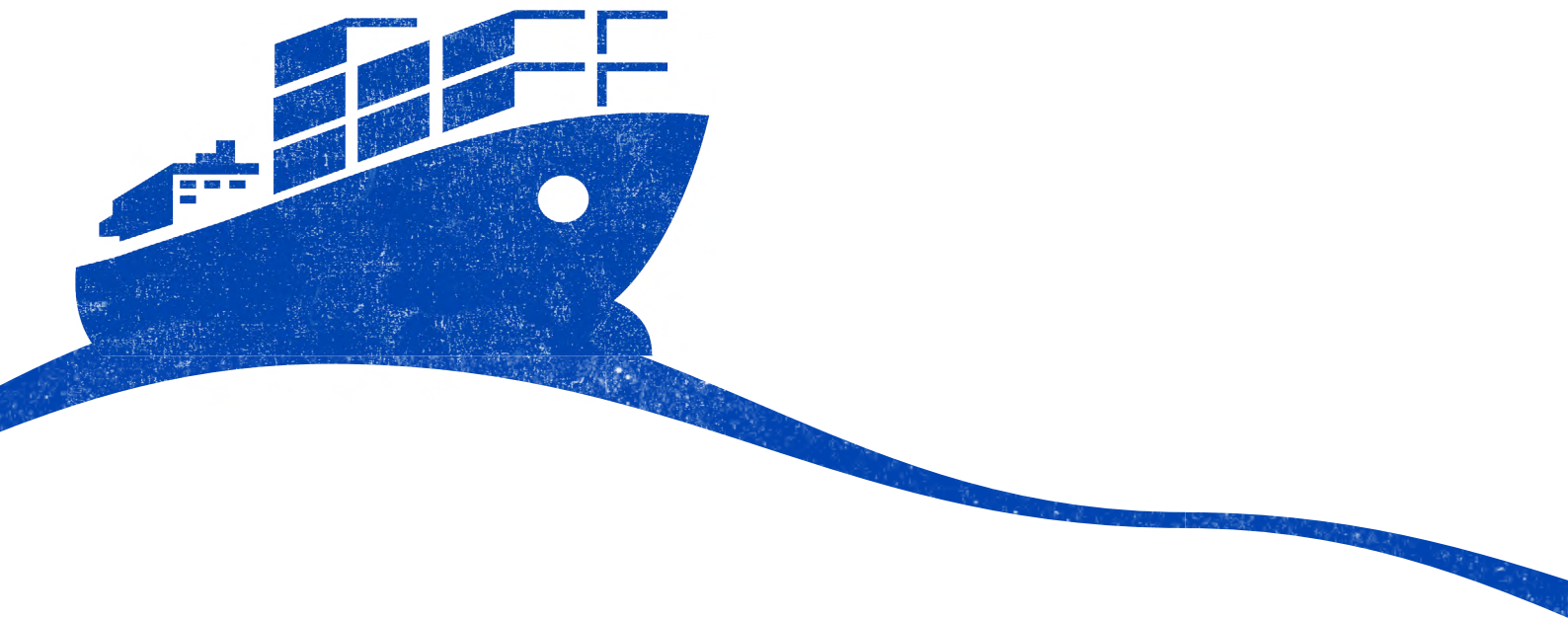
EU subsidies are funds aimed at supporting EU Member State economies. Such subsidies are provided to e.g. new investments or innovative undertakings. How much aid is given depends on the business sector of the prospective investment, the amount of investment outlay planned and the location. Specific 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 2012–2013, Poland's imports were worth about EUR 155 billion a year. Since Poland joined the European Union, international trade revenues have doubled, while imports alone have increased by 116%. A clear majority of imported goods, that is some 70%, originate from the EU Member States, and Poland's key partners include Germany, the Netherlands, Italy, the Czech Republic and France.

In turn, the main business partners from outside of the European Union are Russia and China, which put together account for some 20% of all imports. Value-wise, the leading import category is machinery and equipment, including electrical and electronic equipment, accounting for 22.82% of all imports. Other products frequently brought into Poland include mineral products, chemicals, plastics, rubber and similar articles, precious metal and articles thereof, as well as transport equipment. In 2014, each of the product categories listed above generated on average approx. 10.00% of the total value of imports.



# Finance

## Capital markets

The capital market is where financial resources are raised through the issue of securities. 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. Its capitalisation in 2014 exceeded PLN 1.36 trillion, 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 second in terms of the number of IPOs out of all the stock exchanges of Europe.

As of 11 May 2015, there were 475 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 startups and companies in their early days, is NCIndex30. At present, there are 432 companies listed on this market.

The Catalyst is a bond market for trading in corporate, co-operative, municipal and Treasury debt instruments. As of the end of 2014, the Catalyst listed 517 series of bonds issued by 193 issuers. The total value of listed bonds was PLN 544.6 billion.



## 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).

At present, there are 38 commercial banks in operation in Poland, which together handle in excess of 28 million bank accounts. The largest bank is PKO BP, whose assets exceed PLN 248.7 billion. The second largest bank in terms of the assets held is Bank PEKAO – with more than PLN 167.6 billion. The third largest is BZ WBK, whose assets are in the range of PLN 121.6 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. There are 563 such banks in Poland, and their assets account for close to 7% of Poland's banking system. There are also 51 credit unions (Spółdzielcza Kasa Oszczędnościowo-Kredytowa, SKOK) in the banking system, with 2.5 million members according to the data for Q3 2014.

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 March 2015 approached 15,000. Nearly 9% of all banks in Poland are controlled by foreign investors (with the majority of those being commercial banks) from countries such as Italy, Germany, the Netherlands and Spain.

## 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. At present in Poland there are 31 non-life insurers and 26 life insurers. A clear majority, i.e. 75.4% of insurance companies, are part-owned by foreign capital: for life insurance, its share accounts for 57.82%, and for non-life insurance, as much as 81.36% of total core capital. Shareholders originate mainly from Austria, France and Germany. The combined assets of insurance companies in 2014 amounted to PLN 178.6 billion, of which PLN 105.5 billion was in life insurance assets, and PLN 73.1 billion constituted the assets of non-life insurance providers.

The clear leader in the life insurance market is PZU Życie, with gross premiums written last year amounting to PLN 8.2 billion, which translates into a market share of (nearly) 28.3%. Other significant players in this segment are OPEN LIFE TU ŻYCIE, with an 8.42% share, followed by TUnŻ Warta S.A., ING TUnŻ S.A. and METLIFE TUnŻiR S.A., holding market shares of: 7.11%, 6.51%, and 6.36% respectively.

With regard to non-life insurance, the market is led by another company from the PZU group – PZU S.A., which in 2014 reported gross premiums written totalling PLN 8.3 billion, corresponding to more than 31,47% of all premiums paid by customers. Considerable market shares are also held by TUiR WARTA S.A. (12.85%) and STU ERGO HESTIA (11.28%).

### **Investment management industry**

According to the data for Q4 2014, in the Polish market there were 59 investment fund companies, which managed 618 investment funds, with 39 open-end funds, 48 specialised open-end funds and 531 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 31.7%. Other, less frequent, types of funds include securitisation funds, real estate funds and capital protection funds.

The investment funds in Poland have accumulated total assets amounting to more than PLN 219.5 billion, with the largest investment fund companies being PZU TFI and Ipopema TFI, holding assets of PLN 28.2 billion and PLN 22.5 billion respectively. Other important players in this market include: PKO TFI, Pioneer TFI, Skarbiec TFI, BZ WBK TFI, ING TFI and Aviva Investors Poland TFI. All of these combined currently hold close to 65% of the total assets under management across the market.

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.

The situation of Polish investment fund companies has been adversely affected by the recent global financial crisis. Back in 2007, the funds recorded their highest levels of assets under management to date, i.e. PLN 134.96 billion. However, the gradual withdrawal of capital in subsequent years meant that total assets have shrunk to PLN 74.2 billion. At present, investment fund companies have 2.14 million customers, and the assets under management figures have been showing an upward trend year on year.







An abstract graphic featuring three overlapping circles. The central circle is white with a dark green border. The two circles on either side are also white but have a lighter green border. A thick, dark green wavy line enters from the left, passes behind the central circle, and exits to the right, passing behind the rightmost circle.

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 April 2015, Poland had 3,116 km of roads for high-speed vehicular traffic, including 1,566 km of motorways and 1,553 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 (data for 2013). The country's busiest airport is Warsaw Chopin Airport, with 10.7 million passengers departing and arriving every year. 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.

## 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 as little as 69 percent of Polish households at the end of 2012, while the EU average at the time was 95 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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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.

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# Country profile

Capital City	Warsaw
Area	312,679 sq km
Population	38,530,725
Language	Polish
Currency	Zloty (PLN)
National holidays (2015)	1 January – New Year 6 January – Epiphany 5 April – Easter Sunday 6 April – Easter Monday 1 May – Labour Day 3 May – Constitution Day 24 May – Pentecost 4 June – Corpus Christi 15 August – Polish Armed Forces Day, Assumption of Mary 1 November – All Saints' Day 11 November – Independence Day 25 December – Christmas Day 26 December – Christmas (Second Day)
Business and Banking hours	8 am to 5 pm
Stock exchanges	Warsaw Stock Exchange
Political Structure	Parliamentary Republic
Doing Business rank 2015	32

# Ease of doing business

Topics	2015 rank	2014 rank	Change in rank
Starting a Business	85	80	-5
Licenses and Permits	137	135	-2
Getting Electricity	64	61	-3
Registering Property	39	39	No change
Financing	17	14	-3
Protecting Investors	35	35	No change
Paying Taxes	87	81	-6
Trading Across Borders	41	46	5
Enforcing Contracts	52	54	2
Resolving Insolvency	32	30	-2

Source: World Bank Group (Doing Business)



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## Our services include:



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