02 Taxes

Corporate Income Tax (CIT)

TAX

Scope of taxation

All matters related to corporate income tax are comprehensively regulated in the Corporate Income Tax Act (CIT Act). The following entities are obliged to pay corporate income tax:

- legal persons (in particular companies and companies in the process of formation);
- organisations without legal personality(excluding partnerships);
- other entities, including:
  - limited partnerships (Pol. "Spółka Komandytowa")and limited joint-stock partnership (Pol. "Spółka Komandytowo-akcyjna) with their registered office or management in the territory of the Republic of Poland;
  - general partnerships (Pol. "Spółka Jawna") with their registered office or management in the territory of the Republic of Poland if partners of the general partnership are not solely natural persons and the general partnership does not submit the relevant information;
  - foreign partnerships without legal personality, established in another state under whose tax regime they are treated as legal persons and are subject to taxation on their worldwide income in that state;
  - tax capital groups.

According to Polish CIT regulations there are two separate sources of revenue: capital gains and other revenue sources.

The catalogue of revenues from capital gains is defined and covers inter alia:

- dividends;
- revenues from redemption of shares or from reduction of their value;
- revenues from the withdrawal of a partner from the partnership (in particular limited joint-stock partnerships);
- revenues from decreasing the partner's capital share in the partnership (in particular limited joint-stock partnerships);
- the value of assets received in connection with the liquidation of a legal person or a partnership (in particular limited joint-stock partnership);
- the value of undistributed profits in companies and the amount of the profit transferred to other capital than the initial capital in a company under transformation into partnership;
- revenues from making a non-cash contribution to a legal person or a partnership (limited joint-stock company);
- revenues from transfer of shares, including the transfer made for the purpose of their redemption;
- revenues earned as a result of exchange of shares.

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

Net income is defined as the surplus of the aggregate amount of revenues earned from the source 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 from the source of revenues.

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

Corporate Income Tax (CIT)

TAX

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. 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.

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

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 two or 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 loss utilization

Starting from 1 January 2019 the taxpayers are entitled to settle tax loss from source of income:

1. during the immediately following consecutive five tax years, however, the amount of such reduction in any of these years may not be higher than 50 per cent of the amount of such loss; or
2. during one of the immediately following consecutive five tax years by an amount not exceeding PLN 5,000,000, the amount not deducted being subject to settlement during the remaining years of this five-year period, however, the amount of such reduction in any of these years may not be higher than 50 per cent of the amount of such loss.

Losses may be offset only in relations to the specific source of income.

Corporate Income Tax (CIT)

TAX

Tax rate

The standard rate of corporate income tax equals 19% of the taxable base. However, CIT Act offers also a reduced rate of corporate income tax rate of 9% (excluding capital gains that are taxed at 19%) which is applicable to small taxpayers earning revenues amounting to EUR 2,000,000 and for taxpayers starting a new business for their first year of operations. Moreover, tax rate of 5% is possible to apply to qualified intangible values (IP Box).

Tax on buildings

Income tax on revenues on account of ownership of buildings constituting tangible asset situated in the territory of the Republic of Poland and leased fully or partially by the taxpayer to the third party, whose initial value exceeds PLN 10,000,000 shall amount to 0.035 per cent of the tax base per month. The tax base shall be the revenue corresponding to the initial value of the tangible asset determined as at the first day of each month and resulting from the records being kept, reduced by the amount of PLN 10,000,000. Values of building of related parties shall be taken into account when calculating the tax.

Revenues

Revenues are not defined exhaustively 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.

Corporate Income Tax (CIT)

TAX

Tax-deductible expenses

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

Tax-deductible expenses include:

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

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

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.

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.

There is a possibility to make a one-off depreciation write off for factory new assets classified in group 3-6 and 8 of the Classification of Fixed Assets up to the amount of PLN 100,000.

Land, perpetual usufruct, and, as of January 1st 2022, residential buildings, premises and structures (including apartments) are not depreciated for tax purposes. In companies that meet the definition of a “real estate company” – special depreciation regime applies, with the value of depreciation of real estate for tax purposes not exceeding the value of depreciation for accounting purposes.

Corporate Income Tax (CIT)

TAX

Interest limitation

According to Polish tax regulations the taxpayers shall be obliged to exclude from the tax deductible costs the costs of debt financing in the part in which a surplus of the costs of debt financing (the difference between the costs of obtaining financial resources and interest income) exceeds the higher of the following amounts:

- the amount of PLN 3,000,000 or
- 30% of the amount corresponding to the surplus of the total revenues from all sources of revenues reduced by the revenues of an interest type over the total tax deductible costs reduced by the value of depreciation write-offs included in a tax year in the tax deductible costs, as well as the costs of debt financing not included in the initial value of a tangible asset or intangible fixed asset (tax EBITDA).

Corporate Income Tax (CIT)

TAX

Interest limitation

Withholding tax in special cases, the CIT Act provides for other CIT rates:

- 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%;
  - 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.

However, in order to apply preferences in withholding tax, the tax remitter (Polish entity paying dues subject to WHT) must exercise “due diligence” check and verify the recipients eligibility to benefit from it.

Obligatory Pay and refund mechanism for related parties for payments above PLN 2 million

The general rules on WHT exemptions/lower WHT rates apply if payments made to a single recipient do not exceed PLN 2 million per year, but if they exceed this threshold, the Polish payer will have to collect WHT at the basic statutory rate (19%/20%) and it will then be possible to apply for a refund of WHT (the "pay and refund" mechanism).

The "pay and refund" WHT mechanism applies only to foreign payments to related parties, and the regulations applies to interest, dividends and royalties (other payments, such as remuneration for intangible services, are excluded from the mechanism). A Polish payer is able to apply the WHT exemption / lower WHT rate also to dividends, interest and royalties paid to a related party in excess of the PLN 2 million limit, but only on condition that:

- the remitter submits a special WHT statement, or
- the remitter or a non-resident taxpayer delivers a special “security opinion” issued by Polish tax authority

Corporate Income Tax (CIT)

TAX

Minimum income tax

The minimum income tax (corporation tax), as a rule, applies to any company that reports a loss in its annual return or whose share of income in revenues is 2% or less. The tax will be 10% of the tax base.

The taxpayer will be able to choose between two methods of calculating the tax base:

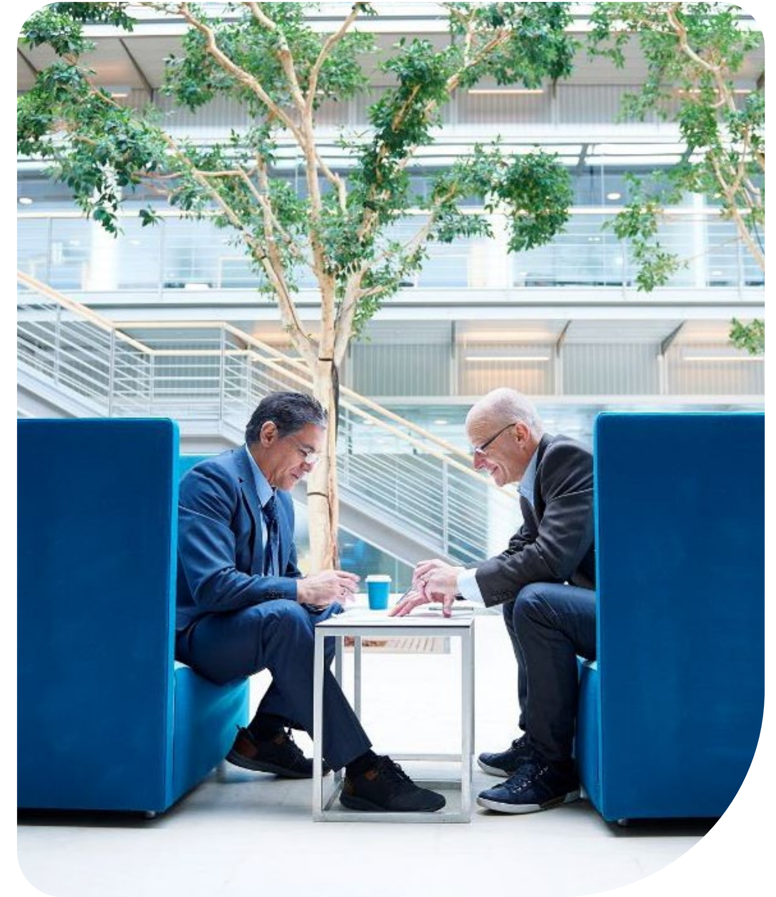
- 3% of income other than capital gains - the simplified method, or
- the sum of 1.5% of income and “passive expenses” (i.e. the cost of debt financing and certain intangible services).

The minimum income tax applies to:

- taxpayers having their registered office or place of business in the territory of the Republic of Poland, which means that they are subject to tax on all their income, irrespective of the place where it is earned;
- tax capital groups;
- taxpayers performing their activities through a foreign permanent establishment located in the territory of the Republic of Poland, i.e. taxpayers without a registered office or management in the territory of the Republic of Poland, which means that they are subject to tax only on income earned in the territory of the Republic of Poland.

Many categories of taxpayers, including small taxpayers, municipal companies, taxpayers providing healthcare services, taxpayers with a profitability rate of more than 2% in one of the last three tax years, taxpayers in bankruptcy or liquidation or undergoing restructuring proceedings, factoring companies and taxpayers who have concluded a cooperation agreement with the tax authorities, are exempt from corporate income tax.

However, according to the current legislation, the first calculation of the minimum income tax will not take place until 2024.



Corporate Income Tax (CIT)

TAX

Tax on shifted income

In 2022, a new so-called tax on shifted income was introduced. It potentially applies to Polish taxpayers paying foreign related entities (and, in specific circumstances, also Polish entities) dues for:

- advisory services, market research, advertising services, management and control services, data processing, insurance, guarantees and sureties and services of a similar nature;
- widely understood royalties;
- transfer of the debtor's insolvency risk for loans (other than by banks and similar institutions);
- widely understood debt financing;
- fees and remuneration for the transfer of functions, assets or risks.

Tax on shifted income may apply if the sum of such costs incurred in a tax is at least 3% of the sum of tax deductible costs incurred in that year in any form. Moreover, the related entity receiving the dues has to meet specific requirements concerning shares of these dues in its revenues and further utilization of these dues.

The tax is 19% of the tax base. The tax base is the sum of the income passed (dues paid) during the tax year.

The provisions do not apply if the costs have been incurred for the benefit of a related entity that is subject to taxation on its entire income in a State of the European Union or a member of the European Economic Area, provided that the entity carries out a substantial real economic activity in that State.

As of January 1, 2023, the burden of proof that a minimum of one of the conditions for the tax on shifted income has not been met, and thus no tax on shifted income has to be paid, is on the taxpayer, who should therefore collect documentation proving that (e.g. statements, opinions, calculations, etc.).

Corporate Income Tax (CIT)

TAX

Taxation of dividends and shares in profits of legal persons

Subject to additional obligations referring to the payments not exceeding PLN 2,000,000, 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 certain requirements are met in order to apply the exemption.

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

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

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

In case of payments exceeding PLN 2,000,000 in a year to related entities Pay & Refund mechanism applies. Please see the section: Withholding Tax.

Corporate Income Tax (CIT)

TAX

Taxation of royalties and interest

Subject to additional obligations referring to the payments non-exceeding PLN 2,000,000, the income from interest and royalties paid to entities which are not Polish residents is subject to income tax at a rate of 20%, unless a relevant double tax treaty between Poland and the taxpayer's country provides for a different tax rate.

For the tax rate provided for in the double tax treaty to apply, a certificate of residence must be presented.

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

The exemption is conditional upon the beneficiary providing its certificate of residence together with a written statement that the receiving company is the beneficial owner of the interests and that certain requirements are met in order to apply the exemption.

In case of payments exceeding PLN 2,000,000 in a year to related entities Pay & Refund mechanism applies. Please see the section: Withholding Tax.

Corporate Income Tax (CIT)

TAX

Transfer pricing

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

Tax authorities pay special attention to transactions concluded between related parties. Since 2019 the related parties are defined according to four criteria:

- relations referring to exercising considerable influence upon at least one other subject;

or

- a partnership and its partners;

or

- a taxpayer and its foreign establishment, and in the case of a tax capital group – a company belonging to the group and its foreign establishment;
- relations that exist in artificial ownership structures.

The criterion of significant influence shall be understood as:

- holding directly or indirectly at least 25% of shares, voting rights in control bodies, decision-making bodies or managing bodies, or shares or rights to share in profits

or

- property or expectancy thereof, including participation units and investment certificates;

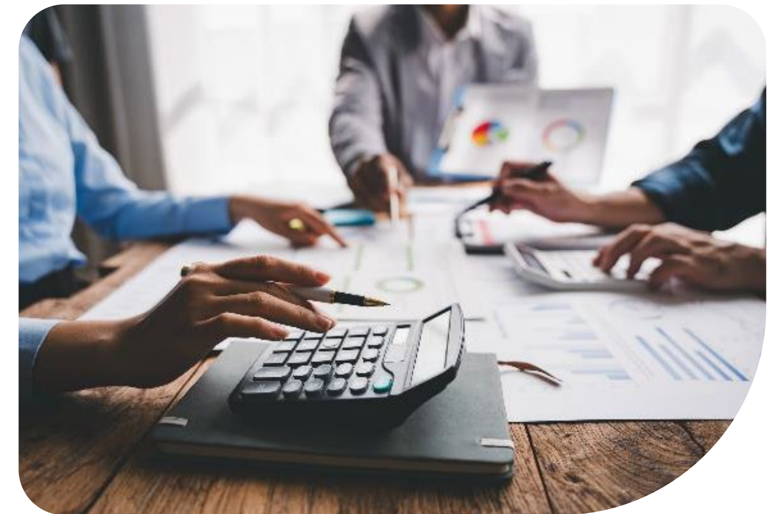
or

- actual ability of a natural person to influence taking key economic decisions by a legal person or an organizational unit which has no legal personality;

or

- remaining in a marriage or occurrence of consanguinity or affinity up to the second degree.

Tax authorities analyse transfer pricing issues because if they realise that related parties agreed or imposed conditions substantially different from those which would be agreed between independent subjects and, as a result thereof, a taxpayer does not disclose any income or discloses the income smaller than might be expected, if such relations did not exist – they can re-assess taxpayer's without taking into account the conditions resulting from such links.



Corporate Income Tax (CIT)

TAX

Tax documentation

The tax documentation should provide comprehensive information including: the functions to be fulfilled by the parties to the transaction, risk assessment, assets involved, approach to profit calculation and, last but not least, the transaction price.

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

- local file, benchmarking study and report of intercompany transactions submitted with the annual tax return -documentary obligation is determined on the basis of the value of a given controlled transaction, introducing two documentary thresholds in the amount of:
  - PLN 2,000,000 (less VAT) for intangible assets (purchase and sale), services (purchase and sale), use of fixed assets (including rent, lease, leasing), use of intangible assets (including licenses), income assignment to a foreign establishment and other transactions (for example capital increase / decrease, conclusion of a partnership agreement etc.)
  - PLN 10,000,000 (less VAT) for tangible assets (purchase and sale), fixed assets (purchase and sale), debt financing (value of financing obtained / granted), guarantees(guarantee sum in case of receipt / granting).
  - PLN 2.500.000 (regarding financial transactions) or PLN 500.000 (regarding commodity, service and other transactions) in case of transactions with entity registered in a country located in a tax haven jurisdiction.
- the above documentation and master file – obligatory part of transfer pricing documentation for taxpayers, who belong to capital group, which are obliged to prepare consolidated financial statement and which annual revenues exceed PLN 200,000,000.

Furthermore, in the case of controlled transactions concluded by micro or small enterprises and transactions with entities from tax havens jurisdictions, the local transfer pricing documentation may not include a benchmarking study.

In accordance with relevant regulations, exemptions for micro or small enterprises refers to entities which:

- achieved an annual turnover from the sale of goods, products and services as well as financial operations not exceeding the equivalent of EUR 10 million or had a total assets of the balance sheet drawn up at the end of the year not exceeding EUR 10 million, and
- had the average annual employment at the level of less than 50 employees in the year preceding the tax year for which the documentation is to be prepared.

Corporate Income Tax (CIT)

TAX

TPR

TPR is tax information provided by taxpayers to the Head of the the relevant Tax Office in an electronic way. The TPR form describes, in details, transactions with related entities, including:

- identification of the entity submitting the information and of the entity for which the information is submitted
- general financial information of the entity (margin, profitability)
- information on transactions - methods applied and transfer prices
- market parameters of the transaction (determined by the benchmarking results)
- statement on preparation of local transfer pricing documentation (Local file) and determination of transfer prices in transactions covered by this documentation at arm's length

The transfer pricing information should be prepared on the basis of the template of the electronic document published in the Public Information Bulletin. The obligation to submit the TPR concerns taxpayers who prepare the local transfer pricing documentation.

Mandatory disclosure rules (MDR) TAX

On 1 January 2019, the Polish Tax Code was supplemented with Mandatory Disclosure Rules (MDR), implementing the European Union (EU) Directive 2018/822 of 25 May 2018 on the mandatory disclosure and automatic exchange of cross-border tax arrangements and also introducing further reporting requirements.

The Directive requires intermediaries (including EU-based tax consultants, tax advisors, banks and lawyers) and, in some situations, taxpayers to report certain cross-border arrangements (reportable arrangements) to the relevant EU tax authority.

Directive sets out a minimum standard. Member States can go further and:

- introduce reporting for domestic arrangements and / or
- extend the scope of taxes covered.

In Poland this disclosure regime applies to all taxes except customs duties and compulsory social security contributions.

Tax arrangements referring to VAT and excise duties are not reportable as cross-border arrangements.

Apart from cross-border arrangements, also local arrangements are subject to reporting obligations.

Reporting obligations

Apart from cross-border arrangements, also local arrangements are subject to reporting obligations.

Reporting depends on the fulfilment of specific criteria, i.e.

- the main benefit criterion (i.e. the main or one of the main advantages of the implementation of a given scheme is a tax benefit) and has any of the general hallmarks (e.g. a reclassification of income source which effectively results in lower taxation, exemption or exclusion from taxation), or
- has specific hallmark, or
- has other specific hallmark.

Mandatory disclosure rules (MDR) TAX

Entities obligated to report

There are 3 types of entities:

Promoter

it is an entity that develops, offers, makes available or implements a tax arrangement or manages this arrangement, in particular a tax advisor, advocate, legal counsel, employee of a bank or of a financial institution advising clients;

Beneficiary

it is an entity to which a tax arrangement is made available, at which a tax arrangement is implemented, or which is prepared to implement the arrangement or has performed an activity to implement such an agreement;

Supporting entity

it is an entity that undertook to provide, directly or through other persons, assistance, support or advice on the development, marketing, organisation, making available for implementation or supervision of the implementation of the arrangement, in particular a statutory auditor, notary public, a person providing bookkeeping services, an accountant or a financial director.

How can we help?

- Conducting an audit of chosen transactions in order to identify tax schemes, the result of which is the preparation of a MDR report
- Preparation of the MDR procedure for the identification and reporting tax schemes
- Conducting training on the provisions on tax schemes
- Support in reporting events that may constitute an arrangement subject to disclosure obligations on tax schemes

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Tax Incentives

TAX

POLISH INVESTMENT ZONE

What is the Polish Investment Zone

The Polish Investment Zone is a new tax relief instrument which replaced Special Economic Zone regime.

Regulations in force since 2018 turned Poland into one big special economic zone, where establishment or development of an enterprise, in particular production plant, often equals eligibility for an income tax exemption.

This regulations referring to the Polish Investment Zone allow to use the support in the form of an income tax exemption regardless of the location of the investment (expand the area offering tax incentives up to almost 100% of Poland's investment space.)

Conditions for using the relief

The tax exemption can be granted to businesses carrying out investment projects that include:

- setting-up of a new enterprise;
- production capacity increase;
- introduction of new products;
- fundamental change in the overall production process;
- the acquisition of assets that belong to a permanent establishment that has closed or would have been closed if the purchase had not been made, with the proviso that the assets are acquired by an entrepreneur unrelated to the seller and only the acquisition of shares in the enterprise is excluded.

The value of the tax exemption

The amount of the tax exemption in CIT or PIT is calculated as the product of the intensity of regional aid and eligible costs or two-years labour cost of the employees hired within the new investment. The level of intensity of the regional aid depends on location of the investment and size of the enterprise. The aid intensity varies according to the region of the country from 10 up to even 50%. Moreover, it is increased by 20% for micro and small enterprises and by 10% for medium enterprises.

The duration of the decision on investment support may equal to 10, 12 or 15 years, depending on location of the new investment and the intensity of the regional aid.

Validity period is the period the taxpayer can settle tax exempted income. Therefore, it is at least 10 years in any given case.

Tax Incentives

TAX

POLISH INVESTMENT ZONE

Decision on the investment support

The tax exemption is granted on the basic of a administrative decision issued by the Area Administration of each Special Economic Zone.

The decision on investment support specify location and the subject of the activities included in the new investment, income from which qualify for income tax exemption. Activities not included in decision are covered by standard income tax taxation.

In order to obtain the decision on investment support the investor has to fulfill two kinds of criteria, i.e.:

- quantitative criteria which present the minimum value of eligible costs and depend on the unemployment rate in the location of a new investment and size of the enterprise
- qualitative criteria which depend on the type of investment (different criteria for industrial and service investments).

It is necessary to score, depending on the location, at least 4-6 points, including 1 point in each group.

How can we help?

- Analysis of the possibility of obtaining a decision on support
- Obtaining the decision on the investment support
- Assistance in implementing the documents/rules necessary to implement the relief
- Obtaining individual interpretations
- Ongoing advice on settling the use of public aid

Using several support decision on the investment

The new regulation allows obtaining several decisions on investment support. Settlement of tax relief from several decisions take a place in the order in which decisions are issued (support shall be settled jointly and in a chronological order).

Tax Incentives

TAX

„ESTONIAN" CIT

What is it?

Optional tax rules scheme – „Estonian" CIT is a flat tax on the income of capital companies

Catalogue of eligible taxpayers

- limited liability companies (sp. z o.o.) , joint-stock companies (S.A.), simple joint-stock companies (P.S.A.), or partnerships (limited partnerships (sp.k.) or limited joint-stock partnerships (S.K.A.)) whose shares are held exclusively by only natural persons,
- the entities must not hold shares in other companies, or the entirety of the rights and obligations in a partnership,
- passive income may not account for 50% or more of revenues,
- headcount – at least three employees,
- prepare financial statements in compliance with the Polish Accounting Act and not IAS
- all of the above criteria must be met cumulatively.

The obligation to pay The Flat Tax arises at the moment of profit distribution.

Requirement of investment outlay

To be eligible for the Flat Tax, there is no investment requirements.

When applying the Flat Tax, the taxpayer is not eligible for:

- deducting donations,
- R&D and IP Box tax relief,
- bad debt relief,
- carrying forward losses from a prior year.

The new tax regime is to be adopted for four-year periods, with an option to continue in the subsequent 4 years.

Transfer pricing, VAT

• The transfer pricing rules, especially arm's length rules, shall be carried forward and transfer pricing documentation prepared.

• In case of VAT, no changes in this regards in the Flat Tax period.

What income will be subject to the Flat Tax?

The Flat Tax will be applicable to:

- income from profit distributions,
- income from profit allocated to cover losses,
- if these losses arose in the period preceding the application of the Flat Tax,
- income from hidden profit distributions (including e.g. business entertainment expenses),
- income from expenses unrelated to business operations,
- income from asset revaluation,
- income from undisclosed business transaction.

Tax Incentives

TAX

„ESTONIAN" CIT

How can we help?

- Assistance in assessment whether the company qualifies for Flat Tax or not
- Calculation of potential benefits
- Advisory regarding the requirements

After the end of the Flat Tax period:

The company has ability to pay the tax on moment of profit distribution generated in this period, not paid before. However, after the end of the Flat Tax period - in case of:

- liquidation of the company in Poland
- bankruptcy of the company or
- drastic change of the business activity subject - the Flat Tax shall be paid immediately.

What is the tax base?

The tax base will include:

- income from profit distributions, including those allocated to cover losses,
- income from hidden profit distributions and expenses unrelated to business operations, especially 50% of the car expences, penalties, donations,
- income from asset revaluation in the case of restructuring measures.

Tax rate:

10%

of the tax base for those qualifying as small taxpayers

20%

of the tax base for other taxpayers

Two-tier taxation still applies:

- at the level of company CIT Flat Tax when the company distributes profits,
- at the level of shareholders - PIT from individuals on dividends 10% (in the company is small) or 5% (in other cases) – however the PIT tax rate may be different in case double tax treaty states lower tax rate; also local taxation in the country of residency should be taken into account.

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Standard Audit File

TAX

Polish legislation

As of 1 January 2018 all Polish companies are obliged, at the request of tax authorities, to transmit data in an unified format – the so-called Standard Audit File (Jednolity Plik Kontrolny).

Standard Audit File provides to the tax authorities an easy access to accounting and tax data of taxpayers. It comprises strictly defined data from: accounting books, bank statements, warehouses, records of the purchase and sale of VAT, VAT invoices, Tax revenue and expense ledger, record of revenue.

With the introduction of SAF, entrepreneurs who keep their financial reocrds in electronic form have been tasked with a new obligation; they are required to send the reports on their VAT records monthly, also in an electronic file. Such a record must include all the data necessary to identify the subject and tax basis, as well as the amount of tax due, amount of input tax reducing the amount of tax due and the amount payable to the tax office or reimbursement from the office and other data required for the proper drawing up of the tax return.

Standard Audit File on demand

Beginning from 1July 2018 all taxpayers that carry out their accounting records in electronical form are obliged to provide other parts (so called "structures") of Standard Audit File on Tax Authorities demand.

Mandatory e-invoicing system vs SAF

Due to the ongoing work on implementing the mandatory e-invoicing system in Poland, the Standard Audit File will also be adapted to this system. The new system is expected to come into force in Poland on 1 February 2026

How can we help?

- Analysis of the applicable provisions on SAF including additional supplementary documentation and explanations of the Ministry of Finance,
- Matching individual transactions / activities to the appropriate codes (e.g. GTU, TP, WSTO_EE) SAF procedures, taking into account the company's activity,
- Providing explanations regarding the proper assignment of goods and services to the appropriate JPK symbols (codes),
- Preparation of the SAF procedure

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Personal Income Tax (PIT) TAX

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:

- 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.

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

Additionally, as of 2023 tax-free amount is 30 000 PLN per year.

Personal Income Tax (PIT) TAX

Business profit

Subject to certain conditions, individuals involved in a business activity (sole proprietors) can pay income tax with 19% flat tax rate or according to provisions of lump-sum taxation.

Depending on the scale and type of business activity, and upon meeting specific criteria, the taxpayer may apply simplified forms of taxation, i.e.:

- tax on registered income (with no tax-deductible costs);
- fixed-amount tax (tax determined by the tax office).

Lump-sum taxation

There are separate rules of taxation for:

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

Some revenue categories (e.g. management contracts, supervisory board service) disbursed by Polish payers to non-residents are taxed with flat-rate tax of 20%.

The tax rates provided for in the relevant DTT can be applied in the case of having a residence certificate issued by the tax authorities in the home country.

Investment income

The investment income of individuals are taxed at a flat rate of 19%, unless exempt. Investment income may not be set off against revenues subject to progressive taxation. Directly related costs may be deducted from investment income, unless excluded.

Dividends

Dividends are taxed with 19% rate, unless DTT provides a lower rate or the PSD applies. In most cases, withholding tax (WHT) paid abroad may be credited against Polish tax.

A final 19% WHT is levied on dividends paid by Polish payers to a Polish residents. Then, 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 dividends paid by Polish payers to a Polish residents. Then, 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 tax paid abroad at source may be credited against Polish tax.

Capital gains

Gains on the disposal of investment assets are taxed separately at a flat rate of 19%, unless exempt.

Unless tax has been withheld by the paying agent, capital gains have to be reported in the annual tax return.

This obligation applies in 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.

Same rules apply to sale of cryptocurrencies.

Personal Income Tax (PIT) TAX

Taxation of salaries and wages

If work was carried out in Poland, the remuneration is always treated as Polish sourced income. An employer resident in Poland or with a permanent establishment operated by a foreign enterprise in Poland is obliged to:

- assess and declare advance tax payments applying the 12% and 32% PIT rates;
- prepare information (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 foreign employer, he/she is obliged to pay tax advances by himself/herself. The advance payment is to be assessed using the 12% or 32% tax rate.

Special exemptions under Double Tax Treaties (DTTs)

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

- an employee is present in Poland for periods totaling no more than 183 days over a 12-month period starting or ending in a given tax year;
- the remuneration is paid by employer that does not have a place of business or residence in Poland;
- the remuneration is not paid from permanent establishment 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.

Special exemption for employees under 26 years old

From August 2019 applies tax exemption for employees under 26 years old achieving their income from service relationship, employment relationship, outwork or cooperative employment relationship. Lately introduced law indicates that revenue of individuals under 26 with an annual revenues not exceeding PLN 85,528 per year would not be taxed at all. Revenues over the threshold of the tax scale will be taxed with a current rate of 32%.

Automatized submission of annual tax returns for individuals

"Twój e-PIT" is a portal which enable submitting annual tax returns for the most popular forms PIT-37 and PIT-38 by electronic means.

The concept of the portal is automatic preparation of the tax returns by the Chief of National Fiscal Information. Also if allowances are applicable, the taxpayers are obliged to indicate it after logging in on "Twój e-PIT".

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).

There is also solution of joint returns available for:

- married couples (after meeting certain conditions) including non-residents from any EEA country as long as no less than 75% of their global income is derived in Poland and
- single parents with dependent children.

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.

Personal Income Tax (PIT)

TAX

Monthly advance payments

The 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 scale 2024

The table below presents the tax brackets applicable in 2024.

Taxation Base (PLN)		Tax Amount in 2024
Over	Up to	
	120 000	PLN 5,000 for limited liability company and PLN 100,000 for joint stock company
120 000		10 800 PLN + 32% on amount exceeding 120 000 PLN

Relief for persons returning from abroad

As of 2022 new tax relief has been introduced to the Polish tax system – so called „relief for returnees". It allows deduction from the tax base amount of 85 528 PLN per annum for individuals who switched their tax residency from abroad to Poland. Deduction is allowed for 4 consecutive years after meeting certain conditions.

Personal Income Tax (PIT) TAX

Tax deductions

There is a standard deduction of PLN 250 per month on income earned under an employment contract. Additionally, if a taxpayer works away from place of residence, the deduction goes up to PLN 300 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.

Child deduction

Parents bringing up children can claim child deductions (provided that certain conditions are met) – in 2023, 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.

Special tax regime – Solidarity Surcharge

Individuals with their residence in Poland earning above PLN 1.000.000 per year are obliged to pay the “solidarity surcharge” - additional tax on the amount exceeding PLN 1.000.000 revenue The tax rate amounts to 4% after standard taxation at 12%/32% or 19%.

Healthcare contributions

Healthcare contributions (9% of gross income after deducting social security) are not deductible from tax as of 2022. This significantly increased overall tax burden for employees.

Tax allowances

The following types of income are exempt from PIT:

- reimbursement of moving expenses and allowance when relocating for business purposes. However this deduction according to Polish jurisprudence does not apply to ordinary employees;
- amounts due for business travel assignments;
- income earned abroad if international or bilateral agreements so provide (Polish tax residents);
- certain types of benefits in kind, – up to PLN 380;
- the value of free benefits defined as income from other sources – provided that the value of any single benefit
- does not exceed PLN 200;
- obligatory social security contributions paid in Poland (and those paid in an EEA country if not deducted in the country of origin).

How can we help?

- Assistance in meeting the PIT taxpayer's obligations
- Assistance in the preparation of tax returns
- Submitting tax returns as an attorney
- Calculation of monthly income tax advances
- Tax consultancy regarding current settlements
- Advice on the application of tax allowances
- Assistance in obtaining the necessary certificates and documents

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Tax on goods and services (VAT) TAX

Scope of taxation

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.

Polish VAT is imposed on the following activities:

1. supply of goods and provision of services against payment
2. within the territory of the country
3. export of goods
4. import of goods
5. intra-Community acquisition of goods against payment within the territory of the country
6. 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.

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)

Tax on goods and services (VAT) TAX

VAT group

VAT taxpayer may also become VAT group, which can be established by entities with registered offices in Poland (or branches) that are financially, organizationally and economically affiliated. In order to form VAT group, it is necessary to conclude a written agreement on its creation, for a period of not less than 3 years.

Entities included in VAT group can consolidate their reporting into a single return and share the same VAT number. Also, intragroup transactions are not subject to VAT.

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). 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.

Registration for VAT purposes

Before starting any VAT-able activity, taxpayers are obliged to submit an application for registration to the head of a competent tax office. Businesses whose sales volume in the previous tax year did not exceed PLN 200,000 and entities performing VAT- exempt activities can file the registration form, but are not obliged to do so.

If, in the course of the year, revenue exceeds PLN 200,000, VAT exemption expires immediately. Foreign entities which do not have their registered office within the territory of Poland are not allowed to exercise the non-registration privilege and hence are always obliged to register in case of performing transactions within the scope of Polish VAT Act, regardless of their revenue.

In case of entities from outside of EU territory, performing business activity covered with Polish VAT act, there is an obligations to appoint fiscal representative (this requirement does not apply to entities from the UK and Norway).

Moreover, it should be noted that businesses performing certain listed activities may not benefit from not registering.

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

Tax on goods and services (VAT) TAX

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.

Tax on goods and services (VAT) TAX

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 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.

Split payment

VAT regulations provide the requirement to use the split payment mechanism for selected transactions documented by invoices in which the total amount of receivables exceeds PLN 15,000 (gross).

Split payment should be understood as a payment of an amount corresponding to the amount of tax or a part of it, resulting from the received VAT invoice, made to the separate VAT account.

Deduction of tax on goods and services

Taxpayers can deduct input VAT on purchases of goods and services from output VAT arising from sales for which the tax obligation arose during the settlement period.

Input VAT can be deducted if the goods and services have been purchased for the purposes of activities subject to taxation. If a business performs taxable and tax-exempt activities at the same time, the taxpayer is obliged to match the expenditures to the particular activities, or – where it is not possible to assign the expenditure – a certain percentage should be applied and then the taxpayer should deduct the corresponding fraction of input VAT. To this end, the taxpayer should calculate the ratio (in line with the principles set out in the regulations on the goods and services tax), which will represent the share of turnover related to VAT-able activities in the total turnover.

The ratio calculated as above is adjusted at the end of each tax year. For tangible and intangible assets, the taxpayer should apply the appropriate adjustment over five subsequent years and in the case of real estate – over 10 subsequent years.

Even if the conditions underlying the right to deduct input VAT have been met, the taxpayer may not deduct the full amount of VAT on the purchases of fuel for passenger cars (except where the cars are used exclusively for business purposes and subject to certain conditions on reporting to the tax office and providing vehicle mileage).

As of 1 July 2015 taxpayers are able to deduct 50% of input tax on purchases related to passenger cars used for mixed purposes – business and non-business. Special rules on deducting input tax are applicable to the purchase and use of passenger cars.

Taxpayers are **not** allowed to deduct VAT on purchases of hospitality and gastronomic services, unless they are subject to resale (re-invoicing).

Tax on goods and services (VAT) TAX

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 15, 25 or 40 days**.

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

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

2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State.

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

Reporting duties

Taxpayers are obliged to report on a monthly or quarterly basis.

So-called Standard Audit File on VAT (JPK_VAT) in a structured form 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. Taxpayers report electronically only.

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, tripartite transactions as well as supply of services to which reverse charge mechanism is applicable. EC Sales Lists are submitted for monthly periods. The EC Sales Lists are submitted electronically by the 25th day of the month following the month when the tax obligation arose.

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

Tax on goods and services (VAT) TAX

Special procedures

Polish VAT regulations include special procedures for:

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

Tax on civil law transactions

TAX

Object of taxation

Tax on civil law transactions is levied on:

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

Taxpayers

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

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

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

1. sales agreements – the purchaser;
2. exchange agreements – parties to the transaction;
3. donation agreements (gift agreement) – the donee;
4. lifetime estate agreement – the purchaser of the ownership of real property;
5. agreement for the partition of the estate or termination of co-ownership – the entity which acquires tangible property or property rights exceeding their share in the estate or coownership;
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.

Assessment base and tax rates

The maximum tax rate of 2% is imposed on transactions including sales agreements, exchange agreements, donation agreements, lifetime estate agreements and termination of coownership agreements for transfer of ownership of immovable property and movable property.

The tax rate applicable to the articles of association (foundation act) or increasing capital equals 0.5% of the capital (or its increase). Tax rate of 0,5% is applicable also to loan agreements For securing a debt whose amount is not specified, a fixed amount of tax is charged – PLN 19. Tax rate applicable to the loans and irregular deposits equals 0,5% of an amount or value of the loan or deposit.

Tax on civil law transactions TAX

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.

Starting from January 1, 2024, an increased rate of the tax on civil law transactions (PCC) will apply when purchasing real estate. The standard rate is 2%, but in specific cases, it rises to 6%. The increased tax applies when the buyer acquires at least six residential units constituting separate properties on a single plot, taxed with VAT, or shares in such units, or when the buyer already owns at least five such units or shares in them.

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, 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.

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:

- transactions for which at least one party acts as a VAT payer regardless whether taxable or exempt, unless the exempt transaction concerns real property
- contracts for the sale of shares in a joint-stock company executed through investment companies or foreign investment companies (e.g. a brokerage house)
- articles of association with their subsequent amendments referring to:
  - mergers and acquisitions of companies;
  - re-registration of a company as a different type of company;
  - contribution of the following to a company, in exchange for shares in the company:
- a company's enterprise or an organised part thereof;
- shares in another company corresponding to a majority vote in that other company, or subsequent shares, if the company to which the shares are contributed already holds a majority vote.
- if the object of a transaction is tangible property located abroad or property rights exercised abroad, if the purchaser is not established in Poland, or the civil law transaction was not performed within the national territory of Poland;
- if in case of the exchange agreement at least one of the things is in the territory of Poland or one of property rights is carried out on Polish territory.

Excise duty

TAX

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 Excise Duty Act, excise duty is payable on excise goods and passenger cars.

Excise goods include in particular:

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

Taxable activities

According to 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.

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.

For passenger cars equipped with a hybrid electric drive and passenger cars being an electric vehicle are provided tax reductions.

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.

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.

Local taxes and charges

TAX

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.

There are several different local taxes and charges, among which real estate tax and road vehicle tax apply in particular to entrepreneurs.

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 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 2024)

Land designated for the conduct of business	1.34 PLN/m2
Residential buildings	1.15 PLN/m2
Buildings designated for the conduct of business	33.10 PLN/m2
Structures	2% of the property value (used as the basis for depreciation)

Road vehicle tax

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

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

- trucks with a permissible gross weight of over 3.5 tons;
- truck-tractors with a total permissible gross weight of over 3.5 tons;
- trailers and semi-trailers with a total permissible gross weight of over 7 tons, except for those used for agricultural purposes;
- buses.

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

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

National e-invoicing system

TAX

Definition of KSeF

The National System of e-Invoices (PL Krajowy System e-Faktur; KSeF) is a teleinformation system that allows the issuance, sharing, receipt and storage of structured invoices, i.e., invoices in XML format. It is also used to tag invoices with an identifying number assigned by the KSeF system itself, and to verify the compliance of invoices with a specific template. The system is also used to grant, change or revoke permissions to use KSeF. Mandatory use of the system will result in standardization of invoicing in Poland.

Entities required to implement KSeF

It is planned that the KSeF will cover all VAT taxpayers with a place of business or permanent places of business (fixed establishment for VAT purposes) in the country. Ultimately, the KSeF would be applied by all taxpayers, regardless of the size of the business.

The deadline of the mandatory KSeF

The mandatory KSeF is planned from 1 February 2026 for large entities (with ternover more than PLN 200 mln) and from 1 April for others.

Types of invoices issued in KSeF

KSeF will cover invoices documenting domestic sales, including invoices issued under the so-called self-invoicing (the buyer issues invoices on behalf of the seller). KSeF will also need to issue invoices related to cross-border trade (intracommunity supply of goods, export of goods and services, with the provision that such an invoice must be provided to the foreign recipient in an agreed form (e.g., in PDF format), as foreign entities will not be participants in the Polish KSeF.

Sanctions of not implementing KSeF

- As a rule, only an invoice issued in KSeF will give the right to deduct input VAT (issuing an invoice outside KSeF, despite such an obligation, will not give the right to deduct input tax).
- Polish Tax Authority will be able to impose a fine on the taxpayer for failure to comply with the obligations under KSeF, including, among other, if the taxpayer failed to issue an invoice using KSeF or the taxpayer issued an invoice in electronic form during the KSeF failure period that did not comply with the provided template.

How can we help?

- Analysis of the applicable provisions on SAF including additional supplementary documentation and explanations of the Ministry of Finance,
- Matching individual transactions / activities to the appropriate codes (e.g. GTU, TP, WSTO_EE) SAF procedures, taking into account the company's activity,
- Providing explanations regarding the proper assignment of goods and services to the appropriate JPK symbols (codes),
- Preparation of the SAF procedure

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