



Grant Thornton

Doing Business in Poland

Your guide to undertaking business
and investing in Poland.

2024

Introduction

This guide to doing business in Poland will shed light on the key aspects of undertaking business and investing in Poland. With over 37,6 million people, it is the largest market among Central and Eastern European countries and top 10 largest economies in the UE.

Over the past 30 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.

Poland is one of the largest countries in the European Union (by population) and its GDP in 2023 was 0.2% higher in real terms compared to 2022. All this indicates that Poland will continue to be one of the EU leaders in economic growth rates also in the years to come.

There are several factors that contribute to the rapid growth of Poland's economy and make the country an attractive destination for foreign investors at the same time. Poland offers a well-educated workforce with competitive labour costs. Salaries and wages in Poland, despite a visible rising trend, are still markedly lower than in Western European countries.

People

Poland's population of over 37.6 million people forms a large and dynamic consumer market. 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%, setting it apart from other CEE countries where it exceeds 75%.

Location

The country has a very favourable location in the centre of Europe at the intersection of major trans-European transportation routes. Poland's major trade partners are, among others, Germany, China, France, the UK, Italy, Hungary, Ukraine and Spain.

Government support

Poland's investment appeal is further augmented by a range of subsidies and tax incentives available to investors. In 2018 the government started the Polish Investment Zone offering across a whole country tax exemptions. Besides 14 Special Economic Zones are in operation well-prepared investment sites to companies willing to bring their business there.

Potential for growth

Poland's economic growth is in part due to the sizable support from the EU structural and cohesion funds. Poland is the main beneficiary of these funds, having received EUR 245.5 billion from 2004 to 2023, and expecting EUR 76 billion pledged for the years 2021-2027. The funds will be used for investments in transport infrastructure as well as in the area of innovation and support for entrepreneurship.

Infrastructure

Business across all sectors relies heavily on the overall quality and reliability of infrastructure. Since Poland's accession to the EU, the annual spending on public infrastructural investment projects has ranged between PLN 60 and 80 billion (EUR 14-19 billion). At the end of 2023, Poland had 5 115,6 km of roads for high-speed vehicular traffic, including 1 849,2 km of motorways and 3266,4 km of expressways and 15 airports in operation nationwide, which handle a total of 52 million passengers a year.

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.

01 Legal aspects

Conducting business in Poland

LEGAL FORMS

Foreign entrepreneurs may conduct business in Poland:

- as a entrepreneurs conducting sole proprietorship,
- in the form of a company (including a corporate entity – limited liability company or joint-stock company or partnership),
- in the form of a branch of a foreign entrepreneur,
- as a representative office.

For many practical reasons, foreign investors are most likely to run their business in Poland through: a limited liability company, a joint-stock company or a branch office of a foreign entity.

The choice between the aforesaid possibilities depends mostly on the investor's needs and expectations.

Additionally, because of the many significant differences between the individual options, the legal framework can be easily tailored to a particular business model and the scale of investment being planned.



The most popular business forms for foreign investors in Poland are presented in detail on following pages, however, as a rule, the companies, partnerships and branches 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 (companies) and the status of entrepreneurs in Poland. Equally, they all need to comply with the provisions of both Polish and European law and perform the duties provided for by these laws.

As to the matter of running the business in Poland through a representative office, because of statutory provisions, the scope of activity of such offices is limited to representative and marketing functions only. A wider scope of operation is simply not allowed in this form.

On the plus side, a representative office may employ both Polish and foreign nationals. The representative office must be registered with the register of representative offices which is held by the Ministry of Development.

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

- is the most popular legal form for newly established entities;
- has corporate personality, separate from its shareholders or directors and as a corporate person enjoys full legal capacity;
- is incorporated by signing its articles of association stipulating the internal regulations and from that moment on it can be a party to legally binding contracts, however, in order to obtain full legal capacity it needs to be registered with the business register;
- is subject to the minimum share capital requirement amounting to PLN 5,000 (approx. EUR 1,200),
- 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;
- dividends are subject to a 19% rate,
- the formal bodies of a limited liability company are the general meeting (consisting of all shareholders) and the board of directors;
- there are no obstacles to foreign persons (legal or natural) becoming shareholders of Polish companies;
- there are no reasons why a foreigner could not be a director of a Polish limited liability company, however only natural persons are allowed to perform such duties;
- the supervisory board or audit committee are optional, unless the limited liability company has a share capital exceeding PLN 500,000 and more than 25 shareholders;
- shareholders are not liable for the debts of the limited liability company, as the burden of responsibility for the company's business lies mainly with its directors;
- income is subject to corporate income tax (CIT) at the rate of 19% or 9%.



Spółka akcyjna (S.A.) – joint-stock company

- has corporate personality, separate from its shareholders or directors and as a corporate person enjoys full legal capacity;
- is incorporated by signing its articles of association stipulating the internal regulations and from that moment on it can be a party to legally binding contracts, however, in order to obtain full legal capacity it needs to be registered with the business register;
- is subject to the minimum share capital requirement of PLN 100,000 (approx. EUR 24,000);
- 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);
- dividends are subject to a 19% rate;
- the formal bodies of a joint-stock company are: the general meeting (of shareholders), the board of directors and the supervisory board;



- there are no obstacles to foreign persons (legal or natural) becoming shareholders of Polish companies;
- there are no reasons why a foreigner could not be a director of a Polish joint-stock company, however only a natural person is allowed to perform such duties;
- the shareholders of a joint-stock company are not personally liable for the debts of the company, even though the burden of responsibility for the company's business lies mainly with its directors;
- income is subject to corporate income tax (CIT) at the rate of 19%.

Prosta spółka akcyjna (P.S.A.) – simple joint-stock company

- is a new legal form of running business in Poland, available starting from March 2020 and has been introduced
- to the Polish legal system in response to demands of entrepreneurs willing to invest in start-up projects;
- her main characteristic is that this form allows to grant shares to the shareholder in isolation from the shareholder's financial contribution to the company (which means that it is possible to make the financial/in-kind contribution as well as to bring the work as the contribution);
- has corporate personality, separate from its shareholders or directors and as a corporate person enjoys full legal capacity;
- is incorporated by signing its articles of association stipulating the internal regulations and from that moment on it can be a party to legally binding contracts, however, in order to obtain full legal capacity it needs to be registered with the business register;
- the minimum share capital is PLN 1;
- is obliged to keep accounting books;
- allows for easy disposal of the company's funds (payment of the dividends), while also requires to run special solvency test;
- the company officers may be formed as the monistic body (board of directors) or dualistic (a management board and a supervisory board) – depending on the requirements;
- there are no obstacles to foreign persons (legal or natural) becoming shareholders or officers of such company, however only a natural person is allowed to perform such duties in board of directors, management board or in supervisory board;
- the shareholders of a simple joint-stock company are not personally liable for the debts of the company, even though the burden of responsibility for the company's business lies mainly with its directors/members of the management board.



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;
- the branch itself cannot be registered for VAT purposes, it is required to register mother company for VAT in Poland.

Establishing a branch of foreign entity in Poland

Following actions are required:

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

Costs:

- there are not notarial deed costs in Poland and tax to be paid in this relation;
- registering the branch with the commercial register (National Court Register) and mandatory announcement in Monitor Sądowy i Gospodarczy costs PLN 600;
- stamp duty on powers of attorney – PLN 17 per one application submitted;
- setting up branch in Poland is related to additional costs such as costs of obtaining the foreign documents and sworn translation of it.

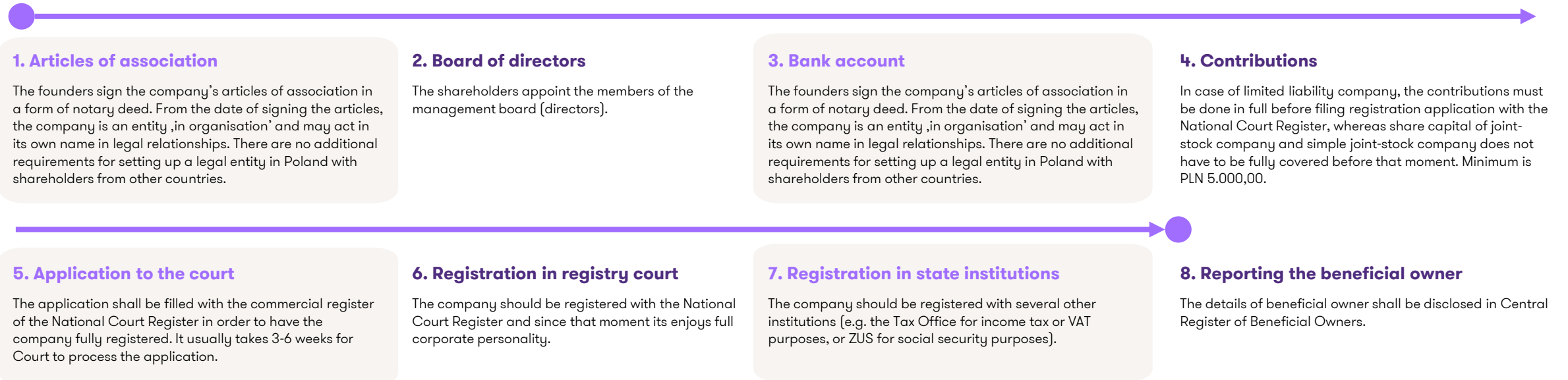
Crucial differences between branch and the limited liability company or joint stock company

	The Branch	Limited liability company/simple joint-stock company/joint-stock company
Legal capacity	<p>The branch is organizationally and technically separated part of founding company, conducting only a part of core activity of founding company.</p> <p>The branch does not have legal personality, as well as legal capacity. The founding company of the branch is responsible for branch's liability entirety.</p>	<p>The company is a separate entity with legal personality and capacity. As the rule, the founders are not liable for the company debts.</p>
Minimum share capital	No share capital	PLN 5,000 for limited liability company and PLN 100,000 for joint stock company
Financing	<p>The branch does not require any method of financing – as a legal part of a founding company is free to transfer financial means on its bank account.</p>	<p>It is possible to finance the start-up of the company through equity (as an increase of share capital or additional payments which are put into the reserve capital) or debt.</p> <p>The company may be financed by signing contract for provision of services with mother company and charge it through VAT invoices or by the loan agreement.</p>
Withdrawal of profits	<p>Entire property belonging to the branch constitute property of Mother company (branch is only part of mother company, its founding company), so financial means accumulated by the branch may be transferred without necessity to fulfil any legal procedures.</p>	<p>The withdrawal of profits generated by the company need the be performed in a way of dividend payment which is taxed in Poland with the withholding tax.</p>
Registration in Poland	Both need registration in the entrepreneurs register of the National Court Register which may take 3-5 weeks after filling the application form with the court.	
Costs of establishing and registration	<p>The total costs include:</p> <ol style="list-style-type: none"> 1. There is no notarial costs 2. There is no tax on civil law transactions 3. Court fees and stamp duty fees – PLN 600 + PLN 17 4. Other fees such as sworn translation of documents, shipment, travels 	<p>The total costs include:</p> <ol style="list-style-type: none"> 1. Notarial costs plus VAT 2. Tax on civil law transactions calculated on the basis of value of share capital 3. Court fees and stamp duty fees – PLN 600 + PLN 17 4. Other fees such as sworn translation of documents, shipment, travels
Accounting books	Both company and the branch needs to keep accounting books in Poland.	
Separate employee status	Both legal forms may have a status of independent employer in Poland.	

Establishing a company in Poland

PROCEDURE OF SETTING UP

In order to establish either a limited liability company (the most popular legal form for foreigners), simple joint-stock company or a joint stock company, the following actions are required:



It shall be noted, however, that under the Polish law there are two possibilities for establishing the limited liability company. First one is the regular way (as described above), which is generally a slightly longer (approximately 3-6 weeks since collecting all the necessary documents) but on the other hand it allows to introduce to the articles of association of the company provisions adjusted to the investor's will.

Alternatively, there is a possibility to establish the limited liability company via Internet on the basis of the template articles of association available in the Polish Government's electronic system which shall take less time (approximately 1 week) but on the other hand is very standardised and is not flexible to the investor's possible needs. The on-line registration of a limited liability company in Poland requires the use of qualified electronic signature in compliance with EU regulation 910/2014 of 23 July 2014 (eIDAS). This way of proceeding is not popular among the foreign investors that usually prefers to set up company in regular way, as described above.

Costs of setting up a subsidiary

PROCEDURE OF SETTING UP



Court

Costs of notary deed depends on the value of share capital of the company (the minimum share capital for limited liability company is PLN 5 000 and for joint-stock company is PLN 100 000).

The fees look as follows:

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



Court fees and stamp duty fees

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



Tax

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



Other costs

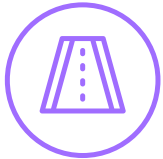
Other related costs include in particular costs of sworn translation of foreign documents. The fee depends on the amount of pages of documents required to be translated.

Additionally, the costs may be increased by costs of shipments, travels, etc. It shall be noted, however, that registration of the limited liability company via Internet is significantly cheaper. The costs of such registration do not include notarial costs and the court fee is lower and equal to PLN 250.

Timeframes

PROCEDURE OF SETTING UP

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



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



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



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

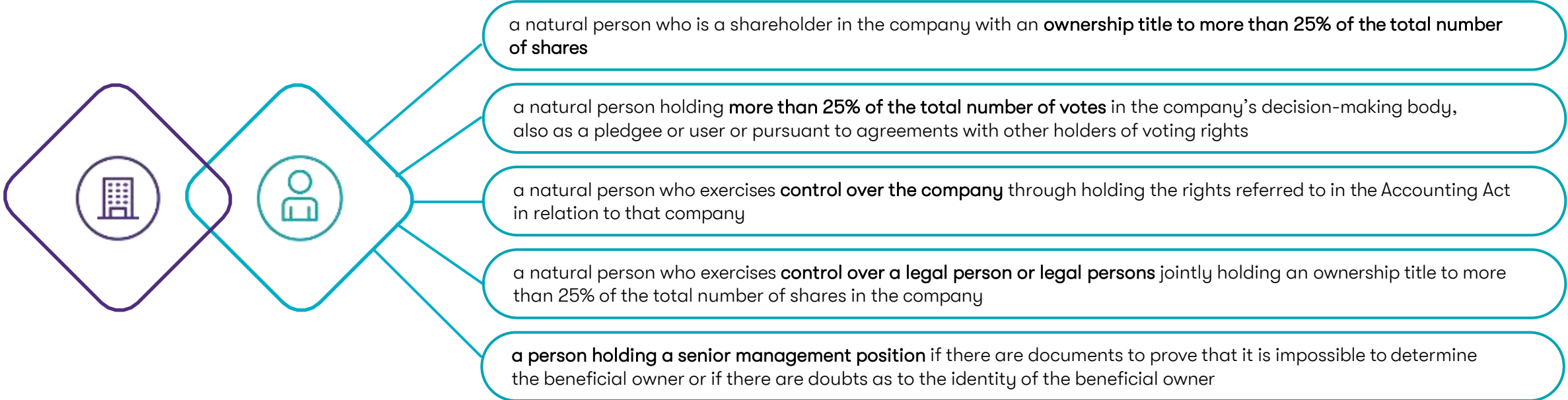
Beneficial owner

OTHER DUTIES

Every partnership or company needs to disclose details of ultimate beneficial owner

Definition

According to the AML Act, the beneficial owner is a natural person (or several persons) with direct or indirect control over the company through their powers, arising from legal or factual circumstances and enabling them to exercise a decisive influence over the company's activities. This includes in particular the persons listed below.



a natural person who is a shareholder in the company with an **ownership title to more than 25% of the total number of shares**

a natural person holding **more than 25% of the total number of votes** in the company's decision-making body, also as a pledgee or user or pursuant to agreements with other holders of voting rights

a natural person who exercises **control over the company** through holding the rights referred to in the Accounting Act in relation to that company

a natural person who exercises **control over a legal person or legal persons** jointly holding an ownership title to more than 25% of the total number of shares in the company

a person holding a senior management position if there are documents to prove that it is impossible to determine the beneficial owner or if there are doubts as to the identity of the beneficial owner

Electronic signature

OTHER DUTIES

Obtaining certified electronic signature

Legal representatives of company shall have certified electronic signature in order to fulfil basic obligations such as disclosing details of UBO and annual reporting duties (signing financial report).

The process follows the steps detailed on the right.

Steps	What we can do	What we need from you	How long it will take
PESEL (Polish Identification Number)	<ul style="list-style-type: none">Filling application for PESELPayment of stamp duty on your behalf, preparation and submission of power of attorneySubmission of the application and contacting authorities if necessary	<ul style="list-style-type: none">Copy of ID or passport (confirmed with apostille clause)Signing of POAProviding any additional data or documents, if needed.	<p>Unspecified, depends on authorities and your responsiveness. Any IT problems can affect delays in process. We suggest starting the process as soon as possible.</p> <p>We assume that our workload related with the support will consume 8-12 hours.</p>
Digital signature	<ul style="list-style-type: none">Filling an application for certified e-signature, making payment on your behalf, downloading the agreement for safe signatureActivate the e-signature, send you the packet ready to use	<ul style="list-style-type: none">Signing the agreement and confirmation of the personal data (certified by a notary)Installation of drivers on your computer, support of your IT can be needed.	

Bank account

OTHER DUTIES

To run a business, make settlements with customers and the tax office, it is necessary to open a bank account in a Polish bank.

Opening a business account

Each registered entity is allowed to open the bank account. It is often that banks open deposit accounts for companies in organisation - such a deposit account is used to pay up the share capital.

Subsequently, the account number must be presented to the tax office.

Usually, personal presence of company's representative is necessary to open a bank account in Poland. If the selected bank has related units in other countries, it may agree to confirm the identity of the person representing the company in another unit abroad. For this reason, when choosing a bank, it is also worth taking into account the availability of the bank's unit, both in Poland and abroad.

The procedure for opening a bank account may vary depending on the bank chosen by the company, but the following documents will be required by most banks to open such an account:



- the articles of association or the statutes;
- specimen signatures of persons authorised to represent the company;
- certificate from the Central Statistical Office on the REGON number;
- copy of the application for registering the company in the National Court Register including the court's stamp confirming the filing of the application;
- ID or passport

e-Delivery address

OTHER DUTIES

Starting from 1st January 2025, all Polish companies will be required to adopt the use of a new official tool known as e-Delivery.

What is e-Delivery address?

This system is set to replace traditional registered letters and the ePUAP platform, emerging as the exclusive channel for communication between businesses and governmental bodies, including courts. The legal effect of electronic delivery will be on par with that of a registered traditional letter.

What is the difference between e-Delivery and an e-mail?

Unlike email, upon receiving a message through the e-Delivery mailbox, we must confirm its receipt to read the message. This mechanism ensures that e-Deliveries have the same effectiveness and legal force as a registered letter with confirmation of receipt.

What shall be done?

Starting from 1st January 2025, each entity entered in the National Court Register (KRS) must apply for the opening of an e-Delivery mailbox along with submitting a registration application.

If you register the company earlier, it is in the interest of entrepreneurs to establish an e-Delivery mailbox in the nearest future to avoid a situation where, after the deadline, the company will not have the option to receive correspondence from authorities. Additionally, it is essential to consider the limited capacity of government servers, which may pose a challenge if the box is created shortly before the deadline.

e-Delivery can be set up through a free public tool. Along with the application for the mailbox, the address is automatically entered into the Electronic Addresses Database (BAE).



Legal aspects – how can we help?

Corporate advisory services

- Setting-up companies and branches,
- Preparing shares purchase agreement,
- Changes of articles of association of the companies before the notary in Poland
- Changes of other data of the companies such as address, composition of management board etc.
- Reporting the beneficial ownership
- Annual Reporting Duties
- Changes of the legal status of the business
- Liquidation of the legal entities
- Transactions in shares and equity, capital contributions
- Secretary services

Legal support in commercial matters:

- Proposing legal solutions and preparing legal opinions on the commercial matters
- Preparing numerous types of agreements, letters of intent, commercial offers, settlements, regulations, protocols and resolutions
- Legal analysis and verification of the documents presented by the Client or its contracting party
- Active participation in negotiations and shaping of the contents of a contracts.

How can we help?

- Looking for ongoing legal support for your business?
- Want to increase the chances of achieving your business or personal goals by adopting an adequate business structure or legal form?
- We can provide you with full range of Corporate services, including support with establishing the companies on every stage of the process, changing data of companies (also as a proxy of company's shareholder).



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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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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 basis 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).

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

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 expenses, 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.

How can we help?

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



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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 records 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 1 July 2018 all taxpayers that carry out their accounting records in electronic 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



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.

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.

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/m ²
Residential buildings	1.15 PLN/m ²
Buildings designated for the conduct of business	33.10 PLN/m ²
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 turnover 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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03 Labour

Labour Code

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

Key Issues

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

- types of employment contracts that may be concluded with employees;
- 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.

Key issues covered by the secondary legislation:

- necessity of keeping personal files of employees (in electronic or paper version);
- provisions connected with employment of pregnant women;
- provisions regarding social benefits;
- provisions regarding Social Fund.



Labour Code

Types of employment contracts

There are three basic types of employment contracts under the Labour Code:

- probationary period employment contract;
- definite period (fixed term) employment contract;
- indefinite period employment contract.

Other forms of cooperation are possible **under civil law** (under the Civil Code). For example, a cooperation agreement between entrepreneurs (B2B), contract of mandate (umowa zlecenia), contract of specific task (umowa o dzieło).

Probationary period employment

Employment contract for a probationary period can be concluded for a maximum period of 3 months, except for contract for probationary period which are supposed to be followed by the fixed term contract concluded for:

- less than 6 months – in this case the contract for probationary period shall not exceed 1 month;
- at least 6 months but no more than 12 months – in this case the contract for probationary period shall not exceed 2 months.

In cases justified by the type of employee's work, the probationary period of 1 or 2 months can be extended once for an additional month.

Employment contract for a probationary period can be concluded only once with each employee. The only exception is, when another contract for probationary period is concluded for a different type of work and the employee is entrusted with duties that are distinctly different from those, entrusted to him within the previous employment between the parties.

Fixed term employment contract

Fixed-term contracts with each employee should not exceed the total amount of 33 months (either as a one contract or a few contracts). As a rule, the total number of fixed term contracts between the same parties is limited up to 3 contracts.

In case an employer concludes a fourth fixed term contract with an employee, or a fixed term contract between the parties exceeds 33 months, the employment will automatically be considered as an indefinite term contract (with all the consequences thereof). However, there are a few exceptions to this rule, e.g. the need to substitute an employee due to their justified absence from work.

As a result of implementation of the Work Life Balance Directive into the Labour Code, employees with at least six months seniority have been given the right to request once a year the change of their employment from a fixed term employment to an indefinite period contract.

Indefinite period employment contract

The most popular type of employment in Poland is an indefinite period employment contract. This type of employment is the most stable and protective to the employee. Once granted, the employee's rights cannot be taken away and the terms of the contract can only be changed by mutual agreement between the parties.



Labour Code

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 – the fair pay - is implemented. The rate of minimum wage is agreed every year by the Trilateral Commission for SocioEconomic Affairs and published by the Prime Minister in Monitor Polski of every year.

The minimum monthly wage in 2024 was fixed at PLN 4 242,00 from January and at PLN 4 300,00 from July, which means that a person employed on full-time from 1st January and respectively from 1st July 2024 cannot receive lower salary.

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 worked by the employee in the month.

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

1. night work allowance;

2. severance pay due to collective redundancies;
3. minimum compensation for breaching the principle of equal treatment in employment;
4. compensation due to harassment-related termination of employment;
5. minimum stand-by pay;
6. minimum basis for social allowances;
7. amount exempt from bailiff deductions;
8. social security contributions paid on preferential terms by self-employed entrepreneurs. by mutual agreement between the parties.

National average wage

The national average wage is average amount of remuneration obtained for performing work in Poland. Its amount is calculated by the Central Statistical Office once a month and once a year, and then made public.

The Central Statistical Office's calculations regarding the national average do not apply to the entire labour market, but only to companies employing at least 10 people. This means that the calculations do not include small and micro-enterprises, which constitute the vast majority on the Polish market.

Additionally, when calculating the average wage, the Central Statistical Office does not take into account people employed on civil contracts.

The national average wage for year 2023 was PLN 7 430,65.

Benefits in kind

Nowadays in Poland employees beside the apparent cash value, also expect the employer to provide the benefits in kind.

The most popular and coveted by employee benefits are private healthcare, gym cards, lunch cards or company car (for management).

All the benefits in form of money or in kind are treated as employee's income and as such are subject to tax social security contributions.

Information regarding the taxation of an income from the employment you will find on pages 43-46.

Labour Code

Obligatory internal regulations

As a general rule, employers who employ **at least 50 employees** must introduce:

1. **Work regulations** – a document establishing the organization and order in the process of work and the associated rights and duties of the employer and the employees;
2. **Remuneration regulations** – a document on the terms and conditions for the payment of wages and other employment benefits, indicating rules for granting of such benefits;
3. **Social Benefits Fund regulations** – a document setting out the rules for the operation of the Company Social Benefits Fund and identifying the employees entitled to benefits and support measures provided from the Fund.

The obligation to introduce the above-mentioned regulations will not arise if the employer has instead concluded a collective bargaining agreement with the trade unions.

Employers can introduce the above listed regulations voluntarily even if they do not exceed the limit of 50 employees.

Additional internal regulations

The following regulations may be additionally introduced by the employers, accordingly to their needs:

- bonus regulations;
- internal compliance policies;
- codes of ethics;
- anti-bullying and anti-discrimination policies;
- rules for the use of company cars for business and private purposes;
- rules for reimbursement of the costs of purchase of corrective eyeglasses or contact lenses.



Labour Code

Remote work

Remote work is extensively regulated in the Labour Code. In order to introduce it into the organization, certain actions and formalities must be completed.

We distinguish two types of remote work: full-time remote work and partial remote work (also known as hybrid work). The parties may decide which type of work they prefer, but as a rule, the final decision in this regard rests with the employer.

The following steps must be taken to introduce remote work at the employer's:

- establishing rules for remote work in an agreement with a trade union, **or** in remote work regulations **or** in an individual agreement between the employer and the employee;
- preparing other obligatory internal documents related to remote work (e.g. occupational health and safety documentation, necessary employees statements, personal data protection procedures dedicated for remote work, and general data safety procedures);
- providing the employees with materials and work

- tools, including technical equipment, necessary for the performance of remote work;
- calculating the costs of remote work that should be compensated to the employee (or substituting those costs with a properly calculated lump sum);
- providing the employee with the necessary training and technical assistance to perform remote work;
- ensuring compliance with health and safety obligations.

Additionally, the regulations **allow occasional remote work** which requires far less formalities but shall not exceed 24 days per calendar year.

Whistleblowers

The whistleblower protection procedure is binding as of 25 September 2024.

The Act on the Protection of Whistleblowers enumerates 17 categories of breaches which could be reported by the whistleblower, e.g. corruption, anti-money laundering, terrorist financing environment protection.

The regulations concern mainly entities employing **more than 50 individuals**, regardless of whether they are

employed based on a contract of employment or on any other basis, i.e. civil contracts (contract of mandate, contract for provision of services, B2B contract).

All employers subject to the regulation shall fulfill the following duties:

- establish an appropriate internal procedure for reporting breaches of the law;
- implement reporting channels;
- establish an internal reporting register;
- prepare a relevant authorizations;
- refrain from retaliation against whistleblowers;
- take proper follow-up actions.

The introduction of internal reporting procedure must be consulted with trade unions or with representatives of individuals rendering work for the employer, selected in accordance with the procedure adopted by this employer.

Labour Code

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.

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).

Sickness leave

Sickness leave is paid approximately about 80% of regular remuneration and financed by an employer up to 33 days and Social Security Institution from 34 day. Sickness leave is confirmed by medical certificate.

Additional leave entitlements

There are some special circumstances when employees are entitled to additional leave. Below we enumerate the most popular:

- 2 days or 1 day of additional occasional paid leave - in connection with marriage, birth, death and burial of the employee's close family;
- 2 days or 16 hours of child care paid leave - for

parents of a child up-to 14 years of old;

- 2 days of 16 hours of paid leave from work due to force majeure - in urgent family matters caused by sickness or accident if immediate presence of employee is required;
- 5 days of family member care unpaid leave - to ensure personal care or support for the closest family member.

Maternity and Parental leave

The following types of leave may be granted:

	PAID	PERIOD
maternity leave	yes	20-37 weeks*
parental leave	yes	41-43 weeks*
paternity leave	yes	2 weeks
childcare leave	no	36 months

*depending on the number of children born at one time



Labour Code

Social insurance

Poland has a national social insurance system which is made up of several elements, including: retirement insurance, disability insurance, sickness insurance, accident insurance, health insurance, labour fund, guaranteed employee benefits fund

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% - 3,33%		0,67%-3,33%*
Health	9%	9%	
Labour Fund	2,45%		2,45%
Guaranteed Employee Benefits Fund	0,10%		0,10%

Employees Capital Plans (PPK)

The plan is the form of saving under the pension system. It is an obligation of the employer to establish the PPK for employees.

Both parties are required to pay contributions – minimum **1,5%** of the monthly remuneration is paid by an employer and minimum **2%** of the monthly remuneration is paid by an employee. The implementation of the PPK requires the conclusion of a management contract for PPK with the selected investment fund, which is established to collect paid funds. Employees can opt out of this additional form of saving.

State Fund for Rehabilitation of Disabled Persons – PFRON

Each employer who employs at least 25 persons (employees working ½ part time are counted as 0.5 person etc.) is subject to PFRON payments.

Every disabled employee allows to decrease the amount to be paid to PFRON. This is a way of encouraging employers to hire disabled persons. There is no possibility to resign from PFRON payments (unless the ratio between employees with disabilities is higher than 6% of total employment).

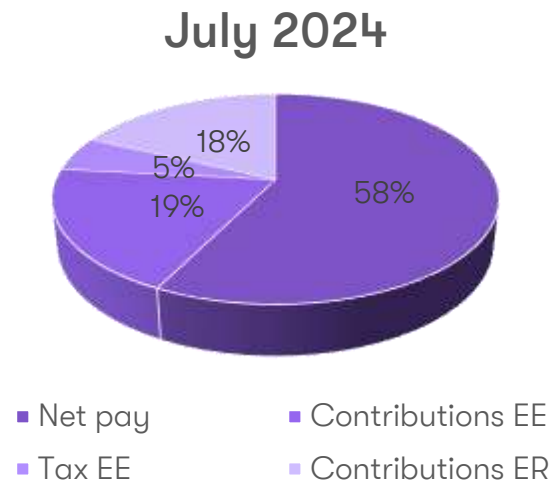
Example – for employer hiring 25 employees on full time job the additional payment for January 2024 would be amount of PLN 4 387.00

Labour Code

Cost of employment

The cost of employment is not only the gross remuneration but also all the additional components of payroll. One part of costs is visible on the payroll list however employer is also obligated to cover the cost of medical examinations for work, safety trainings, allowance for remote work, work expenses and expanses related to business trips.

Below we show the split of the total cost of employment



Labour Code

Severance pay and compensation

As a rule, the following types of severance pay and/or compensation are paid in the event of termination or expiry of the employment contract in Poland:

- 1. Severance pay for employees whose employment was terminated solely for the reasons not related to them** (under the Collective Redundancies Act) – ranging from a one month salary to three month salary depending on the length of the employment – however, the amount of severance pay may not exceed the amount of 15 times the minimum wage (the Collective Redundancies Act applies only for employers who employ at least 20 employees);
- 2. Compensation for pre-mature termination of employment** – equivalent of salary for remaining notice period paid to the employee, if the notice period has been shortened unilaterally by the employer (in the event of bankruptcy or liquidation of the employer);
- 3. Compensation for wrongful termination** – awarded by the court in the event that termination of an employment contract (with or without notice) is declared to be unlawful or unjustified;

- 4. Severance pay upon retirement** – paid to an employee who retires due to retirement age or disability. It is a one-off benefit paid in the amount of one-month's salary of an employee;
- 5. Bereavement allowance** – paid to family members of the deceased employee. The amount of the allowance depends on length of the employment and can range from the equivalent of one month's salary to six months' salary.

Collective redundancy

Collective Redundancies Act applies only to employers who employ **at least 20 employees** and only in the event where the number of employees to be laid off within the period of **30-days** reaches the level of at least:

- 10 employees in case of an employer who employs fewer than 100 employees,
- 10% of employees in case of an employer who employs 100 to 299 employees;
- 30 employees in case of an employer who employs at least 300 employees.

The law provides for specific obligations in relation to

collective redundancies, including for example:

obligation to consult the company trade union organizations operating at the employer about the intention to carry out collective redundancies;

obligation to notify the district employment office of collective redundancy, in order to prepare the labour market for increased unemployment resulting from the collective redundancy;

obligation to pay statutory compensation.

Certain employee groups are granted special protection due to their personal or occupational status, e.g. pregnant women and employees on maternity leave, union members, members of councils and organizations existing in the workplace for the protection of workers' rights. The provisions of the Act on collective redundancies also apply in the case of individual redundancies if the redundancy occurs solely for reasons not related to the employee (the minimum employment limit of 20 employees still applies).

Labour Code

Trade unions and employee representatives

The ability to organize in trade unions, occupational, social and economic organizations is a fundamental right of the employees, guaranteed in the Polish Constitution. The right to establish and join a trade union, together with all the principles of organization and union members' rights are laid down in the provisions of the Trade Union Act.

The main focus of trade union activity in Poland is the protection of employee's rights and representation of workers before state and local authorities, as well as other entities, e.g. employers' organizations. Under this regulation, each employee is granted the right to

collectively defend their interest. It also constitutes special rights such as paid leave of absence or special protection against dismissal for trade union activity.

The Trade Union Act imposes also certain obligations on the employers to enable undisturbed functioning of trade unions, including the obligation to provide dedicated office space for trade union activity and to consult particular decisions with trade union representatives. In the event of no trade unions operating within the organizations, the legislation sometimes provides an alternative obligation to consult specific matters or actions with employee representatives. The proper representation should be elected in accordance with a manner adopted by the employer and respecting the rules of transparency.

Works councils

The Polish law also includes the Act on Informing and Consulting Employees, which obligates employers employing **at least 50 employees** to inform them of their right to form a worker's council or to hold elections for a worker's council, which includes 3, 5 or 7 employees, depending on the scale of employment in a given company. The role of a worker's council is to consult specified issues with the employees and to mediate between the employer and the employees. Members of workers council are under special protection against termination of employment or a change of terms of employment.



According to Polish labour law, an employment may be terminated due to the expiry of the term of the contract or through one of the following legal actions:

Mutual agreement of the parties

This action may be initiated by either party, any time, regardless of the employee's status. The termination by mutual agreement is not limited by the special protection against dismissal, such as e.g. pregnancy, maternity leave, pre-retirement age, etc. The only condition is that both parties agree on the terms and conditions for terminating the employment.

Notice of termination

Any employment contract may be terminated by either party subject to a period of notice. The notice period depends on the type of contract and its duration, for example an indefinite period employment and a fixed term employment contract may be terminated with the respect of termination period of:

1. 2 weeks if an employee has been employed for less than 6 months;
2. 1 month if an employee has been employed for at least 6 months;
3. 3 months if an employee has been employed for at least 3 years.

The declaration of termination by either party shall be made in writing.

In case of a definite period employment and an indefinite period employment, the employer is obliged to inform the employee of **the reasons justifying termination**. Each given reason must be concrete, objective and provable. On the other hand, the employee does not have to provide any reasons when termination of the employment is initiated by them.

In case there is any trade union representing an employee within the organization, the employer is obliged to notify the union in writing about their intention to terminate the employment and consider any objections towards termination raised by that union.

Termination without notice

Termination without notice, i.e. with immediate effect, may take place at the initiative of either party. The grounds for such termination are precisely defined in the Labour Code. The employment contract may be terminated without notice in the following cases:

due to the fault of the employer;

due to the fault of the employee (so called disciplinary termination), e.g. for gross infringement of the basic employee duties, commitment of a crime that is obvious or losing license to perform certain duties;

without fault of either party (e.g. in case of long-term absences caused by an illness).

The employer may submit the immediate termination notice only **within 1 month** of becoming aware of the circumstances justifying the termination.

The employer shall decide on the termination of the contract after consulting the trade union organization representing the employee, which shall be notified of the reasons justifying the termination of the employment.

Immediate termination is effective on the date when the declaration of termination is received by the addressee, meaning that they are able to get properly acquainted with the contents of the notice letter.

Labour Code

Labour law affects us constantly, which is why we actively support clients in all aspects of employment law, including, inter alia: establishing, amending and terminating employment relationships; explaining irregularities in the scope of employment and finding the most suitable solution according to client's needs; resolving compliance issues, such as bullying, discrimination, whistleblowers; conducting employment restructuring, including collective and individual redundancies; implementing remote work into the organization; securing the employers against non-competition and protecting their confidentiality, representing clients in court proceedings.

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- We will provide you with comprehensive and ongoing legal services in all aspects of labour law;
- We will guide you through the entire process of establishing, amending or terminating employment relationships with employees;
- We will assist you with compliance issues (bullying, discrimination, whistleblowers);
- We will draft internal company acts and revise existing company labour law acts, including work regulations, remuneration regulations, regulation of the company social benefits fund, remote work regulation.



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04 Immigration

Immigration

Legalisation of employment of foreigners

The provision of work by a foreigner in Poland requires the fulfilment of certain formalities. It is the responsibility of the prospective employer to obtain for the candidate a document legalising the performing of work. The foreigner, on the other hand, should take care of the appropriate residence document.

Legal acts

The regulations concerning the performance of work by foreigners in the territory of Poland are included in various legal acts.

The basic provisions relevant to the legalisation of employment of the foreigners are included in the **Act of 12 December 2013 on foreigners** and the **Act of 20 April 2004 on employment promotion and labour market institutions**.

The implementing acts to the aforementioned laws (pl. rozporządzenia) also contain important regulations - they indicate, inter alia, exemptions from the work permit requirement and details of the documents to be submitted during administrative proceedings.

Currently works on a new act on employment of foreigners (which will replace the employment promotion act of 2004 as regards legalisation of work of foreigners) are in progress. The new regulations are to enter into force on 1 January 2025. The rules on employment of foreigners will not be a subject of revolutionary changes - the key change will be the full computerisation of proceedings

conducted by the authorities. This material contains information based on the up-to-date legislation with comments on the most important changes resulting from the draft act.

Citizenship of the foreigner

The basic issue related to entrusting work to a foreign candidate is the citizenship - this element determines the employer's obligations to obtain an appropriate document legalizing work (or lack of such an obligation).

1. citizens of the European Union Member States, EEA countries (Norway, Iceland, Liechtenstein) and Switzerland are entitled to perform work in the territory of Poland **without a work permit**,
2. citizens of Armenia, Belarus, Georgia, Moldova and Ukraine benefit from a simplified mode of legalisation of employment - they may perform work on the basis of a **registered statement of entrustment to perform work**.
3. citizens of Ukraine may also be employed on the basis of a **notification addressed to the labour office** - this facilitation will be in force until 30 September 2025 in

accordance with the provisions of the Act of 12 March 2022 on assistance to citizens of Ukraine in connection with the armed conflict on the territory of that country (this deadline may be extended).

4. employment of citizens from other third countries **requires a work permit**.

Legal work = legal work + legal residence

For the legal provision of work in Poland, it is necessary to have both work and residence legalisation documents. It is highly important that the employer has the documents confirming both the legal employment and the employee's residence and keeps them up to date (copies of these documents should be kept in the personnel file of the foreign employee). Failure by the employer in this respect may render the employer liable for illegal employment of foreigners.

Immigration

Legalisation of employment of foreigners

Who is exempt from having a work permit?

There are **numerous exemptions from the obligation to obtain a work permit**. For example, the possibility to provide work without a work permit applies to:

- students/doctoral students of full-time studies held in Poland,
- graduates of secondary schools, full-time higher education studies or full-time doctoral studies at Polish universities,
- research workers employed at research institutes,
- foreign language teachers who work in kindergartens and schools,
- doctors, dentists, nurses, midwives and paramedics who have the right to practise their profession in Poland in accordance with the provisions of the professional acts.

The exemption from the work permit requirement is taken into account during the proceedings for the issuance of the relevant document legalising the stay (in the proceedings for

the issuance of a work visa before a consul or the issuance of a temporary residence and work permit). **From the employer's point of view, it is important to verify whether the candidate benefits from the work permit exemption.**

When is a work permit required?

A work permit is required in the case of:

1. intention to **entrust a foreigner with work** (regardless of whether the work is to be performed on the basis of an employment contract or a civil law contract) by an entity whose registered office or place of residence or a branch, facility or another form of organised activity is located on the territory of Poland,
2. performing **functions in the management board of a legal person** entered in the register of entrepreneurs or being a capital company in organisation, or in connection with managing the affairs of a limited partnership or a limited joint-stock partnership as a general partner, or in connection with granting a commercial power of attorney (pl. prokura), if the foreigner stays on the territory of Poland for a period exceeding in total 6 months within the consecutive 12 months,

3. performing work in the territory of Poland for a foreign employer **under the conditions of posting in the framework of the provision of services** (in accordance with the Act of 10 June 2016 on the posting of workers in the framework of the provision of services).



Immigration

Legalisation of employment of foreigners

Work permit

A work permit is an administrative decision issued by the regional authority - voivode (pl. wojewoda) at the request of the entity entrusting the work.

A foreigner may start performing work only after this decision has been issued (provided that his/her stay in Poland is also legal).

The full procedure for legalising the employment of a foreigner on the basis of a work permit generally involves 2 stages:

1. submission of an offer by the employer to the labour office (the so-called labour market test) - after checking the available databases, the labour office issues a relevant certificate, which is a necessary attachment to the application for a work permit - the labour market test precedes the submission of a proper application to the voivodeship office.
2. submission of a proper application for a work permit to the voivode competent for the seat of the employer.

The regulations provide for a number of exceptions to the

obligation to carry out the labour market test (stage 1) - thanks to this, employing a foreign candidate may prove to be quicker. **In any case, it should be verified whether a labour market test is required.**

It should be also pointed out that, according to the draft new law on the employment of foreigners, the first step described above will be cancelled - there will be no need for the employer to submit an offer to an employment office after new law comes into force.

Temporary work permit is granted for a period of work on the territory of the Republic of Poland not longer than 3 years.

It is very important that the work permit only authorises work to be performed for the employer indicated in the administrative decision granting the work permit - a change of employer also requires an amendment of the decision or applying for a work permit for another entity.



Immigration

Legalisation of employment of foreigners

Statement on entrustment of work

In the case of the intention to employ **citizens of Armenia, Belarus, Georgia, Moldova and Ukraine**, a simplified legalisation procedure is available - the employer may submit to the labour office an application for entering the statement on entrusting work into the register of statements. A registered statement on entrusting work will legalise the employment of a **foreigner for a maximum period of 24 months**; it will also allow the foreigner to obtain a work visa (if the foreigner needs such a document).

Notification of entrustment of work to citizens of Ukraine

Citizens of Ukraine may be employed on the basis of a notification of entrustment of work if, in accordance with the provisions of the Law of 12 March 2022 on assistance to citizens of Ukraine in connection with armed conflict on the territory of the country.

The entitlement to perform work on the basis of a notification is granted under the following conditions:

1. the citizen of Ukraine legally resides in the territory of Poland,
2. the employer notifies, **within 7 days from the date of taking up employment by a citizen of Ukraine**, the district labour office competent for the seat (place of residence) of the entity on entrusting work to that citizen;
3. the working time is not less than that indicated in the notification or the number of hours is not less than that indicated in the notification;
4. the citizen of Ukraine shall receive remuneration at a rate not lower than that specified in the notification or set at the rate specified in the notification, proportionally increased if the working time or the number of working hours is increased;
5. the remuneration that the Ukrainian citizen receives meets the requirements set out in the minimum wage legislation.



Immigration

Legalisation of employment of foreigners

When should a document legalizing work be obtained?

If the candidate is not staying in the territory of Poland, the employer should obtain a work permit or register a statement on entrusting work **before his/her arrival (the presentation of a work permit or registered statement on entrusting work is a condition for the issuance of a work visa)**.

The employer should also take care to obtain a document legalising the foreigner's further work due to the expiry of the work permit or statement of entrustment - the application for the extension of the permit or the submission of a new statement of entrustment **should be made on the last day of the deadline**.

Who obtains the document legalizing employment?

The legalisation of employment in any case is **the responsibility of the prospective employer** - it is the employer who applies for the registration of a statement of assignment of work or for a work permit (it also notifies

the conclusion of a contract with a Ukrainian citizen). The employer also submits an application for the renewal of the residence title (application for a further work permit or registration of a further statement in the register of statements).

A foreigner may also apply for the issuance of a single work and temporary residence permit (in which both the foreigner's stay in Poland and his/her employment are legalised), but this document is never the first one to legalise the foreigner's work.

Where and how should the application be submitted

The competent authority for submitting an application for a relevant document is determined by the seat (place of residence) of the employer - in the case of applications for a work permit, it is the voivode, and in the case of declarations of entrustment of work - the district labour office.

The notification on entrusting work to a Ukrainian citizen is submitted only electronically via the portal praca.gov.pl.

The employer may submit applications for a work permit or entry of a statement on entrustment of work into the register of statements electronically - however, a qualified electronic signature or an ePUAP profile is required to authorise the application. If the employer does not have a suitable authorisation tool, it is possible to submit the application in paper form (or give a power of attorney to a person who has such a tool). If an application for a work permit is submitted electronically, paper documents must be delivered to the office (either following the application or at the request of the authority). Applications may also be submitted through an attorney - the attorney may be any person.

As indicated at the outset, the new law on the employment of foreigners will provide for applications (as well as communications with authorities) to be made exclusively in electronic form.

Immigration

Legalisation of employment of foreigners

How long does the procedure take?

Proceedings for the issuance of a work permit should conclude with a decision **within a maximum of 60 days from the date of submission of a complete** (duly supplemented) application. However, due to differences in the inflow of applications to individual voivodeship offices, the waiting time for issuance of a work permit **may extend to several months**.

The declaration on the entrustment of work is entered in the register of declarations within 7 days.

Notification of the entrustment of work is made automatically when the application is submitted via the IT website praca.gov.pl.

How much does it cost to submit an application?

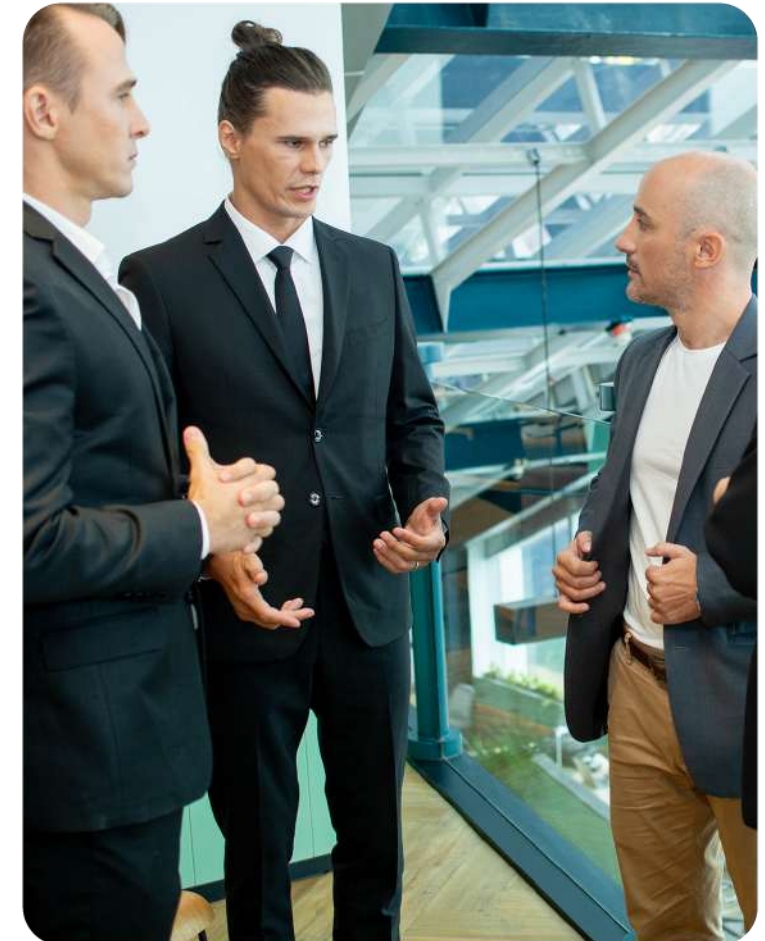
The fee for submitting an application for a permit is: **PLN 100 (if the foreigner's employment is to last longer than 3 months)** or **PLN 50 (if the foreigner's employment is to last no longer than 3 months)**.

Only in the case of employment of a foreigner delegated to the territory of Poland for the purpose of export service provision, the fee is **PLN 200**.

The fee for the registration of the declaration on entrusting work to a foreigner is **PLN 100**.

The fee for registering a statement on delegation of work to a foreigner in the register of statements is **PLN 100**. The notification on entrusting work to a Ukrainian citizen is free of charge. If the application is submitted through a proxy, a stamp duty of **PLN 17** is required.

The sworn translation of documents to be attached to the application (e.g. university diplomas, CVs) should also be taken into account as essential costs of the legalisation proceedings (it should not exceed few hundred PLN).





Immigration

Legislation of stay in Poland

A foreigner may start working in the territory of Poland only if the stay on this territory is considered legal.

Visa-free travel

The first title that allows to start working in Poland is **visa-free travel rules based on European Union law**.

Currently, the European Union has agreements with approximately 60 third countries, which allow to exercise the right of residence without the need to obtain a visa (the list is available at: <https://www.consilium.europa.eu/pl/infographics/eu-visa-agreements-with-non-eu-countries/#0>).

The visa-free regime allows a foreigner to reside on the territory of Schengen area (including Poland) for a period of 90 days within consecutive 180-day periods. If a foreigner enjoys a legal stay under the visa-free regime and the employer has obtained an appropriate title of employment (has registered a declaration of employment or has obtained a work permit), the provision of work is possible within the limit of days of the visa-free regime (maximum 90 days). **If the foreigner intends to stay in Poland for a longer period of time, he/she should apply for a temporary residence and work permit before the limit is used.**

From mid-2025 (although this date may still be delayed), a new obligation will be imposed on citizens of countries covered by the visa-free regime - **they will need a prior ETIAS travel authorisation to enter the Schengen area**.

The ETIAS authorisation will be valid for 3 years or until the expiry date of the travel document registered at the time of application (e.g. passport), whichever is earlier. It will be possible to submit an ETIAS application online, via the official ETIAS website. Each application will be subject to a fee of EUR 7. There will also be a 6-month transitional period during which those without ETIAS authorisation but who meet all other entry conditions will not be refused entry. The IT system for handling applications is currently still being developed.

Immigration

Legislation of stay in Poland

Schengen Visa & National Visa

Next title that allows citizens of countries not admitted to visa-free travel to stay is a visa - **either a Schengen visa ('C' visa) or a national visa ('D' visa).**

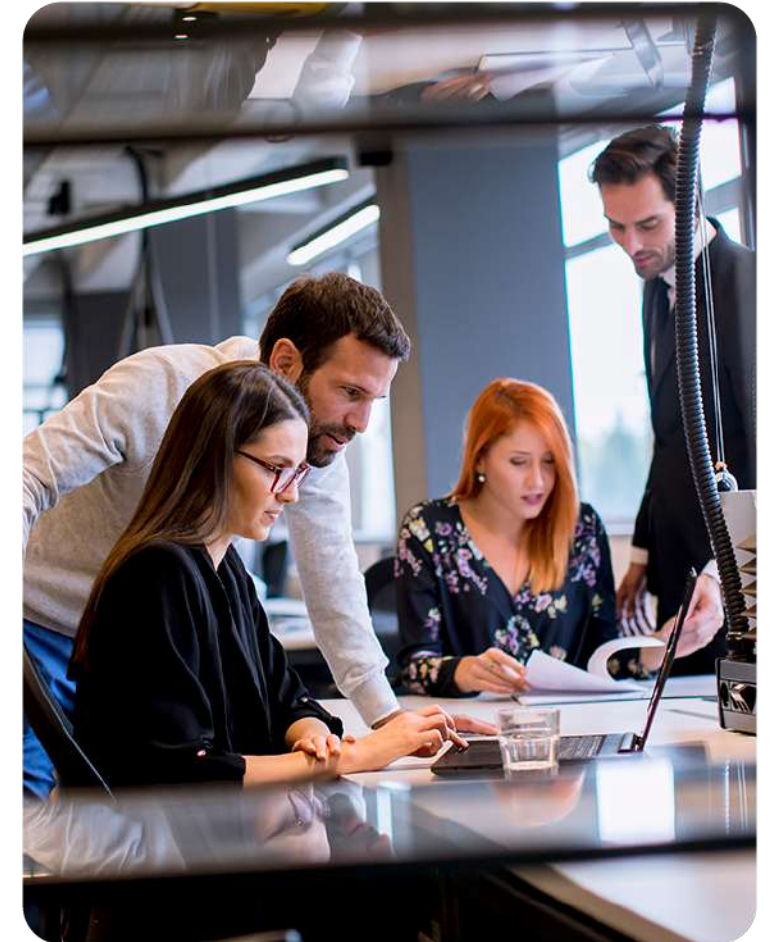
The Schengen visa is a **short-stay visa** (it allows a stay of no more than 90 days on the territory of all Schengen countries during any 180-day period). The national visa allows for **a longer stay - up to a maximum of 12 months.**

Both Schengen and national visas entitle the foreigner to enter Poland and to stay there continuously or to several consecutive stays therein. The national visa may be extended only in exceptional situations. As a rule, Schengen and national visas are issued for the purpose of the foreigner's work, however, each visa (excluding visas issued for tourist purposes) allows the foreigner to perform work (e.g. a visa issued for the purpose of study or research). In general, however, the primary type of visa under which the provision of work takes place is **the work visa** (in the case of visas issued for other purposes, the possibility to provide work is a subsidiary entitlement).

A foreigner applies for a national or Schengen visa at the

Polish consulate office with jurisdiction over his/her place of residence (permanent stay). **Visa applications are submitted in person.** In order to make an appointment, it is necessary to book an appointment in advance via www.e-konsulat.gov.pl. It is also possible to use the VFS visa application service: <https://visa.vfsglobal.com/chn/pl/>.

A work visa is issued on the basis of a work permit/registered declaration of entrustment of work obtained by the employer (this document is an annex to the visa application). The employer should provide the foreigner with one of the copies of the document obtained so that the foreigner can submit the document with the visa application. If the foreigner can perform work without a permit (he/she is exempt from having one), the circumstances justifying the exemption should be documented.



Immigration

Legislation of stay in Poland

Temporary residence permit

Another (and target in the case of longer employment in Poland) residence title is a **temporary residence permit** - a foreigner applies for the permit at the voivodeship office competent for the place of residence, **at the latest on the last day of the visa-free period or of the work visa validity period.**

Most often a foreigner applies for a **single residence and work permit**, which allows the issues related to prolongation of the legal stay and continuation of work in Poland to be taken into account within one decision. However, each temporary residence permit (with two rare

exceptions) constitutes a residence title enabling the provision of work in Poland.

The document confirming the issuance of a temporary residence and work permit is the issue of a residence card with the annotation "access to the labour market". The residence card is issued without an additional application from the foreigner by the voivod who issued the single permit. During its validity period, the residence card confirms the identity of the foreigner during his/her stay in the territory of Poland and entitles him/her, together with the travel document, to cross the border multiple times without the need to obtain a visa.

Visa or residence card issued by another Schengen area country

A **visa or a residence card issued by another Schengen area country** is also a residence title allowing the foreigner to start performing work in Poland (provided they hold a work permit). Performing work on the basis of a foreign residence permit is possible **for a maximum of 3 months** - if the foreigner intends to continue working, they should apply for a unified residence and work permit.



Immigration

Single (uniform) residence and work permit

The provisions provide for the possibility for a foreigner to obtain a document legalising residence and work in a single administrative procedure.

A single residence and work permit is applied for by the foreigner and only the foreigner is a participant of this procedure. The single residence and work permit is the document most often requested by foreigners due to the expiry of the residence period under the visa-free regime or the validity of a work visa. This permit is also granted to foreigners intending to take up or continue work consisting in performing functions in the management board of a joint stock company or a limited liability company whose shares they do not hold, or acting as a proxy of such companies (in this case the entity they manage or will manage or represent should meet additional requirements).

From the foreigner's point of view, **it is extremely important to meet the deadline for submitting the application** - it should be done no later than on the last day of legal stay on the territory of Poland. If the foreigner is even one day late, the authority will refuse to issue the temporary residence and work permit, which will result in the necessity to leave the territory of Poland.

The foreigner submits the application for the single permit to the authority (voivode) competent for the place of his/her permanent residence (not according to the place of the registered office/residence of the employer) in person or by mail (the postmark date counts).

In the course of the proceedings for the issue of a uniform permit, the foreigner is obliged to provide fingerprints for the purposes of issuing a residence card - this may take place during a visit to the voivodship office on the day the application is submitted or at a later date set by the authority. If the foreigner does not appear in the office to submit fingerprints when summoned by the voivod, the application for the permit will be left unprocessed.

The application is submitted on a form and requires the attachment of documents confirming the circumstances justifying the issuance of the uniform permit (e.g. copy of a work contract, work permit, passport).

In the procedure for the issuance of the single permit, it is the employer's obligation to submit a document confirming the conditions of employment together with a statement on the employer's clean criminal record for offences related to the employment of foreigners - this document is an essential annex to the foreigner's application. This document must be signed personally by the employer's representatives.

It is important that the procedure in which the application includes the issuance of a residence and work permit for the same employer for the same position is simplified - the foreigner is not required to submit a labour market test certificate (confirming the lack of possibility to employ an

unemployed person for the given position).

Although the legislation stipulates that a decision on the single permit **should be issued within 60 days from the date of finalisation of all formalities** (i.e. submission of fingerprints, completion of documents), **these deadlines are often not met by the offices. The foreigner has to reckon with the fact that the waiting period may be as long as several months.** During the proceedings (while waiting for the single permit to be issued), the foreigner may perform work under the existing conditions. However, he/she cannot leave the territory of Poland - his/her stay in the territory of Poland is considered legal until the voivod issues a decision, but he/she does not have a title entitling him/her to cross the border.

Once the uniform permit has been issued, the foreigner will receive a **residence card** - this is an identity document which allows the foreigner (together with a valid passport) to cross the Polish border.

The fee for applying for a uniform permit is **PLN 440**; an additional fee of **PLN 50** is charged for issuing the residence card.

Immigration

UE Blue Card

The legislation provides for a special type of temporary residence and work permit for highly skilled workers - this is the so-called EU Blue Card.

The EU Blue Card concerns foreigners with **higher professional qualifications**, i.e. employees who:

- hold a university degree (of at least three years' duration) in a subject relevant to the job at hand, or
- have at least 5 years' professional experience at a level comparable to the level of the post-secondary qualification required for the job

In addition, the conditions require foreigner **to conclude an employment contract or a civil law contract with a Polish employer for a period of at least 12 months**. It means that, if the contract is concluded on the basis of the first work permit obtained by the employer, the foreigner

may then just apply for the EU Blue Card.

The additional condition for applying for a EU Blue Card is that the contract under which the work is performed/services are provided provides for a certain level of remuneration - **the gross annual remuneration resulting from the monthly or annual salary indicated in the contract is not lower than the equivalent of 150% of the amount of the average remuneration** in the national economy in the year preceding the submission of the application for a EU Blue Card announced by the Chief of the Central Statistical Office.

The proceedings should include a labour market test (i.e.

confirmation of the lack of possibility to employ an unemployed person at a given position). **However, such confirmation is not required if the foreigner's application includes the issuance of the UE Blue Card for the same employer and for work at the same position, or if the foreigner has previously held the Blue Card for 2 years.**

The Blue Card may be changed at any time at the foreigner's request if the foreigner intends to start working for a different entity than the one specified in the permit, intends to change the position or will be paid less than the one specified in the permit.



Immigration

Other cases requiring a work permit

The obligation to obtain a work permit also applies to managers in capital companies and posted employees.

Performing the function of a member of the management board or proxy in a capital company

The performance of the function of a member of the management board or a proxy in capital companies also requires an appropriate work permit. If a foreigner will be a member of the management board of a capital company or its proxy, but will not hold shares in the company, **the appropriate type of permit will be a single residence and work permit. If, on the other hand, the foreigner will be a shareholder at the same time, he/she should apply for a temporary residence permit for the purpose of business activity.**

A characteristic feature of this permit is that its granting is subject to a current assessment of the condition of the business activity, including in terms of income generation and impact on the local labour market, or the possibility of accepting a projection as to the fulfilment of one of these conditions in the future, including in connection with the consideration of investments, assessment of the innovation of the activity, its technological advancement and the creation of jobs in the labour market.

The authorisation shall be for a minimum period of more than 3 months, but no longer than 3 years.

Performing the function of a member of the management board or proxy in a capital company

A frequently used mechanism by employers to enable a foreigner to temporarily perform work in another EU country (also EEA and Switzerland) is posting. **This is done pursuant to the Act of 10 June 2016 on the posting of workers in the framework of the provision of services.** It should also be borne in mind that the posting rules set out in the aforementioned act apply not only to foreigners who have been sent to work by an EU, EEA or Swiss employer, but also by the posting entity from third country.

As a general rule, the period of posting can be a maximum of 12 months (and in special cases can be extended to 18 months).

As a rule, Poland is among the countries sending employees to other EU member states, however, an employee of a foreign employer may also be posted to

perform work in Poland. **In such a case, from the point of view of the legalisation of the posting, the obligation to obtain a special work permit (depending on the type of posting, it is a type C, D or E permit) is relevant.**

This obligation occurs in the following situations:

1. if a foreigner employed by a foreign employer under a posting to a branch, establishment or affiliate of that foreign employer with its registered office in the territory of Poland performs work for a period exceeding 30 days (in such a case, a type C permit should be applied for),
2. if a foreigner employed by a foreign employer without a branch or an establishment in the territory of Poland is posted to perform a service of a temporary and occasional character (export service) (in such a case apply for a D-type permit);
3. if the foreigner is posted to Poland for a period exceeding 30 days within the consecutive 6 months for any other purpose of employment than listed in points 1) and 2) above (in such a case apply for an E-type permit).

Immigration

Legalisation of the residence of family members of foreigners

Regulations allow family members of foreigners legally residing in Poland to apply for family reunification.

A special temporary residence permit may be issued for:

- a foreigner's spouse (the marriage must be recognised by Polish law);
- A foreigner's minor child (who is under 18 years of age on the date of filing the application) - biological, adopted or other child dependent on the foreigner and over whom the foreigner exercises actual parental authority.

The condition for reunification with the family is that the foreigner holds an appropriate residence title. The

catalogue of titles is quite broad, however in this respect the most common will be the temporary residence and work permit (one or another) **which legalises the foreigner's stay in Poland for a period of 2 years or the EU Blue Card.**

If the foreigner (spouse or child) resides outside Poland, the application for a temporary residence permit for the purpose of family reunion is submitted by a foreigner residing in Poland - in this case a written consent of the person concerned is required (the consent is the same as granting a power of attorney to act on behalf of the family

member in the proceedings for granting a family reunion permit). The decision is forwarded to the foreigner - on its basis it is possible to obtain the appropriate visa.

If a foreigner does not meet the conditions for applying for family reunification permit (in particular if he/she resides in Poland on the basis of a visa or a temporary residence permit for a period shorter than 2 years), it is possible to apply for a temporary residence permit issued due to other circumstances.



Immigration

Conducting business activity by foreigners

Certain group of foreigners may also carry out individual business activities on the basis of the rights of Polish (and EU) citizens

The option of conducting individual business activity in accordance with the provisions of the Act of 6 March 2018 on the principles of participation of foreign entrepreneurs and other foreign persons in economic turnover on the territory of the Republic of Poland is also available for foreigners.

However, this option is only available to a small group of citizens. While EU citizens may undertake individual economic activity and carry out economic activity on the territory of the Republic of Poland on the same basis as Polish citizens, **citizens of third countries must hold an appropriate residence title in order to carry out such activity.**

Apart from titles of indefinite validity (e.g. permanent residence permit, long-term EU resident's permit), the title referred to in the provisions of the aforementioned act will be a temporary residence permit for the purpose of

carrying out business activity, granted due to **continuation** of economic activity already carried out on the basis of an entry in the Central Register and Information on Economic Activity (PL. Centralny Rejestr Ewidencji i Informacji o Działalności Gospodarczej). **Thus, the provision assumes the possibility of issuing a temporary residence permit for the purpose of performing economic activity only as a continuation of the previously started economic activity.**

In contrast, the possibility to undertake economic activity on the basis of the rules applicable to Polish citizens is available only to citizens of the following countries: **the United States, Switzerland (based on international agreements concluded by Poland) and Ukraine (of 12 March 2022** on assistance to citizens of Ukraine in connection with the armed conflict on the territory of that country).





Immigration

Obligations of EU citizens

The right to work in any EU country without a work permit is a major convenience. However, EU citizens are not exempt from certain formalities related to their longer stay in the country of work.

An EU citizen may stay in the territory of the Republic of Poland for a period of up to 3 months - if the stay lasts for a period longer than 3 months, the citizen of the EU is obliged to register his/her stay in Poland.

Registration of stay takes place at the request of the EU citizen. The application shall be submitted in person, not later than on the day following the lapse of 3 months from the date of entry into the territory of the Republic of Poland.

If the foreigner is accompanied by family members, they should also register their stay in Poland.

Immigration

Payroll services | How can we help?

With Grant Thornton's HR & payroll service, you gain access to expert knowledge and experience and avoid having to maintain specialised departments.

Labour law services | How can we help?

In order to meet market expectations, we would like to present our offer of services related to legalisation of employment of foreigners in Poland - our goal is to assist you in the processes of legalisation of employment, to carry out the procedure efficiently and to obtain the necessary documents to facilitate employment in accordance with the applicable regulations.

- Analysing a foreigner's formal and legal status in relation to employment opportunities in Poland,
- Indicating available employment options,
- Obtaining information on the local labour market,
- Completing documentation and ordering certified translations,
- Completing and submitting the necessary applications for obtaining the appropriate documents legalising the stay of a foreigner, in particular, work visas,
- Obtaining documents legalising the stay of family members of non-EU foreigners,
- Liaising with administrative authorities,
- Representing employers and foreigners in legalisation proceedings,
- Registering the residence of EU employees and their families in Poland,
- Providing information on obtaining a residence card.

We are also able to assist you in other, less standard, matters related to legalisation of residence and work.



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04 Immigration

Immigration

Legalisation of employment of foreigners

The provision of work by a foreigner in Poland requires the fulfilment of certain formalities. It is the responsibility of the prospective employer to obtain for the candidate a document legalising the performing of work. The foreigner, on the other hand, should take care of the appropriate residence document.

Legal acts

The regulations concerning the performance of work by foreigners in the territory of Poland are included in various legal acts.

The basic provisions relevant to the legalisation of employment of the foreigners are included in the **Act of 12 December 2013 on foreigners** and the **Act of 20 April 2004 on employment promotion and labour market institutions**.

The implementing acts to the aforementioned laws (pl. rozporządzenia) also contain important regulations - they indicate, inter alia, exemptions from the work permit requirement and details of the documents to be submitted during administrative proceedings.

Currently works on a new act on employment of foreigners (which will replace the employment promotion act of 2004 as regards legalisation of work of foreigners) are in progress. The new regulations are to enter into force on 1 January 2025. The rules on employment of foreigners will not be a subject of revolutionary changes - the key change will be the full computerisation of proceedings

conducted by the authorities. This material contains information based on the up-to-date legislation with comments on the most important changes resulting from the draft act.

Citizenship of the foreigner

The basic issue related to entrusting work to a foreign candidate is the citizenship - this element determines the employer's obligations to obtain an appropriate document legalizing work (or lack of such an obligation).

1. citizens of the European Union Member States, EEA countries (Norway, Iceland, Liechtenstein) and Switzerland are entitled to perform work in the territory of Poland **without a work permit**,
2. citizens of Armenia, Belarus, Georgia, Moldova and Ukraine benefit from a simplified mode of legalisation of employment - they may perform work on the basis of a **registered statement of entrustment to perform work**.
3. citizens of Ukraine may also be employed on the basis of a **notification addressed to the labour office** - this facilitation will be in force until 30 September 2025 in

accordance with the provisions of the Act of 12 March 2022 on assistance to citizens of Ukraine in connection with the armed conflict on the territory of that country (this deadline may be extended).

4. employment of citizens from other third countries **requires a work permit**.

Legal work = legal work + legal residence

For the legal provision of work in Poland, it is necessary to have both work and residence legalisation documents. It is highly important that the employer has the documents confirming both the legal employment and the employee's residence and keeps them up to date (copies of these documents should be kept in the personnel file of the foreign employee). Failure by the employer in this respect may render the employer liable for illegal employment of foreigners.

Who is exempt from having a work permit?

There are **numerous exemptions from the obligation to obtain a work permit**. For example, the possibility to provide work without a work permit applies to:

- students/doctoral students of full-time studies held in Poland,
- graduates of secondary schools, full-time higher education studies or full-time doctoral studies at Polish universities,
- research workers employed at research institutes,
- foreign language teachers who work in kindergartens and schools,
- doctors, dentists, nurses, midwives and paramedics who have the right to practise their profession in Poland in accordance with the provisions of the professional acts.

The exemption from the work permit requirement is taken into account during the proceedings for the issuance of the relevant document legalising the stay (in the proceedings for

the issuance of a work visa before a consul or the issuance of a temporary residence and work permit). **From the employer's point of view, it is important to verify whether the candidate benefits from the work permit exemption.**

When is a work permit required?

A work permit is required in the case of:

1. intention to **entrust a foreigner with work** (regardless of whether the work is to be performed on the basis of an employment contract or a civil law contract) by an entity whose registered office or place of residence or a branch, facility or another form of organised activity is located on the territory of Poland,
2. performing **functions in the management board of a legal person** entered in the register of entrepreneurs or being a capital company in organisation, or in connection with managing the affairs of a limited partnership or a limited joint-stock partnership as a general partner, or in connection with granting a commercial power of attorney (pl. prokura), if the foreigner stays on the territory of Poland for a period exceeding in total 6 months within the consecutive 12 months,

3. performing work in the territory of Poland for a foreign employer **under the conditions of posting in the framework of the provision of services** (in accordance with the Act of 10 June 2016 on the posting of workers in the framework of the provision of services).



Immigration

Legalisation of employment of foreigners

Work permit

A work permit is an administrative decision issued by the regional authority - voivode (pl. wojewoda) at the request of the entity entrusting the work.

A foreigner may start performing work only after this decision has been issued (provided that his/her stay in Poland is also legal).

The full procedure for legalising the employment of a foreigner on the basis of a work permit generally involves 2 stages:

1. submission of an offer by the employer to the labour office (the so-called labour market test) - after checking the available databases, the labour office issues a relevant certificate, which is a necessary attachment to the application for a work permit - the labour market test precedes the submission of a proper application to the voivodeship office.
2. submission of a proper application for a work permit to the voivode competent for the seat of the employer.

The regulations provide for a number of exceptions to the

obligation to carry out the labour market test (stage 1) - thanks to this, employing a foreign candidate may prove to be quicker. **In any case, it should be verified whether a labour market test is required.**

It should be also pointed out that, according to the draft new law on the employment of foreigners, the first step described above will be cancelled - there will be no need for the employer to submit an offer to an employment office after new law comes into force.

Temporary work permit is granted for a period of work on the territory of the Republic of Poland not longer than 3 years.

It is very important that the work permit only authorises work to be performed for the employer indicated in the administrative decision granting the work permit - a change of employer also requires an amendment of the decision or applying for a work permit for another entity.



Immigration

Legalisation of employment of foreigners

Statement on entrustment of work

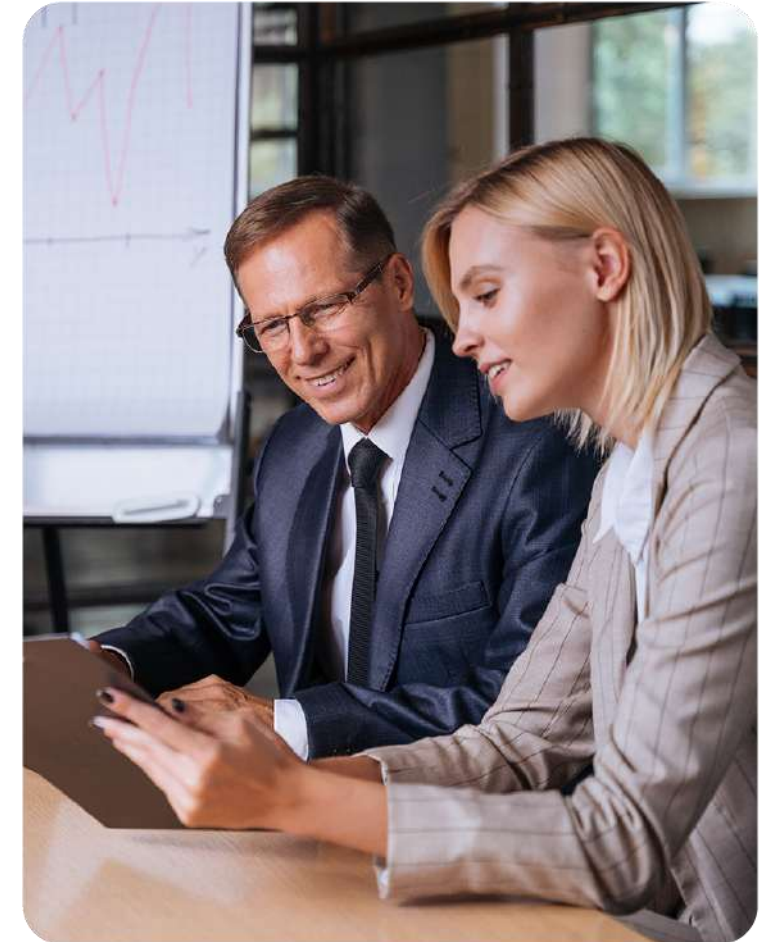
In the case of the intention to employ **citizens of Armenia, Belarus, Georgia, Moldova and Ukraine**, a simplified legalisation procedure is available - the employer may submit to the labour office an application for entering the statement on entrusting work into the register of statements. A registered statement on entrusting work will legalise the employment of a **foreigner for a maximum period of 24 months**; it will also allow the foreigner to obtain a work visa (if the foreigner needs such a document).

Notification of entrustment of work to citizens of Ukraine

Citizens of Ukraine may be employed on the basis of a notification of entrustment of work if, in accordance with the provisions of the Law of 12 March 2022 on assistance to citizens of Ukraine in connection with armed conflict on the territory of the country.

The entitlement to perform work on the basis of a notification is granted under the following conditions:

1. the citizen of Ukraine legally resides in the territory of Poland,
2. the employer notifies, **within 7 days from the date of taking up employment by a citizen of Ukraine**, the district labour office competent for the seat (place of residence) of the entity on entrusting work to that citizen;
3. the working time is not less than that indicated in the notification or the number of hours is not less than that indicated in the notification;
4. the citizen of Ukraine shall receive remuneration at a rate not lower than that specified in the notification or set at the rate specified in the notification, proportionally increased if the working time or the number of working hours is increased;
5. the remuneration that the Ukrainian citizen receives meets the requirements set out in the minimum wage legislation.



Immigration

Legalisation of employment of foreigners

When should a document legalizing work be obtained?

If the candidate is not staying in the territory of Poland, the employer should obtain a work permit or register a statement on entrusting work **before his/her arrival (the presentation of a work permit or registered statement on entrusting work is a condition for the issuance of a work visa)**.

The employer should also take care to obtain a document legalising the foreigner's further work due to the expiry of the work permit or statement of entrustment - the application for the extension of the permit or the submission of a new statement of entrustment **should be made on the last day of the deadline**.

Who obtains the document legalizing employment?

The legalisation of employment in any case is **the responsibility of the prospective employer** - it is the employer who applies for the registration of a statement of assignment of work or for a work permit (it also notifies

the conclusion of a contract with a Ukrainian citizen). The employer also submits an application for the renewal of the residence title (application for a further work permit or registration of a further statement in the register of statements).

A foreigner may also apply for the issuance of a single work and temporary residence permit (in which both the foreigner's stay in Poland and his/her employment are legalised), but this document is never the first one to legalise the foreigner's work.

Where and how should the application be submitted

The competent authority for submitting an application for a relevant document is determined by the seat (place of residence) of the employer - in the case of applications for a work permit, it is the voivode, and in the case of declarations of entrustment of work - the district labour office.

The notification on entrusting work to a Ukrainian citizen is submitted only electronically via the portal praca.gov.pl.

The employer may submit applications for a work permit or entry of a statement on entrustment of work into the register of statements electronically - however, a qualified electronic signature or an ePUAP profile is required to authorise the application. If the employer does not have a suitable authorisation tool, it is possible to submit the application in paper form (or give a power of attorney to a person who has such a tool). If an application for a work permit is submitted electronically, paper documents must be delivered to the office (either following the application or at the request of the authority). Applications may also be submitted through an attorney - the attorney may be any person.

As indicated at the outset, the new law on the employment of foreigners will provide for applications (as well as communications with authorities) to be made exclusively in electronic form.

Immigration

Legalisation of employment of foreigners

How long does the procedure take?

Proceedings for the issuance of a work permit should conclude with a decision **within a maximum of 60 days from the date of submission of a complete** (duly supplemented) application. However, due to differences in the inflow of applications to individual voivodeship offices, the waiting time for issuance of a work permit **may extend to several months**.

The declaration on the entrustment of work is entered in the register of declarations within 7 days.

Notification of the entrustment of work is made automatically when the application is submitted via the IT website praca.gov.pl.

How much does it cost to submit an application?

The fee for submitting an application for a permit is: **PLN 100 (if the foreigner's employment is to last longer than 3 months)** or **PLN 50 (if the foreigner's employment is to last no longer than 3 months)**.

Only in the case of employment of a foreigner delegated to the territory of Poland for the purpose of export service provision, the fee is **PLN 200**.

The fee for the registration of the declaration on entrusting work to a foreigner is **PLN 100**.

The fee for registering a statement on delegation of work to a foreigner in the register of statements is **PLN 100**. The notification on entrusting work to a Ukrainian citizen is free of charge. If the application is submitted through a proxy, a stamp duty of **PLN 17** is required.

The sworn translation of documents to be attached to the application (e.g. university diplomas, CVs) should also be taken into account as essential costs of the legalisation proceedings (it should not exceed few hundred PLN).





Immigration

Legislation of stay in Poland

A foreigner may start working in the territory of Poland only if the stay on this territory is considered legal.

Visa-free travel

The first title that allows to start working in Poland is **visa-free travel rules based on European Union law**.

Currently, the European Union has agreements with approximately 60 third countries, which allow to exercise the right of residence without the need to obtain a visa (the list is available at: <https://www.consilium.europa.eu/pl/infographics/eu-visa-agreements-with-non-eu-countries/#0>).

The visa-free regime allows a foreigner to reside on the territory of Schengen area (including Poland) for a period of 90 days within consecutive 180-day periods. If a foreigner enjoys a legal stay under the visa-free regime and the employer has obtained an appropriate title of employment (has registered a declaration of employment or has obtained a work permit), the provision of work is possible within the limit of days of the visa-free regime (maximum 90 days). **If the foreigner intends to stay in Poland for a longer period of time, he/she should apply for a temporary residence and work permit before the limit is used.**

From mid-2025 (although this date may still be delayed), a new obligation will be imposed on citizens of countries covered by the visa-free regime - **they will need a prior ETIAS travel authorisation to enter the Schengen area**.

The ETIAS authorisation will be valid for 3 years or until the expiry date of the travel document registered at the time of application (e.g. passport), whichever is earlier. It will be possible to submit an ETIAS application online, via the official ETIAS website. Each application will be subject to a fee of EUR 7. There will also be a 6-month transitional period during which those without ETIAS authorisation but who meet all other entry conditions will not be refused entry. The IT system for handling applications is currently still being developed.

Immigration

Legislation of stay in Poland

Schengen Visa & National Visa

Next title that allows citizens of countries not admitted to visa-free travel to stay is a visa - **either a Schengen visa ('C' visa) or a national visa ('D' visa).**

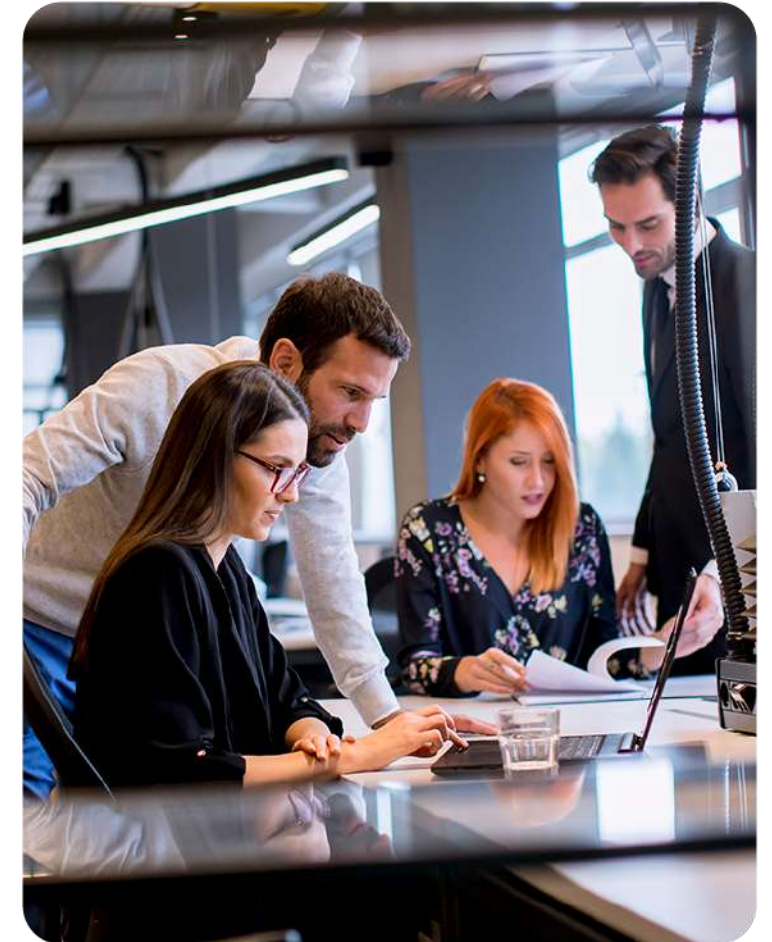
The Schengen visa is a **short-stay visa** (it allows a stay of no more than 90 days on the territory of all Schengen countries during any 180-day period). The national visa allows for **a longer stay - up to a maximum of 12 months.**

Both Schengen and national visas entitle the foreigner to enter Poland and to stay there continuously or to several consecutive stays therein. The national visa may be extended only in exceptional situations. As a rule, Schengen and national visas are issued for the purpose of the foreigner's work, however, each visa (excluding visas issued for tourist purposes) allows the foreigner to perform work (e.g. a visa issued for the purpose of study or research). In general, however, the primary type of visa under which the provision of work takes place is **the work visa** (in the case of visas issued for other purposes, the possibility to provide work is a subsidiary entitlement).

A foreigner applies for a national or Schengen visa at the

Polish consulate office with jurisdiction over his/her place of residence (permanent stay). **Visa applications are submitted in person.** In order to make an appointment, it is necessary to book an appointment in advance via www.e-konsulat.gov.pl. It is also possible to use the VFS visa application service: <https://visa.vfsglobal.com/chn/pl/>.

A work visa is issued on the basis of a work permit/registered declaration of entrustment of work obtained by the employer (this document is an annex to the visa application). The employer should provide the foreigner with one of the copies of the document obtained so that the foreigner can submit the document with the visa application. If the foreigner can perform work without a permit (he/she is exempt from having one), the circumstances justifying the exemption should be documented.



Immigration

Legislation of stay in Poland

Temporary residence permit

Another (and target in the case of longer employment in Poland) residence title is a **temporary residence permit** - a foreigner applies for the permit at the voivodeship office competent for the place of residence, **at the latest on the last day of the visa-free period or of the work visa validity period.**

Most often a foreigner applies for a **single residence and work permit**, which allows the issues related to prolongation of the legal stay and continuation of work in Poland to be taken into account within one decision. However, each temporary residence permit (with two rare

exceptions) constitutes a residence title enabling the provision of work in Poland.

The document confirming the issuance of a temporary residence and work permit is the issue of a residence card with the annotation "access to the labour market". The residence card is issued without an additional application from the foreigner by the voivod who issued the single permit. During its validity period, the residence card confirms the identity of the foreigner during his/her stay in the territory of Poland and entitles him/her, together with the travel document, to cross the border multiple times without the need to obtain a visa.

Visa or residence card issued by another Schengen area country

A **visa or a residence card issued by another Schengen area country** is also a residence title allowing the foreigner to start performing work in Poland (provided they hold a work permit). Performing work on the basis of a foreign residence permit is possible **for a maximum of 3 months** - if the foreigner intends to continue working, they should apply for a unified residence and work permit.



Immigration

Single (uniform) residence and work permit

The provisions provide for the possibility for a foreigner to obtain a document legalising residence and work in a single administrative procedure.

A single residence and work permit is applied for by the foreigner and only the foreigner is a participant of this procedure. The single residence and work permit is the document most often requested by foreigners due to the expiry of the residence period under the visa-free regime or the validity of a work visa. This permit is also granted to foreigners intending to take up or continue work consisting in performing functions in the management board of a joint stock company or a limited liability company whose shares they do not hold, or acting as a proxy of such companies (in this case the entity they manage or will manage or represent should meet additional requirements).

From the foreigner's point of view, **it is extremely important to meet the deadline for submitting the application** - it should be done no later than on the last day of legal stay on the territory of Poland. If the foreigner is even one day late, the authority will refuse to issue the temporary residence and work permit, which will result in the necessity to leave the territory of Poland.

The foreigner submits the application for the single permit to the authority (voivode) competent for the place of his/her permanent residence (not according to the place of the registered office/residence of the employer) in person or by mail (the postmark date counts).

In the course of the proceedings for the issue of a uniform permit, the foreigner is obliged to provide fingerprints for the purposes of issuing a residence card - this may take place during a visit to the voivodship office on the day the application is submitted or at a later date set by the authority. If the foreigner does not appear in the office to submit fingerprints when summoned by the voivod, the application for the permit will be left unprocessed.

The application is submitted on a form and requires the attachment of documents confirming the circumstances justifying the issuance of the uniform permit (e.g. copy of a work contract, work permit, passport).

In the procedure for the issuance of the single permit, it is the employer's obligation to submit a document confirming the conditions of employment together with a statement on the employer's clean criminal record for offences related to the employment of foreigners - this document is an essential annex to the foreigner's application. This document must be signed personally by the employer's representatives.

It is important that the procedure in which the application includes the issuance of a residence and work permit for the same employer for the same position is simplified - the foreigner is not required to submit a labour market test certificate (confirming the lack of possibility to employ an

unemployed person for the given position).

Although the legislation stipulates that a decision on the single permit **should be issued within 60 days from the date of finalisation of all formalities** (i.e. submission of fingerprints, completion of documents), **these deadlines are often not met by the offices. The foreigner has to reckon with the fact that the waiting period may be as long as several months.** During the proceedings (while waiting for the single permit to be issued), the foreigner may perform work under the existing conditions. However, he/she cannot leave the territory of Poland - his/her stay in the territory of Poland is considered legal until the voivod issues a decision, but he/she does not have a title entitling him/her to cross the border.

Once the uniform permit has been issued, the foreigner will receive a **residence card** - this is an identity document which allows the foreigner (together with a valid passport) to cross the Polish border.

The fee for applying for a uniform permit is **PLN 440**; an additional fee of **PLN 50** is charged for issuing the residence card.

Immigration

UE Blue Card

The legislation provides for a special type of temporary residence and work permit for highly skilled workers - this is the so-called EU Blue Card.

The EU Blue Card concerns foreigners with **higher professional qualifications**, i.e. employees who:

- hold a university degree (of at least three years' duration) in a subject relevant to the job at hand, or
- have at least 5 years' professional experience at a level comparable to the level of the post-secondary qualification required for the job

In addition, the conditions require foreigner **to conclude an employment contract or a civil law contract with a Polish employer for a period of at least 12 months**. It means that, if the contract is concluded on the basis of the first work permit obtained by the employer, the foreigner

may then just apply for the EU Blue Card.

The additional condition for applying for a EU Blue Card is that the contract under which the work is performed/services are provided provides for a certain level of remuneration - **the gross annual remuneration resulting from the monthly or annual salary indicated in the contract is not lower than the equivalent of 150% of the amount of the average remuneration** in the national economy in the year preceding the submission of the application for a EU Blue Card announced by the Chief of the Central Statistical Office.

The proceedings should include a labour market test (i.e.

confirmation of the lack of possibility to employ an unemployed person at a given position). **However, such confirmation is not required if the foreigner's application includes the issuance of the UE Blue Card for the same employer and for work at the same position, or if the foreigner has previously held the Blue Card for 2 years.**

The Blue Card may be changed at any time at the foreigner's request if the foreigner intends to start working for a different entity than the one specified in the permit, intends to change the position or will be paid less than the one specified in the permit.



Immigration

Other cases requiring a work permit

The obligation to obtain a work permit also applies to managers in capital companies and posted employees.

Performing the function of a member of the management board or proxy in a capital company

The performance of the function of a member of the management board or a proxy in capital companies also requires an appropriate work permit. If a foreigner will be a member of the management board of a capital company or its proxy, but will not hold shares in the company, **the appropriate type of permit will be a single residence and work permit. If, on the other hand, the foreigner will be a shareholder at the same time, he/she should apply for a temporary residence permit for the purpose of business activity.**

A characteristic feature of this permit is that its granting is subject to a current assessment of the condition of the business activity, including in terms of income generation and impact on the local labour market, or the possibility of accepting a projection as to the fulfilment of one of these conditions in the future, including in connection with the consideration of investments, assessment of the innovation of the activity, its technological advancement and the creation of jobs in the labour market.

The authorisation shall be for a minimum period of more than 3 months, but no longer than 3 years.

Performing the function of a member of the management board or proxy in a capital company

A frequently used mechanism by employers to enable a foreigner to temporarily perform work in another EU country (also EEA and Switzerland) is posting. **This is done pursuant to the Act of 10 June 2016 on the posting of workers in the framework of the provision of services.** It should also be borne in mind that the posting rules set out in the aforementioned act apply not only to foreigners who have been sent to work by an EU, EEA or Swiss employer, but also by the posting entity from third country.

As a general rule, the period of posting can be a maximum of 12 months (and in special cases can be extended to 18 months).

As a rule, Poland is among the countries sending employees to other EU member states, however, an employee of a foreign employer may also be posted to

perform work in Poland. **In such a case, from the point of view of the legalisation of the posting, the obligation to obtain a special work permit (depending on the type of posting, it is a type C, D or E permit) is relevant.**

This obligation occurs in the following situations:

1. if a foreigner employed by a foreign employer under a posting to a branch, establishment or affiliate of that foreign employer with its registered office in the territory of Poland performs work for a period exceeding 30 days (in such a case, a type C permit should be applied for),
2. if a foreigner employed by a foreign employer without a branch or an establishment in the territory of Poland is posted to perform a service of a temporary and occasional character (export service) (in such a case apply for a D-type permit);
3. if the foreigner is posted to Poland for a period exceeding 30 days within the consecutive 6 months for any other purpose of employment than listed in points 1) and 2) above (in such a case apply for an E-type permit).

Immigration

Legalisation of the residence of family members of foreigners

Regulations allow family members of foreigners legally residing in Poland to apply for family reunification.

A special temporary residence permit may be issued for:

- a foreigner's spouse (the marriage must be recognised by Polish law);
- A foreigner's minor child (who is under 18 years of age on the date of filing the application) - biological, adopted or other child dependent on the foreigner and over whom the foreigner exercises actual parental authority.

The condition for reunification with the family is that the foreigner holds an appropriate residence title. The

catalogue of titles is quite broad, however in this respect the most common will be the temporary residence and work permit (one or another) **which legalises the foreigner's stay in Poland for a period of 2 years or the EU Blue Card.**

If the foreigner (spouse or child) resides outside Poland, the application for a temporary residence permit for the purpose of family reunion is submitted by a foreigner residing in Poland - in this case a written consent of the person concerned is required (the consent is the same as granting a power of attorney to act on behalf of the family

member in the proceedings for granting a family reunion permit). The decision is forwarded to the foreigner - on its basis it is possible to obtain the appropriate visa.

If a foreigner does not meet the conditions for applying for family reunification permit (in particular if he/she resides in Poland on the basis of a visa or a temporary residence permit for a period shorter than 2 years), it is possible to apply for a temporary residence permit issued due to other circumstances.



Immigration

Conducting business activity by foreigners

Certain group of foreigners may also carry out individual business activities on the basis of the rights of Polish (and EU) citizens

The option of conducting individual business activity in accordance with the provisions of the Act of 6 March 2018 on the principles of participation of foreign entrepreneurs and other foreign persons in economic turnover on the territory of the Republic of Poland is also available for foreigners.

However, this option is only available to a small group of citizens. While EU citizens may undertake individual economic activity and carry out economic activity on the territory of the Republic of Poland on the same basis as Polish citizens, **citizens of third countries must hold an appropriate residence title in order to carry out such activity.**

Apart from titles of indefinite validity (e.g. permanent residence permit, long-term EU resident's permit), the title referred to in the provisions of the aforementioned act will be a temporary residence permit for the purpose of

carrying out business activity, granted due to **continuation** of economic activity already carried out on the basis of an entry in the Central Register and Information on Economic Activity (PL. Centralny Rejestr Ewidencji i Informacji o Działalności Gospodarczej). **Thus, the provision assumes the possibility of issuing a temporary residence permit for the purpose of performing economic activity only as a continuation of the previously started economic activity.**

In contrast, the possibility to undertake economic activity on the basis of the rules applicable to Polish citizens is available only to citizens of the following countries: **the United States, Switzerland (based on international agreements concluded by Poland) and Ukraine (of 12 March 2022** on assistance to citizens of Ukraine in connection with the armed conflict on the territory of that country).





Immigration

Obligations of EU citizens

The right to work in any EU country without a work permit is a major convenience. However, EU citizens are not exempt from certain formalities related to their longer stay in the country of work.

An EU citizen may stay in the territory of the Republic of Poland for a period of up to 3 months - if the stay lasts for a period longer than 3 months, the citizen of the EU is obliged to register his/her stay in Poland.

Registration of stay takes place at the request of the EU citizen. The application shall be submitted in person, not later than on the day following the lapse of 3 months from the date of entry into the territory of the Republic of Poland.

If the foreigner is accompanied by family members, they should also register their stay in Poland.

Immigration

Payroll services | How can we help?

With Grant Thornton's HR & payroll service, you gain access to expert knowledge and experience and avoid having to maintain specialised departments.

Labour law services | How can we help?

In order to meet market expectations, we would like to present our offer of services related to legalisation of employment of foreigners in Poland - our goal is to assist you in the processes of legalisation of employment, to carry out the procedure efficiently and to obtain the necessary documents to facilitate employment in accordance with the applicable regulations.

- Analysing a foreigner's formal and legal status in relation to employment opportunities in Poland,
- Indicating available employment options,
- Obtaining information on the local labour market,
- Completing documentation and ordering certified translations,
- Completing and submitting the necessary applications for obtaining the appropriate documents legalising the stay of a foreigner, in particular, work visas,
- Obtaining documents legalising the stay of family members of non-EU foreigners,
- Liaising with administrative authorities,
- Representing employers and foreigners in legalisation proceedings,
- Registering the residence of EU employees and their families in Poland,
- Providing information on obtaining a residence card.

We are also able to assist you in other, less standard, matters related to legalisation of residence and work.



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