

# January 2023 DOING BUSINESS IN POLAND

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The Essential Guidebook  
on investing in Poland

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## ECONOMIC OVERVIEW

<b>Location</b>	Central Europe with its capital Warsaw
<b>Population</b>	37.75 mln (Warsaw: 1.86 mln residents)
<b>Language</b>	Polish
<b>Currency</b>	Polish złoty (PLN) 1 EUR= 4,68 PLN* 1 USD= 4,45 PLN*

\*NBP average exchange rate



## POLITICAL SITUATION

In 1989–1991, Poland took part in a democratic transition, which put an end to the Polish People's Republic and led to the foundation of a democratic government, known as the Third Polish Republic. After years of democratic consolidation, Poland joined **NATO** in 1999 and the **European Union** in 2004.

Poland is currently a **representative democracy**, and the Government of Poland takes place in a unitary semi-presidential representative democratic republic. Executive power is exercised, within the framework of a multi-party system, by the President and the Government consisting of the Council of Ministers led by the Prime Minister. Its members are typically chosen from the majority party or coalition in the Sejm (parliament's lower house).

Legislative power is vested in the two chambers of parliament, **Sejm** and **Senate**. The judicial branch plays a minor role in politics, apart from the Constitutional Tribunal, which can annul laws that violate the freedoms guaranteed in the constitution.

## ECONOMIC STABILITY

Poland has a developed market and is a regional power in Central Europe, with the largest stock exchange in the East-Central European zone. One of the largest economies in the European Union by nominal GDP. It's one of the world's most dynamic economies, at the same time achieving a very high rank on the Human Development Index. Poland is a developed country with a high-income economy and very high living standards, quality of life, safety, education, and economic freedom. Alongside a developed educational system, the state also provides free university education, social security, and a universal health care system. Around 60% of the employed population belongs to the tertiary service sector, 30% to industry and manufacturing, and 10% to the agricultural sector.

Poland is a member state of the **European Union**, the **Schengen Area**, the **United Nations**, **NATO**, the **OECD**, the **Three Seas Initiative**, the **Visegrád Group**, and the **guest at the G20**.

# COMPANY FORMATION

# LEGAL ENTITIES

## CAPITAL COMPANIES

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

The most common legal form of conducting business in Poland is **Limited liability company (Spółka z ograniczoną odpowiedzialnością – sp. z o.o.)**

The company's business name must contain the appendage spółka z ograniczoną odpowiedzialnością or the abbreviation: sp. z o.o.

The process of establishing a limited liability company can be divided into four stages:

- conclusion of the **Articles of Association**;
- contribution by the shareholders to the entire **share capital**;
- appointment of the management board and establishment of a supervisory board or an audit committee (if required by law or the articles of association);
- entry in the register of entrepreneurs of the **National Court Register** (Krajowy Rejestr Sądowy – KRS).

The basic **statutory capital** is a minimum **5000 PLN** and the **nominal value of the share** cannot be lower than **50 PLN**. The share capital shall be covered by shareholders in the form of cash or in-kind contributions and shares of equal or unequal nominal value shall be divided.

The company may be incorporated by signing Articles of Association by the company's shareholders **in front of the Notary** or via online system: **portal S24** as per the model contract.

Conclusion of a limited liability company agreement means the incorporation of a limited liability company in organisation (spółka z ograniczoną odpowiedzialnością w organizacji). The company in the organisation is a legal entity and may be an employer, which means that it may acquire rights and incur obligations on its own behalf. The company in the organisation is not yet a relevant limited liability company registered in the National Court Register. The full legal status is obtained upon registration by the Registry Court.

There are three types of bodies in a limited liability company:

- body of a nature that constitutes (legislative) – **the shareholders' meeting** being the highest authority of the company;
- executive body – **management board** of the company;
- audit or control bodies – **supervisory board** or **audit committee** – optionally. The obligation to establish one of these bodies arises only if the share capital exceeds **500.000 PLN** and at the same time there are over **25 shareholders** in the company.



The management board is authorized to represent and manage the affairs of a limited liability company. The board may be composed of partners and third parties. The Management Board can be either single or multi-person. The composition of the management board may be specified in the articles of association, indicating the number of members or the minimum or maximum number of members. The form of representation is also indicated in the articles of association.

The Company is liable for liabilities with all its assets. The shareholders bear only limited liability, up to the value of their contributions. The shareholders of a limited liability company shall not be liable with their own assets for the liabilities of the limited liability company.

If enforcement against the company proves unsuccessful, members of the management board are jointly and severally liable for its obligations. A board member may release himself from liability if he proves that a petition to declare bankruptcy was filed in due time or arrangement proceedings were initiated, or that the failure to file a petition to declare bankruptcy and to initiate arrangement proceedings was not his fault, or that despite the failure to file a petition to declare bankruptcy and to initiate arrangement proceedings the creditor has not suffered any damage.

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

The first step towards the establishment of a joint stock company is the conclusion of the founding agreement. The statute (Deed of Incorporation) of a joint stock company is a basic document which regulates the rights and obligations of its founders, shareholders and bodies.

The obligatory elements of the statute include the definition: company and seat of the company, the company's business objects, the duration of the company, if marked, the amount of share capital, the amount that was paid in before the registration of the company to cover the share capital, the nominal value of shares and their number, indicating whether the shares are registered or bearer, the number of shares of the various classes and the rights attaching thereto, if there are different classes of shares in the company, the surnames and forenames of the company founders, the number of members of the Management Board and Supervisory Board or at least the minimum or maximum number of members of those bodies and the entity authorized to determine the composition of the Management Board or Supervisory Board.

In addition to the mandatory elements, the statutes may also contain optional elements, i.e.: determination of the minimum or maximum amount of share capital or determination of dates and amounts of payments for shares.

The shareholders are not liable for the company's obligations, the risk is borne only up to the amount of the contributed capital and profits are made (e.g. in the form of dividends). The **minimum share capital is 100.000 PLN** and the minimum **nominal value of shares is PLN 0,01**. **Shares:** registered and bearer, in-kind and cash, ordinary and preference shares; they are indivisible, the issue price cannot be lower than the nominal value.



## Simple joint-stock company (Prosta Spółka Akcyjna – P.S.A.)

The legal form of an enterprise, being a simplified version of a joint stock company, regulated by Polish Commercial Companies Code. A simple joint stock company is a capital company. It is intended primarily for start-ups and new enterprises. That legal form has been **available for entrepreneurs since 2021**.

A simple joint-stock company is a **hybrid** of the elements of a **limited liability company** and a **private joint-stock company**. The share capital of P.S.A., which must be contributed upon its establishment, is at least **1 PLN**. It may be covered by contributions in cash or in kind.

The most important body of a simple joint stock company is the general meeting of shareholders (general assembly).

It will be up to the **general meeting of shareholders** to decide which management model to adopt in the company. There will be two choices:

- a model known from the companies currently operating in Poland, in which the management board conducts the company's affairs and the supervisory board supervises its operations. The board is always mandatory in a joint-stock company, and in a limited liability company if there are more than 25 shareholders and the share capital exceeds 500,000 PLN.
- a new model in which the central body of the company will be the board of directors combining in itself the characteristics of the management and supervisory board. It will conduct current affairs of the company and, in parallel, supervision of its activities. There is no limit to the number of people in it. It can be one, two or several people. If there are more members, they can be divided into executive and non-executive directors. The first will be responsible for the day-to-day running of the company (equivalent of board members). The second will be responsible for supervising the company's operations (the equivalent of board members).

## Branch office of a foreign company

This is not a separate legal entity. Foreign entities establishing an enterprise or a branch must appoint a representative to head the enterprise or branch and register him in the Commercial Register (KRS). This person may be either a Pole or a foreigner. The representative shall have her/his PESEL number disclosed with the Register, as this is the only person who can submit Financial Statement documents once a year.

# PARTNERSHIPS

## Limited partnership company (Spółka komandytowa – sp. k.)

Second most common legal form of conducting business in Poland. A limited partnership company has a legal capacity and legal action capability. In practice, this means that the company can acquire rights and incur liabilities in its own name.

This form of business can be formed by at least two partners, one of them is a limited partner with limited liability for the company's obligations and the other – a general partner with unlimited liability for the limited partnership's obligations, i.e. with all his assets.

To establish a new limited partnership company:

- conclusion of the articles of association in the form of notarial deed or using the electronic template provided in the S24 (Court's online system);
- entry in the National Court Register – company registration.

The right and obligation to conduct the affairs of a limited partnership shall be vested in each general partner, but the partners may lay down different rules for the conduct of the partnership's affairs, for example they may entrust the conduct of those affairs to one or more general partners. The partner(s) to whom the management of the company's affairs is assigned may be determined in the articles of association or in a resolution of the partners.

Entrusting certain shareholders with the management of the affairs of the company means that the other shareholders become excluded from the management of the company.

The general partners are liable for the debts of the limited partnership without limitation. The liability of the general partner is of a subsidiary nature, which means that enforcement against that partner will only be possible in the event of the ineffectiveness (in whole or in part) of the enforcement proceedings conducted against the company.

Two years ago the Polish government introduced a new tax law based on which as of January 1st, 2021 an income generated by limited partnership and some registered partnerships will be taxed at the level of the partnership itself as taxpayer for CIT purposes. This is a different approach to taxation of limited liability companies comparing to rules applying until the end of 2020 where a tax on the income of a limited partnership was paid by its partners, not an entity itself.

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

There are at least two partners in a limited joint-stock partnership, of whom the limited partner has unlimited liability for the obligations of the limited joint-stock partnership and the other partner is a shareholder. Each joint-stock partnership company is obliged to maintain its own website for communication with its shareholders.

To establish a new limited joint-stock partnership company:

- signing by the founders of the company the statute drawn up in the form of a notarial deed;
- contributions by general partners;
- shareholders' contributions;
- the acquisition by shareholders of an appropriate number of shares in the company;
- registration of the company in the National Court Register.

The first event aimed at establishing a limited joint-stock partnership is the signing of the Statute. All persons signing the statutes become founders of the company. Signing the articles of association of a limited joint-stock partnership company is not the same as establishing a company.

The articles of association should be signed at least by all general partners. The articles of association may also be signed by shareholders, however, it is not their duty, but only an entitlement. Apart from the articles of association, an important role is played by the articles of association, consisting of the articles of association and acts of association.

The acts of incorporation are declarations of shareholders made in the form of a notarial deed, containing consent to the formation of the company, the wording of the articles of association, taking up shares and information concerning persons subscribing for the company's shares, including their formation of a limited joint-stock partnership company, takes place at the moment of subscribing for all the shares or on the date of submitting a notarial statement on the amount of the subscribed share capital, in the event of subscribing for such a number of shares, the total nominal value of which will amount to 50.000 PLN.

A general partner in a limited joint-stock partnership company is liable for the company's liabilities with all of its assets, in an unlimited manner. This liability is joint and several liability with the company and other general partners – the creditor may demand satisfaction from each of the joint and several debtors, from some or all of them.

A shareholder in a limited joint-stock partnership company is not liable for the obligations of the partnership. This is due to his position in the company – he is treated as an investor.

A shareholder may be liable for the company's obligations only in two cases:

- when the name of the shareholder in a limited joint-stock partnership is included;
- in a situation where it does not disclose the power of attorney, or acts without or with the power of attorney.



# COMPANY FORMATION

As exemplified by limited liability company which is the most common legal form of conducting business in Poland

## INCORPORATION PROCEDURE

Companies can be **incorporated directly by shareholders** or **third party** invested with Power of Attorney, fact which can be very appealing especially for the foreign investors. The only condition is that the **Power of Attorney** is **fully notarized** and **apostilled**. Shareholders or third parties acting on their behalf sign the Articles of Association (AoA) and incorporate a company in front of the Notary.

The AoA may be also signed via National Court Register's online system (Portal S24). The person who incorporates the company has to have an electronic signature certificate or polish trusted online profile (Profil Zaufany). AoA's is then signed on the module contract and the wording can't be changed on that stage.

Shareholders are required to make their contributions (in cash or in kind) in proportion to their shares. This must take place before the application for registration of the company is submitted, as it must be accompanied by a statement by the shareholders on the coverage of the share capital. The most common way to fulfil this obligation is to open a bank account for a newly incorporated company so that shareholders could transfer the money (share capital) to its account.



In Poland, all documents related to the company's incorporation must be submitted with the National Court Register (Krajowy Rejestr Sądowy – KRS) in electronic form via Court online system. Requestors submit a motion that includes all necessary attachments to the main form (KRS-W3). Judicial referees verify the request and decide whether the company will be registered in KRS. The request may be rejected because of some defects, but the requestor may remove these defects and supplement the motion. **KRS-W3** form is subjected to a court fee of **600 PLN**.

Before its registration in KRS, an incorporated limited liability company may, in its name, acquire rights, including ownership of immovable property and other rights in rem, commit, sue, and be sued. Therefore it has the same possibilities to operate in the trade as capital companies entered in the register of the National Court Register with legal personality.

Therefore, if necessary, a company may, even before its entry in the register, acquire properties- to cover new shares or stocks, it may also employ the employees and sign the necessary agreements. The registration into KRS takes between 2-6 weeks. It depends on the particular Court because there are more than 20 Courts with Commercial Departments in Poland, which rule according to local jurisdiction. Polish KRS is available for everyone who wants to verify companies' extracts. It is free, but the extracts are only in Polish language.

All KRS forms and motions must be signed by the company's representatives – Board Members or Legal Proxies or by counsel/attorney-at-law based on Power of Attorney electronically or wet-ink. In the case of wet-ink signature, once the scans are filed online, the originals must be sent to the Register Court. A third party, who is not a lawyer, cannot sign any forms and documents submitted to the Register Court, even if empowered by the company's bodies based on PoA.

When registered into National Register Court, a unique registration number (KRS number), tax identification number (NIP number), and the National Business Registry number (REGON number) are provided.

After 7 days from registration in National Register Court, the company is obliged to register its Ultimate Beneficial Owners in the Central Register of Beneficial Owners. To do so, the company's representatives have to have an electronic signature certificate or previously mentioned trusted profile (Profil Zaufany) and use it to sign the online application. Failure to comply with this obligation is subjected to penalties: custodial sentences or fines.



In general, all Board Members must have electronic signature certificates issued by certified Polish providers because, according to Polish law, Financial Statement reports must be signed electronically. Obtaining electronic signature certificates for all Board Members (regardless of nationality) is one of the most important things to do after incorporating a company. Moreover, at least one of the directors need to have Polish Personal Identification Number (so-called PESEL) disclosed in the KRS. The e-signatures and PESEL number will be required to file an annual financial statement report which under the Polish Commercial Code has to be approved by the General Meeting of Shareholders not later than within 6 months after the end of the company's financial year.

## Shelf companies

**Another way of starting a company in Poland is to purchase a shelf company.**

This type of company, also known as ready-made, is already registered with the National Court Register and for tax purposes (VAT, CIT). It also has an active bank account, significantly reducing the time needed to start its operation. Most of the shelf companies in Poland are registered as limited liability companies and can operate at national and international levels. After purchasing shares in a shelf company, an entrepreneur may start his/her own business immediately since the transfer of shares is effective as of the day of signing the shares purchase agreement.

BUY





SHELFSITE.PL

## Shelf companies' booking platform

Ready-made companies established by ASB are ready for immediate sale. ASB can assist its client in conducting after-purchased corporate changes, such as: change of company's name, management Board, business activity codes or form of representation. For international clients and directors we can apply for Polish Personal Identification Number as well as e-signatures issued by polish authorized bodies. As part of ASB's services we can prepare an obligatory reporting file regarding new beneficial owner of the company and file it with Central Register of Beneficial Owners within 7 days from the day of acquisition.

# ACCOUNTING





# ACCOUNTING & RECORD-KEEPING

Polish accounting legislation requires financial statements to be prepared under Polish Generally Accepted Accounting Principles (Polish GAAP) or, when certain specific criteria are met, companies have an option to prepare the financial statements under International Financial Reporting Standards as adopted by the EU (IFRS). Polish GAAP is based on the Accounting Act dated 29 September 1994, which has subsequently been amended on a number of occasions and is broadly in line with IFRS, although there is a number of differences in the treatment of specific issues (e.g., presentation of financial statements, valuation of individual assets). There is a standard chart of accounts in Poland, which is commonly used but it is not obligatory. The chart of accounts must allow the entity to apply properly the accounting regulations and its accounting policy.

The accounting records must be maintained in Polish language and in Polish currency (PLN).

Records must be retained for the minimum periods shown below:

- Financial statements and auditor reports – 5 years from the end of the year in which the financial statements were approved by the shareholders.
- Other accounting documentation, e.g., chart of accounts, ledgers, invoices, stock records, etc. – 5 years.

## Accounting Period

Companies may select a 12-month accounting period (year) that may be different from the calendar year. The first accounting year starts with the first operation of an entity and can be extended up to 18 months. Any change of the accounting year requires a relevant amendment of the articles of association and notification to the tax office. The information to the tax office is to be included in the annual income tax return submitted for the accounting year prior to the change. The first accounting year after the change will cover the period that is not shorter than 12 months and not longer than 23 months.

## Categories of Accounting Entities

Entities are classified into the following groups due to their size:

- a) a micro entity; or
- b) a small entity; or
- c) a large entity

Entities classified as micro or small have an option to prepare much simplified annual financial statements, however under a condition that the shareholders agree on such simplified form upfront in form of a relevant shareholders' resolution.



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An entity will be classified as micro or small if in two subsequent years (the year to which the financial statements relate and the prior year) the entity has not exceeded 2 out of 3 thresholds. The thresholds are presented in the table below.

CRITERIA/ACCOUNTING ENTITY	MICRO	SMALL
Net turnover (PLN)	≤ 3,000,000	≤ 51,000,000
Total assets (PLN)	≤ 1,500,000	≤ 25,500,000
Employees (av. annual FTE)	≤ 10	≤ 50

**All entities that do not meet the criteria of a micro or small are considered to be large entities. Public interest entities are all large entities. The shareholders of an entity meeting the criteria for a micro entity may decide to treat it as a small entity.**



## Financial statements under Polish GAAP

All entities governed by the Polish Accounting Act are obliged to prepare annual financial statements (stand-alone and consolidated, if applicable) for each accounting year. Both stand-alone and consolidated financial statements should be prepared not later than three months after the end of the accounting year.

Annual financial statements consist of a balance sheet, profit and loss statement, statement on cash-flow, statement on equity movements and notes to the financial statements. The notes contain an introduction to the financial statements and the supplementary information. The introduction presents mainly the applied accounting principles. The supplementary information must contain detailed information about the entity's assets, liabilities, financial position and results.

Certain companies, including SE listed companies and security traders, branches of foreign entities or companies being a part of an international capital group that prepares consolidated financial statements under IFRS, can decide to prepare their local stand-alone financial statements in accordance with EU-IFRS.

The annual financial statements must be filed to the Court Register within 15 days from the day of their approval by the shareholders. The financial statements must be prepared, signed and filed to the Register Court in a predefined electronic format.

## Financial statements under Polish GAAP

An entity that is a parent to a subsidiary (ies) is obliged to prepare consolidated financial statements. However there is a number of exceptions, which include

### Exception due to the size of the group:

A parent company may decide not to prepare the consolidated financial statements if at least two of the following conditions were met in at least two consecutive accounting periods:

- The total value of assets (of the entire Group) does not exceeded PLN 38,400,000 prior to any inter-company eliminations (and PLN 32,000,000 after the inter-company eliminations);
- The net turnover (of the entire Group) does not exceeded PLN 76,800,000 prior to any inter-company eliminations (and PLN 64,000,000 after the inter-company eliminations);
- The average number of employees (FTE) does not exceed 250.

### Exception due to the ownership:

A parent company that is a subsidiary to a foreign EU-based entity that prepares consolidated financial statements of the entire capital group may decide not to prepare the consolidated financial statements. In this case however the management of the local parent company is obliged to file the consolidated financial statements of its ultimate parent (translated into the Polish language) to the Polish Registration Court within 30 days from their approval by the shareholders but not later than within 12 months from the end of the accounting year.



# TAXATION

Polish current tax system comprises of the following taxes:

## **DIRECT TAXES**

- Income tax (personal and corporate)
- Local taxes

## **INDIRECT TAXES**

- VAT
- Excise duties





# DIRECT TAXES

## PERSONAL INCOME TAX

Applied to:

- Polish tax residents who are subject to personal income tax on their worldwide income, taking into account relief under Polish law or an applicable Double Tax Treaty (“DTT”).
- Polish tax non-residents are subject to personal income tax on their Polish source income.

The taxable period: calendar year.

Tax rates differ on the individual's income:

- A basic tax rate applicable to tax calculated with the progressive tax scale:

= when tax base is lower than PLN 120k: tax rate is 12%,

= when tax base is above PLN 120k: tax rate is 32% (applies to the annual income exceeding this amount).

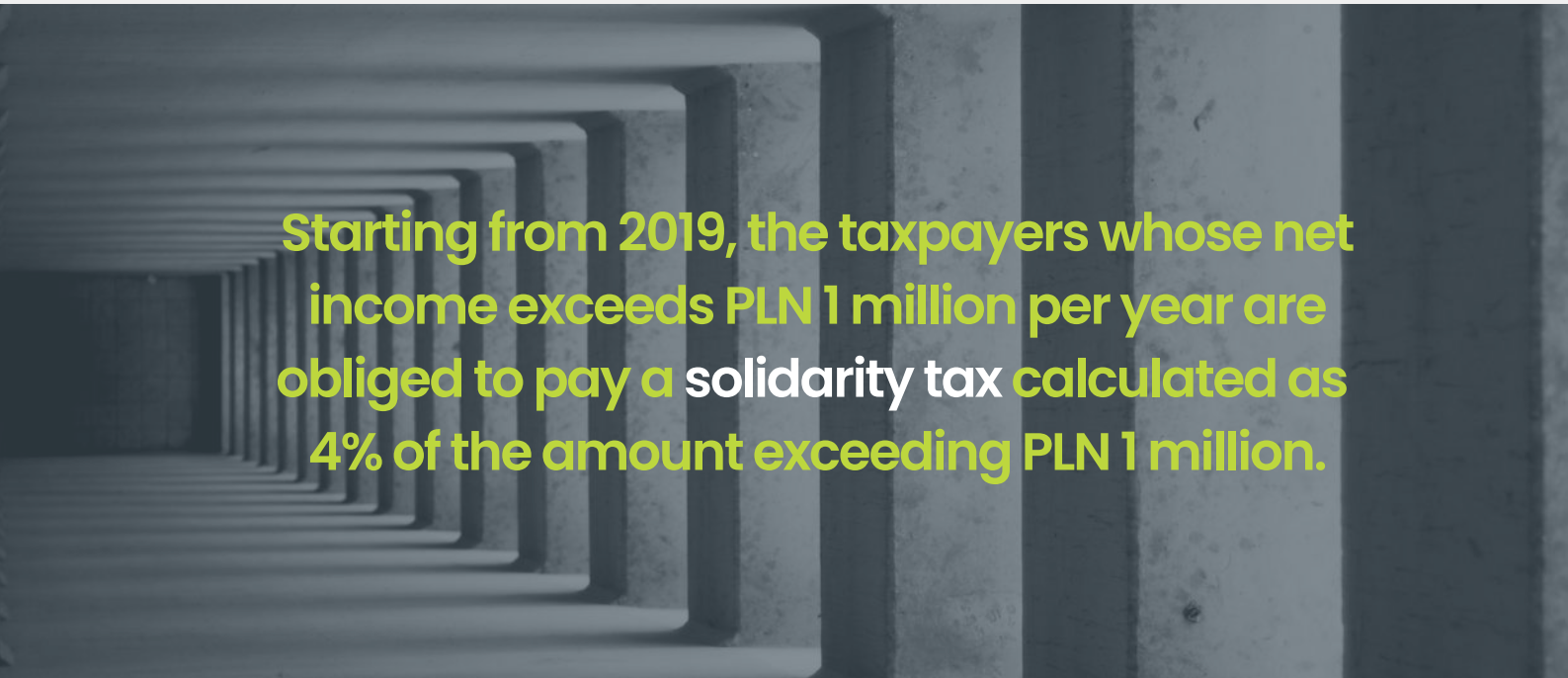
- Income from non-agricultural activity (business activity) with the progressive tax scale: as above.
- Income from non-agricultural activity (business activity) or income from special departments of agricultural production according to flat rate: tax rate is 19% plus 4.9% health insurance contributions. **This income may also be subject to (i) progressive taxation or (ii) lump sum taxation with tax rate depending on the type of activity carried out.**
- Income from loan interests (not related with business activity), dividends, participation of capital funds: tax rate is 19%.
- Income from capital funds, e.g. from the sale of securities or derivative financial instruments for a fee: tax rate is 19%.
- Income obtained from the sale of real estate and rights: tax rate is 19%.
- Income obtained from the foreign controlled company (“CFC”): tax rate is 19%.
- Qualified income from qualified intellectual property rights: tax rate is 5%.
- Lump sum tax on registered revenues (if chosen by taxpayer), e.g. (i) revenues from free professions: tax rate is 15%/17%, (ii) revenues from rental, sublease, tenancy, sub-lease of other similar agreements: up to the amount of PLN 100.000 tax rate is 8,5%, above that amount is 12,5%.
- Individuals until the age of 26 are exempt from PIT taxation, if they obtain income from employment contracts or similar agreements.
- Additional 4% solidarity charge applies towards annual income exceeding PLN 1M.

Individuals are considered to be Polish **tax residents** if they:

- have the center of personal or economic interests (center of vital interests) in the territory of the Republic of Poland ("Poland").
- are physically present in Poland for 183 days or more, in a tax year, either continuously or in total.

Polish tax non-residents are subject to personal income tax on their Polish source income such as in particular:

- Income from employment carried out in Poland regardless of where the salary is paid.
- Income from activities performed in person in Poland, regardless of the place where the remuneration is paid.
- Income from self-employed activities, including the activity performed by a foreign establishment located in Poland.
- Income from real estate located in Poland or rights to such real estate, including the sale.
- Income from unrealized gains, income from securities and derivative financial instruments other than securities, including income from the sale of these securities or instruments.



**Starting from 2019, the taxpayers whose net income exceeds PLN 1 million per year are obliged to pay a solidarity tax calculated as 4% of the amount exceeding PLN 1 million.**

## Tax Returns

As a rule, the filing of tax return and tax payment deadline is 30 April of the calendar year following the year in which the income was earned. During the year there is obligation to pay PIT advances on monthly basis. Exceptionally PIT-CFC tax return, submitted by taxpayers obtaining income from the activity of CFC, should be submitted by the end of the ninth month of the year following the tax year of the foreign controlled company.

Tax return form depends on the type of income earned, in particular:

- PIT-37 form: submitted by taxpayers who obtained revenues mainly from employment contract, contract of mandates, civil-law agreement, pensions from sources located in the territory of Poland.
- PIT-36 form: submitted by taxpayers whose income is taxed on general basis (tax scale) – they are mainly taxpayers conducting non-agricultural economic activity and those who obtained income from abroad.

Married couples are allowed to submit a joint tax return after meeting specific requirements.

## Health Insurance

Health insurance contributions:

- 9% for the employee and they are paid monthly.
- They are deducted from the tax to be paid (only 7,75% of its base is deducted).
- If the insured individual obtains income from more than one title, the health insurance contribution is paid for each of these titles separately.
- Entrepreneurs which chose 19% flat rate taxation are subject to 4.9% health insurance contributions calculated on actual income derived. Entrepreneurs which chose lump-sum taxation are subject to lump-sum health insurance contributions.

## Social Insurance

- Any employment income and income from entrepreneurial or other self-employment activities is subject to social insurance contributions. Social insurance contributions are retirement and disability insurance, accident insurance and illness insurance.
- Social insurance contributions are deducted from the income.
- Depending on the type of income earned specific social security contributions may be either compulsory or voluntary.
- Entrepreneurs pay flat-rate of health insurance.



# CORPORATE INCOME TAX

## Applied to:

- the worldwide income of Polish legal entities (those that have their seat or place of management in Poland).
- income gained by non-residents (entities without a seat or management in the territory of Poland) in the territory of Poland.

## Permanent establishment under Polish legislation:

- a permanent place of business through which an entity with its seat or management board in the territory of one state carries out activities in whole or in part in the territory of another state, in a particular branch, representative office, office, factory, workshop or place of extraction of natural resources,
  - a construction site, construction site, assembly or installation carried out in the territory of one state by an entity having its seat or management board in the territory of another state,
  - a person who, on behalf of and on behalf of an entity having its registered office or management board in the territory of one state, acts in the territory of another state, if that person has the power of attorney to conclude contracts on his behalf and actually performs the power of attorney
- unless provisions of DTT between Poland and given country provide otherwise.

## CIT tax rates under Polish CIT Act:

- **19%** of the tax base (general rule);
- **9%** of the tax base of income other than income from capital gains – this tax rate may be applied by the so-called small taxpayers when annual sales (including VAT) did not exceed EUR 2M in a given previous tax year and do not exceed EUR 2M in a given tax year.
- **20%** for revenues from interests and copyright and 19% for revenues from dividends (the withholding tax rate may be reduced by an applicable double tax treaty), in case of revenues obtained in Poland by foreign entity. However, WHT reduced rate or exemption based on DTT may be applied provided the required documentation will be collected by tax remitter.
- **0,035%** of the tax base (the initial value of fixed assets) of income from the fixed asset being building (minimum tax). From March to December 2020 the exemption from the minimum tax is applied.

## Interest and royalties:

- Interests and royalties earned by foreign entity in Poland are subject to 20% tax rate according to Polish CIT provisions.
- Polish withholding tax regulations provide an exemption from the taxation of interests and royalties after meeting specific requirements from the CIT Act.
- There is also a possibility to apply the tax exemption or reduced tax rate provided by the relevant DTT concluded between Poland and the state of residence of the recipient of the payment.
- The new Polish WHT provisions are very restrictive in the terms of examining the fulfillment of conditions provided for exemption (mainly for the “due care” requirement).

## Tax base:

- The tax base is calculated as the sum of income from two sources: capital gains and others.
- Polish CIT Act provides a limits in case of some types of costs for recognizing expenses as tax deductible costs, e.g. the limit of expenses on advisory, marketing and management services incurred for related entities; limit on debt financing costs. Moreover, some expenses cannot constitute tax deductible costs (e.g. representation costs).
- Part of income is taxed at a flat rate without taking into account the tax deductible costs (e.g. dividends). In such cases revenue is considered as tax base.

## Research and Development (R&D):

- To support entities performing R&D activities, Poland provides R&D tax relief which allow for the additional tax deduction of certain costs (qualified as eligible costs) and reduce the amount of due tax.
- An allowance equal to 100% of R&D costs and expenses that may be deducted from the tax base. For specific entities the deduction may increase to 150%.

## Tax return:

- Corporate tax returns must be filed by the general filing deadline of three months from the end of the taxable period.
- Taxpayers obtaining income from the activity carried out by foreign controlled companies are obliged to submit a CIT-CFC tax return separately for each of CFC until the end of ninth month following after the end of tax year for this CFC. On this date, the taxpayers pays the tax due.

## Dividends:

- Dividends are subject to 19% tax rate.
- The withholding tax regulations provide an exemption from the taxation of dividends after meeting specific requirements from the CIT Act.
- There is also a possibility to apply the tax exemption or reduced tax rate provided by the relevant DTT concluded between Poland and the state of residence of the recipient of the dividend.
- The new Polish WHT provisions are very restrictive in the terms of examining the fulfilment of conditions provided for exemption (mainly for the “due care” requirement).
- A “pay and refund” mechanism will apply from 2021.

## Exit tax:

Starting from 2019, Poland introduced an exit tax at 19% as a result of the implementation of the ATAD Directive. Assets will become subject to taxation when a taxpayer moves them, with no change of ownership, to a territory outside of Poland, or changes their tax residence.



# INDIRECT TAXES

## VALUE ADDED TAX

### Obligatory VAT Registration:

- for the taxpayers with their seat or permanent address, place of business, or permanent establishment in Poland arise at a sales turnover of PLN 200,000 (EUR 45 000) for the previous consecutive 12 calendar months. Voluntary registration is also possible before reaching the threshold,
- for foreign taxpayers (taxpayers who do not have a registered office or registered office of VAT in Poland), performing VAT-able transactions taxed in the territory of Poland such as, for example, intra-community delivery of goods, export of goods, domestic supply. Moreover, the foreign company not-established in the European Union can register for OSS and IOSS in Poland based on so-called E-commerce package implemented in July 2021,
- any taxpayer who is not a VAT taxpayer, or a legal entity who is not a taxable person must, in some cases, (such as receipt/provision of certain services i.e. real estate services from/to another EU Member State, acquisition of goods from another EU Member State) submit an application for VAT registration for the purposes of paying VAT or reporting the supply of goods or /and services,
- foreign taxpayers not having a seat in Poland are obliged to register as VAT taxpayer without an exemption in the amount of the turnover.

### Fiscal Representation for non-EU companies:

The Fiscal Representative is jointly and severally responsible for the VAT liabilities with the client.

A taxpayer from outside the EU (except for UK and Norwegian companies), without a registered office or fixed place of business in the territory of an EU Member obliged to register as an active VAT taxpayer, is required to appoint a tax representative.

EU taxpayer with a seat or a fixed establishment in the territory of EU Member State other than Poland may appoint a tax representative on a voluntary basis.

## VAT Rates:

- standard VAT rate 23% applies to most goods and services;
- reduced rate of 8% applies for instance: pharmaceutical products, residential buildings, accommodation services, transport services, and some food products;
- reduced rate of 5% applies to certain basic foodstuffs (e.g. meat, milk, and bread), agricultural products, books and specialist magazines;
- reduced rate of 0% applies to the intra-community supply of goods to another Member State in EU and the export of goods out of the EU.

## Anti-inflation shield :

Polish government reduced the VAT tax rate for food to prevent inflation in Poland. The lower tax rate will be valid till June 2023 and can be prolonged. Tax rate for food was declined to 0%.

## VAT return:

- The monthly VAT declaration containing the SAF-T\_V7M Registration and declaration part must be submitted within 25 days from the end of the Accounting period only in electronic form, and all VAT obligations must be settled by the filing deadline;
- Quarterly VAT returns can be submitted only in electronic form and under fulfilling certain conditions, for instance: the company treated as a small taxpayer who settles the transactions by cash method. The reporting deadlines are as follows:
  - VAT return part – within 25 days of the end of the quarter and
  - SAF-T report monthly within 25 days of the end of each month in the quarter.
- OSS quarterly VAT return is submitted for quarterly periods by the end of the month following each subsequent quarter only in electronic form;
- IOSS monthly VAT return is submitted for monthly periods by the end of the month following each subsequent month only in electronic form.

## Invoice issue:

As a rule, the invoice is issued no later than on the 15th day of the month following the delivery of the goods, performance of the service, or receipt of payment.

## Obligatory e- invoices:

- Till the end of 2021 Invoices in Poland were issued in any format including a paper version or an electronic version like PDF or EDI.
- Since 1st January 2022 invoices can be issued in paper version, or electronic versions but also as e-invoices as a voluntary option according to the scheme shared by the Polish government.
- From 1st January 2024 company with a seat or permanent address, place of business, or permanent establishment in Poland will be obligatory to issue e-invoices. Invoices issued outside the National System of e- Invoices will be not valid. For companies only registered in Poland for VAT purposes without having a fixed establishment in Poland, the e-invoices will be still voluntary.



# EXCISE DUTIES

## Subject to Excise Duties:

In general, the following categories of goods are subject to excise duty:

- energy products (coal, gas, mineral oil) in general, all products used for propulsion or heating purposes,
- electricity,
- alcoholic beverages (beer, wine, intermediate products, spirits),
- tobacco products (cigarettes, smoking tobacco).

Producers and importers of excise goods such as performing activities specified in the excise tax regulations are obliged to pay excise duty such as:

- production of excise goods,
- removal of harmonized excise goods from a tax warehouse,
- sale of excise goods within the territory of the country,
- export and import of excise goods,
- intra-community acquisition and intra-community delivery,
- acquisition or possession by a taxpayer of excise goods, if excise duty has not been paid on these goods in the amount due,
- losses or shortages of harmonized excise goods arising during production, storage, processing, consumption, or transport.

### Excise duty rate:

depends on the specific type of product.

### Registration:

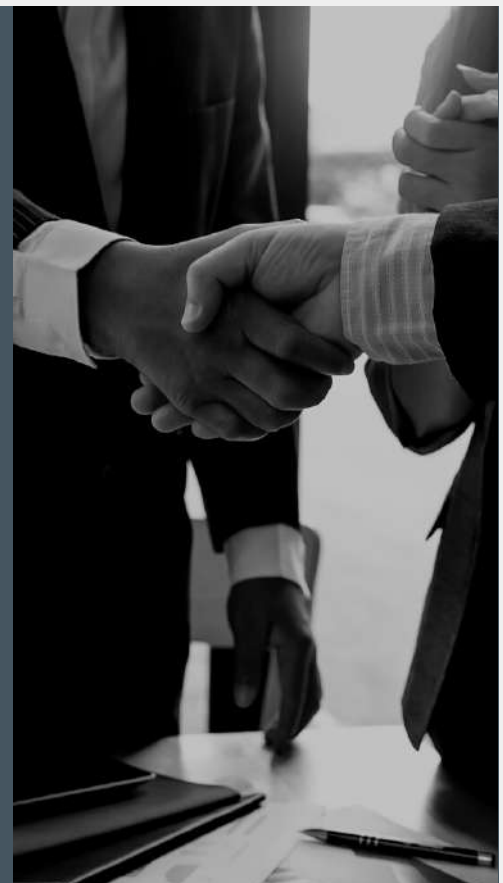
As a rule, entities wishing to conduct business in the field of excise goods are required to submit a registration application to the competent head of the tax office. They do it before the date of the first activity that is subject to excise duty.

### Tax authorities and jurisdiction:

- head of the tax office,
- head of the customs and tax office,
- director of the tax administration chamber.

The tax authorities' jurisdiction is determined due to:

- place of performance of activities subject to excise duty or
- occurrence of the actual state subject to excise duty.



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