



MOORE STEPHENS

Doing business in Poland 2016

Introduction

The Moore Stephens Europe Doing Business In series of guides have been prepared by Moore Stephens member firms in the relevant country in order to provide general information for persons contemplating doing business with or in the country concerned and/or individuals intending to live and work in that country temporarily or permanently.

Doing Business in Poland 2016 has been written for Moore Stephens Europe Ltd by Moore Stephens Central Audit Sp.z.o.o., the Moore Stephens member firm in Poland. In addition to background facts about Poland, it includes relevant information on business operations and taxation matters. This Guide is intended to assist organisations that are considering establishing a business in Poland either as a separate entity or as a subsidiary of an existing foreign company. It will also be helpful to anyone planning to come to Poland to work and live there either on secondment or as a permanent life choice.

Unless otherwise noted, the information contained in this Guide is believed to be accurate as at 1 June 2016. However, general publications of this nature cannot be used and are not intended to be used as a substitute for professional guidance specific to the reader's particular circumstances.

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1. Poland at a glance

Geography and population

Poland lies by the Baltic Sea in the central part of the European continent, the geometrical centre of which is near Warsaw. This is where the lines from Nordkyn in Norway to Matapan in Greece, and from Cabo da Roca in Portugal to the central Urals intersect. The boundary between the East and West European continental masses also runs through Poland.

Poland borders on Germany to the west, the Czech Republic and Slovakia to the south, Ukraine, Belarus and Lithuania to the east and north-east, and the Baltic Sea and the Kaliningrad Oblast, a Russian exclave, to the north.

Poland's total land-surface area is 312 600 km². This makes it the ninth largest country in Europe, after Russia, Ukraine, France, Spain, Sweden, Germany, Finland and Norway, and the 63rd largest in the world.

Administratively, Poland is divided into 16 voivodeships (provinces: Polish *województwo*), 379 districts (Polish: *powiat*) and 2478 municipalities or communes (Polish: *gmina*).

Poland has a population of over 38 million people. This figure makes it the 8th most populated country in Europe. The main population concentrations are in the largest Polish cities: Warsaw (Warszawa), the capital (1.7 million), Kraków (0.8 million), Łódź (0.7 million), Gdańsk (together with Sopot and Gdynia, 0.7 million), Poznań (0.6 million) and Wrocław (0.6 million)

Language and religion

The official language of Poland is Polish, a member of the West Slavic branch of the Slavic family of Indo-European languages. Catholicism is the major religion of Poland. The population is homogeneous and basically free of ethnic tension.

History

The Slavic ancestors of the Polish people first settled in Polish lands in the 5th Century AD. By the time that Mieszko I agreed to be baptised in the Western Latin Rite in 966, a united West Slavic, Polish, kingdom had been established. Under his Piast dynasty, Poland was integrated into European culture and grew in influence and area. Under the Jagiellonian dynasty, founded by the marriage in 1385 between Queen-Regnant Jadwiga of Poland and the Grand Duke Jogaila of Lithuania, the Polish-Lithuanian state achieved its maximum power and influence. Under the union of the two crowns, later formally sealed under the Union of Lublin in 1569, which formed the Polish-Lithuanian Commonwealth, the Commonwealth was the largest country in Europe, extending over a million square kilometres and including within its territory present-day Belarus, most of Ukraine and Latvia, most of present-day Poland and large areas of present-day Russia.

The Commonwealth lasted more than two centuries, but entered into comparative decline from the middle of the 17th Century, until the partitions of Poland-Lithuania staged by Russia, Prussia and Austria wiped both Poland and Lithuania completely off the map by 1795. Most of Poland's territory was annexed by the Russian Empire. A series of unsuccessful risings against Russian rule took place in the 19th Century, but it was not until the defeat in 1918 of the three empires that had partitioned its territory that the Polish state was reborn. In this guise, and following its successful repulse of the Soviet invasion in the Russo-Polish war of 1919-21, the independent Polish Republic survived until 1939, when it was again partitioned, this time by Nazi Germany and Soviet Russia. Poland managed to reconstitute much of its armed forces, however, and these fought alongside the Allies in Europe and the Middle East. After the end of the Second World War, Poland fell under Soviet control and a Polish communist state was established, with a shift westward of Poland's pre-war borders. The election in 1978 of the Pole Karol Wojtyła as Pope John Paul II and the rise of the independent trade union Solidarność played a significant rôle in the gradual collapse of Communism throughout Central and Eastern Europe, and in 1990, a fully democratic Polish Republic emerged.

Politics and government

Poland is a parliamentary democracy. The head of state is the President, who is elected by direct popular vote, for a term of five years. The President is Supreme Commander of the Armed Forces and appoints the head of the executive, the Prime Minister, and the Prime Minister's cabinet, as proposed by the latter. Within two weeks of his or her appointment, the Prime Minister must obtain the confidence of the lower

chamber of Parliament, the Sejm. As from August 2015 the President is Andrzej Duda, from the Law and Justice party.

The head of government is the Prime Minister. Elections to the Sejm are held every four years under a party-list system of proportional representation in multi-member constituencies. A party must receive at least 5% of votes cast nationally to enter the Sejm, except in the case of ethnic-minority parties. In the general election of October 2015, the governing party, Civic Platform (*Platforma Obywatelska*), was defeated by the national conservative Law and Justice Party (*Prawo i Sprawiedliwość*, abbreviated to PiS), which gained 235 out of the 460 seats in the Sejm and is thus able to govern alone. The Prime Minister is Beata Szydło, also of Law and Justice.

The upper house of the parliament is the Senate (*Senat*), consisting of 100 members directly elected by majority vote every four years. PiS also now has a majority in the Senate.



The country is a stable democracy, a member of the European Union (since 2004), NATO (since 1999), the United Nations, the World Trade Organisation and the Organisation for Economic Cooperation and Development (OECD, since 1996).

Currency, time zone, weights and measures

The currency of Poland is the złoty (ISO abbreviation: PLN), which is divided into 100 groszy. As with all Member States that acceded to the European Union in 2004, Poland has undertaken to adopt the euro as its currency, but no date for this has yet been set. At the time of going to press (mid-November 2016), the złoty was quoted against the euro and the US dollar at EUR 1 = PLN 4.3574 and USD 1 = PLN 3.9986, respectively.

Poland uses Central European Time (GMT + 01:00). This time zone applies to the majority of the European mainland, including Spain, France, Germany, Belgium, the Netherlands, Italy, Austria, Slovakia, Hungary and many other countries. As in many other countries, from March to October summer time is used to save daylight.

Poland uses the metric system. Distances are measured in metres and kilometres. Volume is measured in litres, mass in kilograms and temperature in degrees Celsius.

Tourist attractions

Poland is a part of the global tourism market, with a constantly increasing number of visitors. The most popular cities are Kraków, Wrocław, Warsaw and Poznań. The coast is a well-known holiday location, for both locals as well as people from abroad. Another popular holiday destination is the Masurian lake district in the northeastern part of the country. Moving southward, the majority of the country (western, central and the eastern regions) consists of lowland areas. The Sudety and Carpathian mountain ranges form the country's southern border. The Tatra mountain range (in the Carpathian mountain chain) has Poland's highest peak – the Rysy (2499 metres).

General economic outlook

Poland is one of the biggest economies in Central and Eastern Europe. In terms of gross domestic product (GDP), Poland is the 9th biggest economy in the EU and the 23rd biggest economy in the world. Poland's GDP increased by 3.5% per annum in FY 2015, according to Eurostat. According to forecasts prepared in winter 2016 by the European Commission, Polish GDP will grow by 3.5% in 2016 and by 3.5% in 2017.

Poland was the only economy in the European Union to have escaped the recession in 2009, when it recorded growth of 1.6%. Growing fast,

Poland is catching up, in terms of wealth, with Western EU countries. Poland's GDP per capita in 1995 was 43% of the average of EU countries, in 2000 it was 48%, in 2012 – 66% and in 2014 it was already 68%, data from Eurostat indicate.

In 2014, the average level of gross domestic product per capita amounted to PLN 44 670. GDP per capita varies in the regions. The highest level of gross domestic product per capita in 2014 was recorded in Mazowieckie voivodeship (PLN 71 661), exceeding the national average by 60.4%.

Warsaw alone generates approximately 13.0% of Polish GDP. Warsaw's per capita GDP is over three times the national average. High GDP per capita is also noticeable in other big cities.

Table 1 shows the GDP per capita of the various voivodeships.

Table 1 Gross domestic product per capita by voivodeships – 2014

Voivodeship	Rank	Per capita as percentage of average Poland = 100
Poland	n/a	100*
Greater Poland	3	107.5
Kuyavian-Pomeranian	10	81.4
Lesser Poland	7	89.2
Łódź	6	93.6
Lower Silesian	2	111.9
Lublin	16	69.9
Lubuskie	8	84.1
Masovian	1	160.4
Opole	11	81.0
Podlaskie	13	72.3
Pomeranian	5	95.3
Silesian	4	103.9
Subcarpathian	15	70.9
Świętokrzyskie	12	72.8
Warmian-Masurian	14	71.6
West Pomeranian	9	83.8

Note: Poland's average GDP per capita 2014 was PLN 44 670

Source: http://www.stat.gov.pl/cps/rde/xbcr/gus/RN_pkb_rachunki_narodowe_PLK_HTML.htm

After hyperinflation in the early post-Communist years, Poland managed to reduce inflation and is on track to reach European standards. The CPI index in 2012 was 3.7%, in 2013 0.9%, in 2014 0.0% and in 2015, -1.3%. In the first quarter of 2016 there was deflation in Poland of approximately 1%.

2. Doing business

The main forms in which a business may be conducted are:

- A sole tradership (self-employment)
- A civil-law partnership
- A general partnership (*spółka jawna*)
- A professional partnership (*spółka partnerska*)
- A limited partnership (*spółka komandytowa*; abbreviated to S.K.)
- A partnership limited by shares (*spółka komandytowo-akcyjna*; abbreviated to S.K.A.)
- A limited-liability company (*spółka z ograniczoną odpowiedzialnością*; abbreviated to *sp.z.o.o.*)
- A joint-stock company (*spółka akcyjna*; abbreviated to S.A.)

Economic activities may also be carried out by state enterprises, cooperatives (*spółdzielnia*), European Companies, European Economic Interest Groupings and other legal persons (e.g. foundations, associations).

Except for a partnership limited by shares, partnerships do not have their own legal personality.

Not all of these forms are fully available to foreign persons.

Persons (legal and natural) from the European Union and the European Economic Area have the same rights as Polish residents, so they may choose from all of these forms of organisation. The same rights apply to citizens of non-EEA countries who have obtained a permit to settle on the territory of the Republic of Poland, a permit for tolerated stay, refugee status granted by the Republic of Poland, or have received temporary asylum on the territory of Poland.

The sole tradership and the civil-law partnership are the simplest forms for carrying on a business. They do not require any initial capital and the registration fees are very small. However, the liability of the owners or partners is not limited and extends to their personal property also.

A professional partnership is restricted to members of the so-called 'liberal professions', i.e. lawyers, notaries, pharmacists, physicians, dentists, veterinary surgeons, nurses, accountants, architects, construction engineers, insurance brokers, tax advisers, midwives, patent attorneys, property valuation experts ('chartered surveyors') and sworn translators.

Commercial partnerships are also simple in form and do not require large capital investment. They differ from one another in the scope of a partner's liability.

Larger-scale business activities are best carried on via a company.

Registration procedures and fees

The process of establishing a business in Poland should start with the selection of the most appropriate legal form, and with signing the articles of association or the deed of formation. The fees vary depending on the selected forms of activity.

Establishing an individual enterprise (an enterprise run by a natural person) or a general partnership is the least expensive. The costs of registration of the business in such a case are not significant.

In the case of partnerships (general partnerships, limited partnerships, professional partnerships and partnerships limited by shares), the cost of registration is PLN 600.

For corporate entities, the initial cost of registration is the same as for partnerships, but both require an initial capital. In the case of an *sp.z.o.o.*,



the required minimum share capital is PLN 5000, while for an S.A. it is PLN 100 000.

The formation of an *sp.z.o.o.* or an S.A. is completed before a Polish notary and the articles of association must be notarised. After the registration application is filed, the company as a legal organisation is considered to be established. The company 'undergoing organisation' may, in its own name, acquire rights including ownership of immovable property and other rights, incur obligations, sue, and be sued.

The company must also choose its business address. In the registration process, the address is confirmed by the lease agreement or the title to ownership of premises.

The initial share capital of the company must be fully paid in the case of an *sp.z.o.o.* and at least up to 25% in the case of an S.A.

Every company wishing to conduct business in Poland must open a bank account and inform the tax authorities of this fact. The list of required documents depends on the individual requirements of the bank (e.g. articles of association/statutes, and the specimen signatures of those authorised to represent the company). It is also possible to open an account for a company undergoing organisation.

The next step is to submit an application to the National Court Register. When submitting the application to the National Court Register it is also necessary to submit an application for a 'REGON' identification number (a statistical number issued by the Office of Statistics), an application to receive a Tax Identification Number (NIP), as well as an application to a social security fund (*Zakład Ubezpieczeń Społecznych*) where the company plans to hire employees immediately.

In order to register a company, the executive board must file an application to enter the company in the National Court Register (*Krajowy Rejestr Sądowy*) within six months of executing the articles of association or the statutes, otherwise the company is deemed to be dissolved.

Company administration

The standard governing organs of an *sp.z.o.o.* and of an S.A. are:

- The shareholders' meeting
- The supervisory board
- The management (executive) board

The existence of a shareholders' meeting and of an executive board are mandatory in both types of company. A supervisory board is only mandatory for an S.A., whereas an *sp.z.o.o.* may choose not to establish a supervisory board.

In any company, the shareholders' meeting is generally the ultimate decision-making body. There may be ordinary and extraordinary meetings of shareholders. The executive board convenes an ordinary annual shareholders' meeting, which should be held within six months of the end of the company's financial year, in order to deal with the following matters:

- Approving the annual financial statements of the company
- Approving the executive board's report on the company's activities
- Acknowledging the performance of duties by members of the company's corporate bodies
- Adopting a resolution on the distribution of profit or coverage of loss (always for an S.A.; also for an *sp.z.o.o.* unless the articles of association provide otherwise)

The shareholders' meeting is in particular responsible for the following matters:

- Amending the articles of association or statutes
- Adopting a resolution about making and repaying additional payments (*sp.z.o.o.*)
- The transfer or lease of a business or of an organised part of a business
- Deciding on a merger, division or reorganisation of the company
- Increasing or reducing the share capital
- Deciding on the dissolution of the company

An executive board consists of one or more members. As a rule, executive-board members are appointed and dismissed by a resolution of the shareholders' meeting (in an *sp.z.o.o.*) or by a resolution of the supervisory board (in an *S.A.*).

However, this rule can be modified and alternative methods of appointing and dismissing members may be provided for in the articles of association or the statute.

The executive board is in charge of the day-to-day management and representation of the company. The powers of the executive board are similar in both types of companies, except that in the case of an *sp.z.o.o.*, any individual member may conduct matters within the ordinary course of business (unless the provisions of the articles of association provide otherwise).

A supervisory board is mandatory in an *S.A.*, whereas in an *sp.z.o.o.* it is only required if the share capital exceeds PLN 500 000 and there are more than 25 shareholders. If these criteria are not met then a supervisory board is optional.

The shareholders of both types of company are not personally liable for the obligations of the company above the level of their share value. However, legal regulations providing for executive-board members' civil, tax and criminal liability will also apply to any shareholder who is also an executive-board member.

Branches and representative offices

Apart from registering a new business entity in Poland, foreign investors may establish a branch or a representative office. A branch is obligated to conduct its business activity within the scope of the (parent) company's activities.

The scope of activities in the case of a representative office is restricted to advertising and marketing on behalf of the parent company.

Both branches and representative offices have to follow Polish legal regulations, including Polish accounting rules, while branches of foreign companies applying the IFRS must also follow international accounting standards.

Labour relations and working conditions

The labour market

The Polish labour market is as big as the rest of Central Europe's put together. Poland offers a large, educated workforce at competitive prices. However, there is clear ageing of manpower resources in Poland, which is in accordance with the trend throughout Europe.

Just over half of Poland's population aged over 15 is economically active. The high level of economic inactivity among Poles is a phenomenon caused by the delay in young people's entry into the labour market on the one hand, and the growing number of persons taking retirement, pension, or early retirement on the other. Changes in employment structure are an indication that new jobs are being created in sectors that are the most desirable for the modern economy, i.e. in industry and services. The majority of the country's workforce is in the services sector (57%), while around 30% are in industry, working in automotive manufacturing, chemicals and food processing, among other sectors. Approximately 11% of the workforce is employed in agriculture.

The number of foreigners working in Poland has increased steadily since 2010, mostly in the agriculture, construction, retail and wholesale trade sectors (OECD, 2012).

Youth unemployment is a big problem in the country, but there are opportunities available for people with highly sought-after language or IT skills in industries such as telecommunications, computer science and logistics. Other areas of recent growth include education, banking and finance, business services, tourism and management.

Labour relations

Labour relations in Poland are primarily governed by the Employment Code (*Kodeks pracy*). Labour law also includes collective labour agreements and other collective arrangements, as well as the employer's internal regulations that specify the rights and duties of the parties in employment relationships. The provisions of collective labour agreements and employer's internal regulations may not be less favourable to employees than the provisions of the Employment Code or other legislation. The basic principles of Polish labour law, as defined in the Employment Code, consist of:

- The right of free choice of employment
- The employer's duty to respect the dignity and personal rights of the employee
- Equal rights in the performance of identical tasks
- Equal rights of men and women in labour relations
- The ban of any forms of discrimination and mobbing
- The right to obtain fair remuneration for work
- The protection of employees' rights

Employees and employers may join or form employees' and employers' associations and organisations. The National Labour Inspectorate and employment tribunals have the authority (inter alia) to verify the employer's proper execution of his duties towards his employees. As of 1 July 2007, fines imposed by the Employment Tribunal on employers committing specific breaches of labour law were increased, and currently they can amount to between PLN 1000 and PLN 30 000.

Trade unions

Membership of trade unions is relatively low at around 12% of eligible employees. There are two large confederations, *NSZZ Solidarność* and *OPZZ*.

Working conditions

The primary form of employment in Poland is under a contract of employment. Matters related to the contract of employment are regulated by the Employment Code, which defines the following types of contract of employment:

- Probationary contracts: these must not exceed three months in length
- Defined-term contracts: the Employment Code restricts the number of such contracts to be entered into with a same employer to two contracts, a third successive such contract will be deemed to be a contract for an indefinite period. Starting from 2016, the total length of defined-term contracts may not exceed 33 months, after this period, subject to certain exceptions, contracts are converted into indefinite-period contracts
- Permanent contracts for an indefinite period

An contract of employment may be terminated:

- By mutual agreement of the parties
- By a notice of termination served by one of the parties
- By effluxion of time, at the end of a defined-term contract

Termination notice periods are respectively two weeks if an employee has been employed for less than six months; one month if the employee has been employed for at least six months; and three months if the employee has been employed for at least three years. Since 2016 termination notice periods are the same for definite and indefinite-term contracts.

Working time must not exceed eight hours a day and 40 hours in an average working week lasting five days in the accepted settlement period. The working time in a week, including overtime, must not exceed 48 hours on average within the accepted settlement period. An employee may have a maximum of 150 hours of overtime in a calendar year resulting from extraordinary needs of the employer. An employee is entitled to double pay for overtime at nights, on Sundays and public holidays and to remuneration increased (however, the employee may be also given extra free time instead) by a half for other overtime. Employees have the right to at least 11 hours of undisturbed rest in every 24 hours and 35 rest hours a week. Days free of work are Sundays and bank holidays.

The payment of salary for work done is made at least once per month on a fixed day agreed upon in advance. To protect salaries, the Polish Employment Code includes a provision stipulating that an employee is not allowed to waive his or her remuneration or to transfer it to another person. There is a minimum wage in Poland that is guaranteed by law. As of 1 January 2016, it amounts to PLN 1850 gross per month for a full-time employee.

The annual leave of a full-time employee in a calendar year amounts to:

- 20 days – if the employee has been employed for less than 10 years
- 26 days – if the employee has been employed for at least 10 years, including the duration of education, e.g. a master's degree is treated as equivalent to eight years of employment

An employee who takes up work for the first time is granted the right in that calendar year to holiday leave for each lapsed month of work in an amount of one-twelfth of the annual leave to which the employee is entitled for an entire year of work. The annual leave for a part-time employee is calculated proportionally to the time of work of such an employee.

Apart from annual leave, the Employment Code defines the following types of leave:

- Unpaid leave – this type of leave is not included in the employment period on which employee entitlements depend
- Maternity leave – granted to a female employee who has given birth to a child, amounting to 20 weeks for one child per birth or 31, 33, 35 or 37 weeks for two, three, four or five and more children at one birth respectively. As from 17 June 2013, parents of all children born after 31 December 2012 are entitled to 20 weeks of maternity leave (including the 14 weeks reserved for the mother only), six weeks of additional leave and 26 weeks of parental leave. Additional and parental leave may be used by both the father and the mother. This new law also stipulates an extension of the leave to an annual parental leave of a total of 52 weeks. Maternity pay amounts to 100% of normal salary for the first 26 weeks and 60% of normal salary for the following 26 weeks. There is also the possibility, at the option of the mother, of receiving 80% of normal salary during a period of 52 weeks
- Child-care leave of up to three years for personal care of the child, but not beyond the child's 4th birthday. The leave can be claimed by a mother or father who are employees up to two days per calendar year
- Special leaves are unpaid leave granted, inter alia, for an employee's wedding or birth of a child, death and funeral of the employee's spouse, child, father, mother, stepfather or stepmother

Contract of mandate

This type of contract is governed by the Civil Code and may be used in some circumstances as an alternative to a contract of employment (within the limitations contained in the Employment Code). Unlike a contract of employment, it does not oblige the employer to pay at least the minimum wage or paid sick leave or holidays. A contract of mandate may be entered into for a specified or unspecified period of time; under such a contract, a person (the mandatary) undertakes to carry out specified activities for the mandator. The mandatary carries out the contracted work under the contract of mandate on his or her own, and may freely choose the place, tools and methods for carrying out the work, and timing, subject to any deadline stipulations in the contract. A contract of mandate may be terminated by either party without notice. The remuneration for the work under this type of contract may or may not give rise to a liability for social security contributions.

Contract of specific work

A contract for specific work is also governed by the Civil Code. It is entered into for a specified and is an agreement of result: the contracted party undertakes to carry out a specific task, and the contracting party to pay the consideration specified under the contract.

Work permits, visas etc

Citizens of EU Member States, citizens of the European Economic Area countries and citizens of countries that are not parties to the agreement on the European Economic Area, but who may enjoy the freedom of movement of persons based on the agreements entered into such countries with the European Community and its Member States (e.g. Swiss citizens) may take up a job in Poland without the necessity of previously obtaining a work permit. When entering into a contract of employment with an employer, an EU citizen is, as a rule, subject to the provisions of the Polish Employment Code.

Other foreigners will be obliged to follow the general regulations for working in Poland, i.e. obtaining a work permit.

The procedure for obtaining the work permit consists of two steps. It is first necessary to receive an opinion from the district Labour Office on the situation on the local labour market and the second is to receive the work permit from the voivodeship Labour Office. The work permit is issued for the given individual and employer indicating also the position of the employee. It is the employer's obligation to receive the work permit before signing the contract with the employee.

The work permit is issued for a definite period of time up to three years and the fee is up to PLN 200.

There is a quite reasonably large group of foreigners who can legally work in Poland without the necessity of having an official permit. Such ways are offered to the foreigners who are:

- Accredited press, radio and TV correspondents, as well as photographers and filmmakers working on assignments for the foreign mass media
- Artists
- Actors, orchestra conductors, instrumentalists, singers, dancers and mime artists who will not exceed 30 days of work during a calendar year
- Students studying in Polish universities and working during their holidays for no longer than three months a year
- People giving occasional speeches, presentations of a particular scientific or artistic value
- Board members of legal entities who live permanently abroad, and perform their duties in Poland for no longer than 30 days in a calendar year
- Clergy
- Foreign employees sent to Poland for a time no longer than three months in a calendar year to conduct training, assembly of fair or exhibition stands, maintenance or reception of machines and equipment ordered by their companies
- Soldiers and civil personnel of NATO structures in Poland

Foreigners working legally in Poland may perform their duties within the conditions defined in permits or on any conditions if they do not need permits. As employees working in Poland they come under the Polish Employment Code. Like Polish citizens, they can also obtain income on the basis of civil-law agreements defined by the Civil Code, e.g. assignments, one-off job agreements, or one-off agreements with the transfer of copyrights. In such a situation they do not have employee rights, such as the right to paid leave or holiday and the eight-hour working day. In the case of assignments, they have the same rights to pensions and health care, as any employee on a permanent work contract.

Foreigners who work illegally in Poland, without having a necessary work permit, risk being expelled from Poland. The execution of such a decision is immediate. If a foreigner does not leave the country voluntarily in the time specified by the authorities, he or she will be immediately expelled from Poland at his or her own cost (or the cost of the person who has invited the foreigner to Poland).

Residence permits

These are of three kinds.

Temporary residence permits

The maximum validity period of a temporary residence permit is three years, but it can be renewed every subsequent three years. A foreigner may obtain a permit to stay and reside only if he or she can prove that his or her stay in the territory of the Republic of Poland is justified. Regulations specify the circumstances entitling an application for a temporary stay permit:

- Obtaining the promise of a work permit, awaiting paid employment or an employer's written certification of his intention to offer such employment if the regulations do not require a permit
- Running a business under Polish law
- Starting studies at a Polish university, provided that a foreigner has the means to support him or herself during study
- Marriage with a Polish or foreign citizen having a permit to settling in Poland (a residence card)

Permanent residence permits

A foreigner who remains in Poland without a break for at least five years on the basis of a visa or temporary residence permit may apply to the relevant voivodeship for a settlement permit, popularly known as a 'permanent residence card'. A similar application may be made by a foreigner who has been living in Poland for at least three years, as long as he or she came to Poland as a part of family emigration. A foreigner has to justify to the authority issuing the permits that his or her income and assets will be sufficient to cover the costs of living and treatment of him or herself and family, supported by them and will not require to resort to social security benefits. An applicant has to demonstrate that he or she has a place to live in Poland and will present a legal title to this place (e.g. deed of property, membership of a housing development, rental agreement). A settlement permit is valid indefinitely. Such a permit will also be granted to a child of a foreigner who has been born on the territory of Poland, if a foreigner has a valid settlement permit for the territory of Poland.

Family permit

A permit to live with a family is valid for 12 months from the date of the issue. If a family comes to Poland at the invitation of a holder of a temporary residence card, then permission to stay is prolonged to the end of the card's validity. If an applicant is a holder of a permanent residence card, then permission for residence for his or her family is valid for two years. Application for a temporary residence permit has to include, inter alia, an extract of the marriage certificate, an extract of the birth certificate, a legally valid court decision about a child's adoption etc.

Visas

The period for which a visa is valid according to Polish regulations is the basic period for which one has the right to visit and stay in Poland. Foreigners may apply for visas in Polish diplomatic outposts abroad. The consulate will confirm acceptance of the applications with the appropriate stamp in the applicant's passport. The fee, regardless of the type of visa and period of validity, ranges from EUR 24 to EUR 74. Where a visa application is refused by a consulate, the application fee will not be returned. In connection with Poland's EU accession, transit visas were reintroduced for citizens of Belarus, Russia and Ukraine. Thanks to a beneficial bilateral agreement, citizens of Ukraine and Moldova will not have to pay a visa fee.

Citizens from all countries and territories that are members of the Schengen Agreement, of the European Union, the European Economic Area or Switzerland (also known as the 'White Schengen List') may enter the territory of the EU member states for a period of maximum 90 days. Citizens of all other countries must obtain a visa in order to enter and stay in Poland legally. Visa approval to enter Poland gives the right to remain on the territory of the Republic of Poland only. A Schengen uniform visa does not give the right to enter Poland, with exception for citizens of Belarus, Russia and Ukraine who are in transit, according to conditions indicated in bilateral agreements.

Social security

In Poland, social security benefits consist of:

- The old-age pension
- The invalidity pension
- Sickness and maternity insurance
- Insurance against accidents at work and occupational diseases
- Health insurance.

In addition to this, Poland has a system of family benefits, social assistance benefits and unemployment benefits.

The Polish social security system covers practically all people in active employment, i.e. employees, the self-employed and their family members.

All people in active employment, i.e., employees, the self-employed and farmers, are covered by mandatory social insurance. Reporting these people to social insurance is the responsibility of either those who pay the contributions (employers), or, for the self-employed and clergy, of the individuals themselves. For details of contributions, see Chapter 9.

Starting from 2012 Poland raised the retirement age to 67 for both men and women. The reform is being introduced gradually from 2013.

Health-care system

Poland has state-funded health care. Private health care is also available in the country and many citizens choose this to avoid the long waiting lines that may be encountered in the state system; however, the fact of using private healthcare does not waive the obligation to pay social security contributions for health insurance.

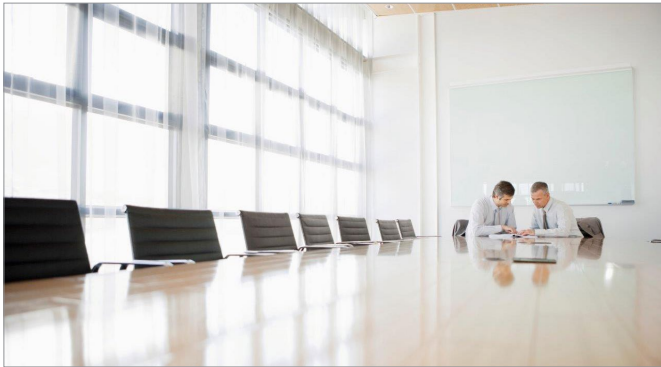
The state health-care system is funded in two ways – through government budgets to healthcare and through compulsory individual contributions to the state health-care insurance scheme.

Employers must register their employees with the health-insurance fund when a new employee starts work. Employees pay around 9% of gross salary to the National Health Fund (*Narodowy Fundusz Zdrowia*) and this is deducted directly from each person's salary. Dependent family members are covered by the contributions paid by employed family members.

Foreigners immigrating to Poland without jobs must produce proof of private health insurance in order to obtain their residence permit. All other groups must register themselves with their local branch of the National Health Fund.

The state fund covers most medical services including treatment by GPs and specialists, diagnostic examinations, hospitalisation, emergency care, surgical appliances, pregnancy, childbirth and rehabilitation.

3. Finance and investment



Business regulation

Registration in the National Court Register is also required in the case of establishment of a branch office, while creation of a representative office requires registration in the Register of Representative Offices of Foreign Business Entities kept by the Ministry of Economy.

Purchase of real property in Poland by non-EU and non-EEA citizens requires permission from the Ministry of Internal Affairs and Administration. The list of activities that require a licence or permission, and procedures necessary to obtain these, are available in English on the website of the Polish Agency for Information and Foreign Investment.

Business activity is regulated by several regulations, the most important being the Act of 2 July 2004 on Freedom of Economic Activity (referred to from now on as 'the FEAA'). This Act prescribes general rules on undertaking, running and terminating business (economic) activity. In addition, the Civil Code and the Commercial Partnerships and Companies Code govern the establishment, functioning and termination of partnerships and companies. Further Acts that may be relevant are the Act of 25 September 1981 on State Enterprises, the Act of 30 August 1996 on Commercialisation and Privatisation and the Act of 16 September 1982 on Cooperatives.

Pursuant to the FEAA, economic (business) activity is an activity carried on with a view to profit by way of trade, construction, or the provision of services, and includes the exploration and extraction of natural resources, as well as professional services carried out in an organised and continuous manner. Agricultural, inland-water fishery and forestry activities are excluded from the scope of the FEAA. A trader is a natural person, a legal person or an organisational unit (entity) not being a legal person (but having legal capacity on the basis of a separate act) conducting an economic activity in his, her or its own name. A civil-law partnership is not a trader in itself, but its partners are considered traders.

Economic activity may be undertaken, conducted and terminated freely by all parties on equal terms, subject to conditions provided for by the law. However, concessions apply in respect of a limited number of business sectors with special importance (e.g. exploration and extraction of natural resources, radio and TV broadcasting, production and sale of explosives, firearms and ammunition). So called 'regulated activities' are also distinguished, the conduct of which is conditional upon fulfilment of special (additional) requirements and entry into an appropriate registry of regulated activities (entry is available to a prospective trader upon filing a request together with a statement concerning the fulfilment of the special conditions). In addition, permits (licences) are necessary in the case of certain types of activities (e.g. production and sale of alcoholic beverages, gaming and mutual betting, running pharmacies, road and train transportation).

Conduct of a business

Business operations should be conducted in accordance with the principles of fair competition, and good trading practices and be respectful of the legitimate interests of customers. On the other hand, the public administration should respect the reasonable interests of a business and provide written information concerning the interpretation of legal provisions establishing an entrepreneur's liability to pay a public duty (e.g. a tax) in a particular case (individual ruling). In addition, under the FEAA, a total time limit for inspections of a business in a given year is set (generally for micro-, small and medium-sized businesses it is four weeks, while for others it is eight weeks).

Intellectual property

Intellectual property is one of those areas where competitive advantage over other market players can be secured relatively easily. Registration of property rights also provides significant tax benefits: industrial property rights, being intangible assets, can be subject to amortisation, thus reducing the taxable profits; licensing can be the source of income, but it can also constitute an instrument of inter-company structuring of costs.

Polish intellectual-property law distinguishes between industrial property rights, copyrights, associated rights and unfair competition.

Trade marks

Trade marks are protected under the Industrial Property Act by virtue of their registration with the Polish Patent Office. Where a trade mark is infringed, its holder may demand that infringement be ceased and prohibited in future, that the results of the infringement be remedied, that any unlawful profits be surrendered, and that all losses be compensated (also in the form of a lump-sum compensation equal to the amount due for the licence or trade mark infringed, which facilitates claiming damages regarding the burden of proof). The holder can also demand that the products bearing counterfeit trade marks be destroyed and that the judgment be made public.

Even before filing the law suit, the trade-mark holder may be granted an injunction in order to cease the illegal traffic for the time of the proceedings; an injunction can also be claimed in order to preserve the evidence, as well as to obtain the relevant information, including from third parties, about the channels of distribution and storage of the counterfeit products (all of these claims apply in general to other industrial-property rights).

An exception from the rule of trade-mark registration concerns well-known trade marks. They can enjoy protection from identical or similar goods or services even they are not registered.

A trade mark is protected for a period of 10 years from the date when an application for protection is filed with the Patent Office. After that, it is possible to apply for extensions.

Patents and inventions

Patents are granted for inventions that display the required level of innovation compared with other inventions, and which are suitable for commercial exploitation. They are protected for 20 years from the date when applications for protection are filed with the Patent Office.

Recent legislative changes to the Industrial Property Act have brought Polish law into line with European Patent Organisation requirements. Poland has been a member of the EPO since 1 March 2004.

An invention (including industrial designs and utility models) created by an employee or a contractor as part of that person's duties is owned by the employer or ordering party. If, however, the invention was created outside the scope of those duties, but with the assistance of any undertaking in the invention process, then that undertaking enjoys the right to exploit the invention for its business purposes, against fair compensation paid for up to five years (unless the agreement provides otherwise).

Copyright and associated rights

The Act on Copyright and Associated Rights distinguishes moral (i.e. personal) and economic copyrights. In broad terms, moral rights are aimed at protecting the author's relationship with the work and include the right to:

- Be credited as the author of the work
- Have the work published in the author's name, anonymously or pseudonymously
- The integrity of the work (not to have the work altered or destroyed without consent)
- Decide on the first publication of the work
- Supervise the use of the work

In practice, the scope of protection granted by personal rights depends to a considerable extent on the circumstances of the case, including the character of the work, its artistic or scientific value, the degree of creativity involved, as well as the accepted and approved practices of a given industry or artistic circle. On the other hand, economic copyright is transferable.

Banking and local finance

The legal framework for the Polish banking system is contained in the Act of 29 August 1997 – the Banking Act, implementing Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking-up and pursuit of the business of credit institutions (OJ L 177, 30.6.2006, p. 1.).

It specifies the rules for conducting banking activities, establishing and organising banks, divisions and branch offices of foreign banks, as well as branches of credit institutions, along with the rules for carrying out banking supervision, corrective procedures, the liquidation and bankruptcy of banks.

The Act defines a bank as a legal entity established according to domestic regulations, operating on the basis of permits authorising it to carry out banking activities imposing risk-related charges on any repayable funds deposited to it.

The banking activities that may be conducted solely by a bank, under the Banking Act, are:

- Accepting cash deposits, as well as keeping accounts of these deposits
- Keeping other bank accounts
- Granting credit
- Granting and confirming bank guarantees, as well as opening letters of credit
- Issuing bank securities
- Conducting bank monetary settlements
- Issuing electronic money instruments
- Performing other activities provided for in other Acts only with regard to banks

Moreover, the activities of banks are also regulated in Poland, inter alia, by:

- The Act of 29 August 1997 on the National Bank of Poland
- The Act of 29 August 1997 on Mortgage Bonds and Mortgage Banks
- The Act of 14 December 1994 on the Bank Guarantee Fund.

Under the Act of 29 August 1997 (the Banking Act), banks in Poland operate as commercial banks and cooperative banks. The rules of organisation, operation and affiliation of cooperative banks, as well as affiliation of the banks affiliating cooperative banks are stipulated in the Act of 7 December 2000 on the Operation of Cooperative Banks, their Affiliation and Affiliating Banks.

Any business activity in Poland can be financed from debt, either in the form of credit facilities extended by banks, or in the form of bonds issued by the company, which may also be guaranteed by banks. Even though the 2008/2009 crisis hit the credit market quite heavily, the market is now recovering and the banks are more willing to provide financing to companies.

While obtaining financing from banks in Poland, the borrower should be aware that, depending on the required type of finance, the bank will ask to secure the borrower's obligations with security. The higher the amount of credit, the more security the banks will require.

The most commonly applied types of security include:

- Registered charges over: (a) shares, (b) assets and (c) receivables (debtors), and in particular receivables from bank accounts
- Mortgages
- Bank guarantees
- Assignment of insurance policies
- Assignment of receivables under commercial contracts.

Investment incentives

One of the biggest investment incentives in Poland is the possibility of obtaining additional funding from EU sources. Within the budgetary period 2007 – 2013 Poland received EUR 67 300 million in EU funds for conducting various projects in the following areas:

- Improving the functioning of public institutions and the development of partnership mechanisms
- Improving the quality of human capital and enhancing social cohesion
- The establishment and modernisation of the technical and social infrastructure crucial for improved competitiveness
- Improving the competitiveness and innovativeness of enterprises, in particular the manufacturing sector with high added value and development of the services sector
- Increasing the competitiveness of Polish regions and preventing their social, economic and territorial marginalisation
- Balancing growth opportunities and supporting structural changes in rural areas.

EU funds are divided into several operational programmes financing sectors crucial for the Polish economy:

- Infrastructure and environment (41.9% of all funds, EUR 27 900 million)
- 16 Regional Programmes (24.9% of all funds, EUR 16 600 million)
- Human Capital Programme (14.6% of funds, EUR 9700 million)
- Innovative Economy (12.4% of all funds, EUR 8300 million)
- Development of Eastern Poland (3.4% of all funds, EUR 2300 million)
- Technical Assistance (0.8% of all funds, EUR 500 million)
- European Territorial Cooperation (EUR 700 million).

Within the new budgetary perspective (2014 – 2020), Poland will spend some EUR 45 600 million of EU Cohesion Funds on six national operating programmes, including PLN 27 500 million on the 'Infrastructure and Development' programme.

The allocation of EU funds from the 2014 – 2020 perspective to national programmes will be as follows:

- Infrastructure and Environment EUR 27 500 million
- Intelligent Development EUR 8 600 million
- Knowledge, Education Development EUR 4 400 million
- Digital Poland EUR 2 300 million
- Eastern Poland EUR 2 100 million
- Technical Support EUR 700 million

Apart from six nationwide programmes, Poland will distribute EU funds via 16 regional programmes.

4. The accounting & audit environment

Accounting regulations in Poland

Introduction

Foreign companies operating either through branch offices or Polish-registered subsidiaries are required either to maintain full accounting records in compliance with Polish law, or if allowed to do so (see section below) with the IAS/IFRS and related interpretations as adopted by the European Commission.

Language

The accounting records must be kept in the Polish language and in Polish currency. Computer software must be ready for producing reports and ledger printouts with headers and descriptions in Polish.

Place of processing

The accounting records must be maintained either in the registered office of the company or branch or with an authorised accounting firm. It is possible for the actual accounting software to be located on a server outside Poland, but the source documents and access to printouts and/or onscreen enquiries must be available at all times either at the registered office or at an accounting firm (depending on the location where accounting books are kept; the entity is obliged to inform the tax authorities of the location).

Quality of source documents

The Polish tax and especially VAT legislation imposes very strict rules as to the content of invoices. Corporation tax and personal income tax regulations are slightly less demanding; however, the burden is on the taxpayer to prove to the authorities that there is sufficient documentary proof of a transaction. In particular, the tax authorities are very keen on documentary proof of acceptance of transactions by the relevant officials of the company. This in turn means that there should in practice be written resolutions of shareholders and the management board (and of the supervisory board if there is one) concerning authorisation limits and approval procedures. In the case of documents in electronic format, internal control procedures should be put in place in order to ensure the authenticity, integrity and legibility of such documents and to prove their link with the transaction and accounting records.

Chart of accounts

Each entity is obliged to adopt a formal chart of accounts. This document is more than just a listing of nominal and subsidiary ledger accounts and must include a description of adopted accounting principles (where the law allows a choice) and a description of adopted accounting software. The chart of accounts must be formally approved and implemented and must be in the Polish language. Where accounting records are maintained on computer software there must be a description of all the programs used, a description of processing algorithms, description of security procedures and controls and the date on which new versions of software were introduced. In all cases a description of the physical and software controls over security and integrity of accounting records must be provided.

Nominal-ledger account numbering

There is no formal requirement to follow a standard account numbering system; however, the majority of systems provide a pre-defined list of accounts according to a widely spread, traditional template.

Executive-board liability

Previously, only the chief accountant could have been fined for failing to maintain proper books of account. The liability now rests with the executive board and is joint and several. Supervisory-board members are also held liable for the quality of accounting books. Members of the executive board and of the supervisory board face fines and potentially imprisonment of up to two years. The fact that accounting records are maintained by an authorised accounting firm does not in any way limit the liability of executive-board members.

International Financial Reporting Standards (IFRS)

The consolidated financial statements of issuers of securities admitted to, issuers of securities intending to file for admission to, or issuers of

securities pending admission to trading on one of, the regulated markets of the European Economic Area, must be prepared in accordance with IFRS. Subsidiaries of such entities may adopt IFRS; however, a relevant decision must be taken by an approving body. The abovementioned entities must conform to the provisions of the Polish accounting legislation in matters not regulated by IFRS and related interpretations. All other entities must apply Polish accounting legislation and can apply local (Polish) accounting standards if the law does not cover a particular issue. Where there is no Polish accounting standard an entity may apply IFRS. There is, however, no obligation to apply international standards.

Frequency of processing

The legislation requires that full accounting records be maintained on a current basis. Because all taxes are reported monthly (including corporate income tax, although small entities may elect for a quarterly basis) in practice this means that full books of account must be kept up to date.

Storage of data

Accounting records may be maintained on computers without the need to print out ledgers; however, access to reports must be guaranteed at all times and following the year-end the data should be transferred onto a permanent storage medium and adequately secured. In addition, there is a requirement of the law that once an entry has been made in the ledgers it can only be adjusted by another entry and cannot be deleted.

Annual balance and assets and liabilities verification

There is an annual requirement for balances with suppliers and customers as well as banks, lenders, etc. to be confirmed in writing. Stocks of assets are subject to an annual stocktake and fixed assets should be physically counted every four years (annually, if not subject to adequate physical security procedures).

Tax records

As in all jurisdictions, there is a growing discrepancy between the accounting and tax treatment of various transactions. This means that additional records have to be maintained to track the tax treatment of various positions. The accounting legislation now requires full accounting for deferred income tax, although exemptions exist for smaller companies. Particular requirements apply to the format of VAT registers and reports. Many foreign accounting software packages are unable to comply fully with the VAT legislation and specific Polish add-ons are necessary.

Financial year-end (accounting period)

Usually the accounting year is the calendar year, but it is possible to choose any other closure date. The first accounting period cannot exceed 18 months. It is possible to change the year-end but only in respect of an accounting period that has not yet commenced. Special procedures apply in such a case.

Storage of source documentation and accounting records

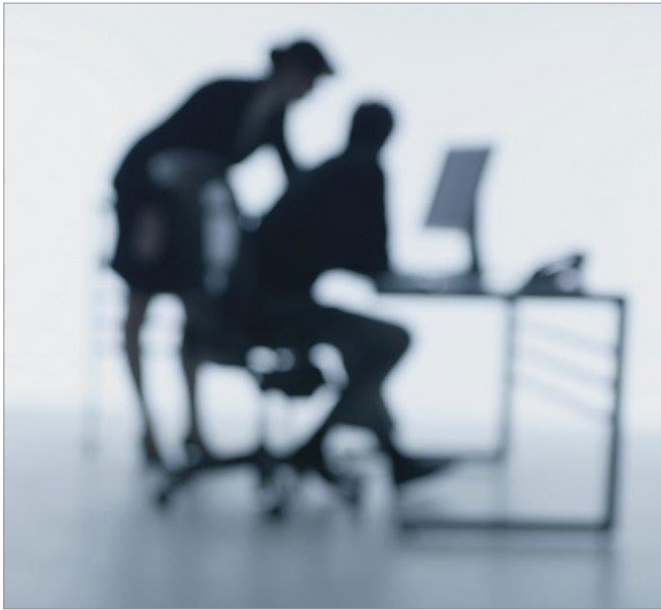
Storage has to be ensured for a period of at least five years after the annual closure (in fact it means a prolongation up to six years). Because of the complexity of tax legislation, the monthly tax reporting requirements (quarterly for very small entities) and the need to provide reliable management data the staffing of accounts departments involves significantly more members of staff than would apply in most other countries. Because of the need to ensure up-to-date knowledge of accounting and tax law and the need to provide cover for staff holidays and sickness, companies often find outsourcing to be a cost-effective option. Companies should, however, be aware that the cost can be significantly more significant in Poland than elsewhere because of the need to check source documents for compliance with the tax legislation on an ongoing basis.

Audit requirement

As well as entities preparing financial statements in accordance with IFRS, all other entities that exceeded two of three limits in the previous accounting period are subject to statutory audit of the current year's financial statements. The limits are:

- Turnover – EUR 5 million
- Balance-sheet assets – EUR 2.5 million
- Employees – 50 employees

5. Overview of tax system



Principal taxes

- The main taxes in Poland are:
- Corporate income tax (*podatek dochodowy od osób prawnych*)
- Personal income tax (*podatek dochodowy od osób fizycznych*)
- Tax on civil-law transactions (*podatek od czynności cywilnoprawnych*)
- Inheritance and gift tax (*podatek od spadków i darowizn*)
- VAT (*podatek od towarów i usług*)
- Immovable property tax
- Excise duties

Basic legislation

All taxes in Poland are imposed by the parliament, which sets the rules for imposing taxes, their rates and duties, as well as taxpayers' responsibilities. The Minister of Finance may be authorised to make regulations by decree. All legislation is published in official publications (i.e. the Journal of Laws and the Official Journal of the Republic of Poland).

The Tax Ordinance (*Ordyndacja podatkowa*) is the most general tax statute, and it defines:

- General taxation rules
- Tax liabilities of third parties
- Tax information
- Tax proceedings
- Fiscal confidentiality.

Other relevant legislation includes the Corporate Income Tax Act (*Ustawa o podatku dochodowym od osób prawnych*), the Personal Income Tax Act (*Ustawa o podatku dochodowym od osób fizycznych*), the Value Added Tax Act (*Ustawa o podatku od towarów i usług*), the Civil Transactions Tax Act (*Ustawa o podatku od czynności cywilnoprawnych*; which covers e.g. transaction tax), the Inheritance and Gift Tax Act (*Ustawa o podatku od spadków i darowizn*) and the Local Taxes Act (*Ustawa o podatkach i opłatach lokalnych*; which covers e.g. immovable property tax).

Tax authorities

Taxes in Poland are administered by:

- Tax Offices: units supervising the collection of taxes in their territories. They also issue individual administrative decisions in tax cases
- Fiscal audit offices: offices that carry out tax and procedural audits of fiscal accounting
- Tax Chambers: supervise the tax offices and are empowered to review administrative decisions of tax offices and fiscal audit offices
- The Minister of Finance: responsible for Polish budgetary policy and supervision of the entire taxation system.

Appeals

Taxpayers may appeal to the Tax Chamber against the decisions of the local Tax Office or Fiscal Audit Office. An appeal against a decision of the Tax Chamber may be directed to the Regional Administrative Court. Taxpayers are also entitled to appeal to the Supreme Administrative Court to review decisions of the Regional Administrative Courts.

6. Taxes on business

Corporate income tax

Scope and extent

Taxpayers subject to corporate income tax (*podatek dochodowy od osób prawnych*) are:

- Legal persons (e.g. limited-liability companies, joint-stock companies, and starting from 2014 – partnerships limited by shares)
- Organisations without legal personality
- Foreign partnerships, if according to their domestic tax law, they are treated as legal persons and their worldwide income is subject to taxation

In the remainder of this Chapter, the term 'company' will be used to denote a taxpayer subject to corporate income tax, regardless of its actual legal form.

Residence and territoriality

Companies resident in Poland are taxable on their worldwide income, whereas non-resident companies are taxable on their Polish-source income only.

Companies are resident in Poland if they have their legal seat or place of management in Poland.

In the case of non-resident companies, if it is not possible to establish income on the basis of the accounting books, the income is determined by means of calculation using the income ratio in relation to the revenues, e.g. 5% from wholesale and retail trade, 10% from construction and assembly activity or transport services.

Taxable income

According to general principles, the object of taxation is income, regardless of the source of revenues from which the income was received. Taxable income is the surplus of the sum of revenues over costs incurred to generate income during the fiscal year, whereas if the allowable expenses exceed the sum of revenues, the difference is a tax loss.

Taxable revenues consist not only of cash received but also other receipts of value, exchange-rate differences, the value of property, and rights or other benefits received free of charge. Revenues connected with economic activity and activity within particular sectors of agricultural production are also the revenues due, even though they have not yet been actually received (the accrual basis of accounting). Note, however, that interest receivable is taxable on a receipts basis.

Capital gains

Capital gains are normally included in taxable income. It should be noted that capital gains are calculated by reference to the net book value rather than the cost of acquisition of the asset concerned.

Dividends, interest and royalties

Dividends received from another Polish-resident company are subject to withholding tax at the corporate rate of 19%, and are not further subject to corporate income tax.

However, there is a participation exemption for significant shareholdings. A significant shareholding exists where the receiving company holds at least 10% of the share capital of the distributing company and has done so for an uninterrupted period of at least two years. Both the distributing company and the recipient company must be fully taxable in Poland.

From 1 January 2016, the participation exemption is not available if the distribution was connected with activities solely aimed at tax avoidance.

Dividends received from foreign companies are fully taxable, with a tax credit for any foreign withholding tax. Underlying tax credit may be available where the Polish recipient company has held at least 75% of the share capital of the distributing company for an uninterrupted period of at least two years, and the distributing company is resident in a jurisdiction with which Poland has concluded a double tax treaty.

Dividends from companies resident in another EU or EEA member state are exempt under the Parent-Subsidiary Directive, where the receiving company holds at least 10% of the share capital of the distributing company and has done so for an uninterrupted period of at least two years. The same applies to dividends from a Swiss-resident company, but in that case, the minimum shareholding is 25%.

Interest and royalties from other Polish companies are not subject to withholding tax but liable together with the rest of taxable income to corporate tax at the standard rate. Interest and royalties received from foreign companies are fully taxable, with a tax credit for any foreign withholding tax

Deductions

The general rule is that all expenses incurred directly or indirectly in deriving, preserving and safeguarding business income are deductible.

There are, however, specific categories of expenditure that are not deductible. These include:

- Dividends
- Capital expenditure on the provision of fixed assets
- Entertaining expenses (including restaurant meals, alcoholic drinks etc)
- Fines and penalties
- Expenses paid to members of the supervisory board of a company (other than remuneration).

Depreciation

For tax purposes, depreciation of fixed assets is carried out on a straight-line basis at statutory rates. It is customary for depreciation to be calculated on a monthly basis, although quarterly and annual depreciation is an option.

Table 2 below shows the statutory (annual) depreciation rates for important categories of asset.

Table 2

Category of asset	Annual depreciation rate (%)
Commercial buildings	2.5
Computer software and IP rights	Max 50.0
General plant and machinery	10.0 – 20.0
IT equipment	30.0
Mining plant and machinery	25.0
Motor vehicles	20.0
Office equipment	14.0
Other intangible assets	Max 20.0
Residential buildings	1.5

Land (including a perpetual usufruct over land) is not depreciable.

Assets costing no more than PLN 3500 may be fully written off in the year of purchase. Quickly obsolescent equipment may qualify for accelerated depreciation.

Interest

Business-related interest is normally deductible once it has been accrued and paid; interest cannot be deducted before it has been paid, however.

Donations

Donations made to charitable and religious organisations are deductible under certain conditions, but the maximum amount deductible is 10% of income.

Group taxation

Polish-resident companies between which the requisite relationship exists may form a tax group. One consolidated return is then filed for the group as a whole, aggregating profits and losses.

A group may be formed between a parent company and its subsidiaries (subsidiaries in which the parent company holds at least 95% of the share capital). The average share capital of the companies forming a tax group must be no less than PLN 1 000 000. Subsidiaries are also excluded if they have cross-holdings in other group companies.

There is a further requirement that the group's consolidated net income must be at least 3% of the aggregate gross income of the companies within the group.

There is no special treatment for intra-group dividends or transfers of assets.

Losses

Tax losses may be carried forward for a maximum of five years. There is no carry-back of losses.

There is no possibility of transferring losses in the event of mergers, divisions or spin-offs.

*Withholding taxes**Dividends*

Poland has fully implemented the EU Parent-Subsidiary Directive. Consequently, for dividends paid by a Polish company to a company resident in another EU or EEA member state, an exemption from withholding tax is granted provided that the non-resident company has held at least 10% of the share capital of the Polish company for a continuous period of at least two years (not all of which need have elapsed before the dividend is distributed) and is a company in the form prescribed by the Directive and fully subject to a corporate income tax.

The exemption also applies to dividends paid to a Swiss company, with the substitution of a 25% minimum shareholding.

Exemption also applies to dividends paid by Polish companies to the permanent establishments of EEA parent companies located in another EEA member state.

In other cases, a 19% withholding tax applies (subject to a lower rate available under a double tax treaty).

From 1 January 2016, the exemption from withholding tax is not available if the distribution was connected with activities solely aimed at tax avoidance.

Interest and royalties

Poland has also fully implemented the EU Interest and Royalties Directive. Consequently, for interest and royalties paid by a Polish company to a company resident in another EU Member State or Switzerland, an exemption on withholding tax is granted provided that the non-resident company has held at least 25% of the share capital of the Polish company or vice versa or the same third company has held 25% in both companies for a continuous period of at least two years (not all of which need have elapsed before the interest or royalties are paid), and all the relevant companies satisfy the requirements of the Directive as to legal form and liability to a corporate income tax. In other cases, a 20% withholding tax applies (subject to a lower rate available under a double tax treaty).

Other income

Residents of a country without a tax treaty with Poland will generally suffer withholding tax of 20% on other income including:

- Accounting, management and advisory services
- Data-processing services
- Advertising services

Visiting athletes and entertainers are also liable to suffer withholding tax of 20% on the fees for their performances in Poland.

Thin capitalisation

Poland has thin-capitalisation rules, under which interest paid between associated companies (companies in which the same third company owns directly or indirectly at least 25% of the shares in both) or to a related company holding directly or indirectly at least 25% of the shares of the paying company is disallowed, to the extent that the paying company's debt-equity ratio exceeds 1:1.

There is a possibility of applying an alternative method. In this method the amount of tax-deductible interest cannot be higher than the tax written-down value of the company's assets multiplied by a percentage rate announced by the National Bank of Poland increased by 1.25 percentage points. The alternative method applies to all loans from foreign and domestic entities (received from related and unrelated entities) and once chosen should be used for at least three years. The rules apply to both domestic and foreign loans. For thin-capitalisation purposes, a loan is deemed to be any kind of debt-claim, including debt securities and certain deposits.

Transfer pricing

Poland's transfer-pricing regulations were implemented in the late 1990s and generally follow the OECD Guidelines, i.e. they typically operate by reference to the arm's length principle. Where a transaction is concluded between related parties and the entities do not comply with the arm's length principle, transfer-pricing restrictions may be applied to both cross-border and domestic transactions.

Entities are treated as related where:

- One directly or indirectly owns at least 5% of the other's shares
- The same person (natural or legal) owns at least 5% of the shares of both entities
- The same person (natural or legal) participates (directly or indirectly) in the management or control of both

Where the tax authorities challenge the transaction as one concluded otherwise than under the arm's length principle, they may substitute transaction prices for market prices based on the following methods:

- The comparable uncontrolled-price method
- The resale-price method
- The reasonable-margin (cost-plus) method or
- The transactional-profit method

Companies have several reporting obligations regarding related-party transactions. In particular, they must prepare transfer-pricing documentation for such transactions. In addition, there is an obligation to report in their financial statements related-party transactions that were not carried out on arm's length terms. Financial statements are submitted to the tax office together with the annual tax return. Thus, conducting benchmarking analysis may turn out to be inevitable in certain situations.

Such documentation needs to be prepared for transactions with related parties for which the total amount resulting from the agreements or from actual transactions that took place in the year concerned, exceeds:

- EUR 100 000 – if the value of transactions is lower than 20% of share capital
- EUR 30 000 – for the provision of services or the sale or licensing of intangible assets
- EUR 50 000 – in other cases

Where the transactions are undertaken with entities located in countries considered by the Polish tax authorities to be tax havens, the TP documentation should be prepared for all transactions exceeding the level of EUR 20 000.

Controlled foreign company (CFC) rules

On 1 January 2015 new legislation to combat tax avoidance involving the transfer of income by Polish companies to companies located in countries with significantly more favourable tax treatment than in Poland came into effect. The aim of the legislation is to ensure that Polish companies (and individuals) pay tax in Poland on income earned by a controlled company established or administered in a country where lower CIT rates are applied. This additional income will be taxed in Poland at the standard rate of CIT (19%).

A Polish company or individual is deemed to control a foreign entity for this purpose where a Polish resident either singly or together with closely related persons directly or indirectly holds 25% or more of the share capital or voting rights or otherwise has the power to enjoy at least 25% of the income of the foreign entity for at least 30 days in the taxable period.

For the CFC rules to apply to such an entity, at least 50% of its income must consist of 'passive' income and that income (or any one category of such income) is either exempt from tax in the foreign entity's jurisdiction or is subject to tax at an effective rate 25% or more lower than in Poland (this equates to a nominal rate of 14.25% or less). Passive income is income derived from (a) dividends and other distributions; (b) the proceeds of sale of shares or debt receivables; (c) interest and other income from loans etc; and (d) royalty income and the proceeds of sale of intellectual property.

If the foreign entity is resident in a blacklisted jurisdiction or one with which Poland does not have an agreement for the exchange of tax information, the control, passive income and low tax criteria are automatically deemed to be satisfied, unless the Polish taxpayer can prove otherwise.

CFCs with taxable income of no more than EUR 250 000 in the year concerned are exempt, as are CFCs carrying on a genuine business activity in their jurisdiction of residence. Where the CFC rules apply, the Polish taxpayer will be assessed to Polish tax at 19% on his proportionate share of the CFC's taxable income (calculated under Polish rules), after deducting any distributions received.

The general anti-avoidance rule (GAAR)

The new GAAR legislation, which took effect on 1 January 2016, allows the Polish tax authorities to challenge transactions aimed at tax avoidance. The main condition for applying the GAAR is the lack of economic or business justification for the transaction concerned. The rule may be applied to transactions that took place before the GAAR regulations came into force. The rule will apply mainly to income taxes. If the tax benefit derived from the transaction is lower than PLN 100 000 the tax office is not entitled to challenge the transaction.

Tax incentives

Accelerated depreciation

Accelerated depreciation, under both the straight-line and reducing-balance methods may be available for certain types of plant and machinery, in particular rapidly obsolescent equipment, such as computers.

Small enterprises (those with an annual VAT-inclusive turnover of no more than PLN 5.092 million) and new businesses may under certain circumstances write off up to a value of PLN 212 000 of certain categories of fixed assets in their first year of use.

Research and development

Some R&D expenditures may be deducted from taxable profits under certain conditions, without affecting the availability of depreciation. Depending on the type of expense, up to 30% of the incurred amount may be deducted.

Special economic zones

There are 14 special economic zones (SEZs) in Poland, covering an area of up to 16 000 hectares. Subject to a minimum investment of EUR 100 000 and certain other conditions, companies operating in an SEZ may claim exemption from corporate income tax on their business income generated in the SEZ up to a certain amount. Exemption from local taxes (usually real property tax) may also be available.

Tonnage tax régime

Poland operates an optional tonnage tax (*podatek tonażowy*) for companies operating commercial shipping in international traffic with vessels of over 100 gross tons. The tax replaces corporate income tax and is charged at 19% on a fixed daily amount per 100 net tons per vessel.

Tax rate

The standard rate of corporate income tax is 19%.

Assessment procedure

A self-assessment system operates for corporate income tax. Companies must calculate the tax due based on their return and pay any amount outstanding after deducting payments in advance.

Returns and payments

Companies must file their annual tax return electronically no later than the end of the third month following the end of the taxable period, i.e. by 31 March in the majority of cases.

Advance payments are due monthly, no later than the 20th of the following month. Under the optional simplified procedure, the monthly payment is one-twelfth of the final tax liability of the pre-penultimate year, i.e. advance payments for 2016 may be based on the final liability for 2014.

Small companies (those with an annual VAT-inclusive turnover of no more than PLN 5.092 million) and start-up companies may opt for quarterly advance payments.

The balance of tax due must be paid by the end of the third month after the end of the tax-year (i.e. 31 March in most cases).

Appeals

See Chapter 5.

Value added tax

Taxable entities

Any person supplying taxable goods or services in the course of business on a regular basis is considered a taxable person. The term 'business' refers to all independently performed activities by producers, traders and suppliers of services.

In addition, any private individual who receives an intra-EU supply of a new means of transport or a person who sells immovable property on a sufficiently regular basis is also deemed a taxable person.

A taxable person is considered to be established in Poland if he has established his main place of business in Poland or has a fixed establishment in Poland.

A taxable person whose main place of business is outside Poland has a fixed establishment in Poland if that person has sufficient technical and human resources in Poland to be able to make taxable deliveries of goods and/or services on a regular basis.

Taxable activities

Operations fall within the scope of VAT if the following conditions are fulfilled:

- They represent a supply of goods or services in return for a consideration
- The deemed place of supply is in Poland
- They are performed by taxable persons
- They result from economic activities

The import of goods, intra-EU acquisitions of goods and operations deemed as intra-EU acquisitions of goods are also within the scope of VAT. The place of supply for goods and services is determined based on the same territoriality rules as those included in the VAT Directive (Directive 112/2006/EC as amended).

Input and output tax

Input and output VAT must be settled on an invoice basis, regardless of whether payment has been made on those invoices or not, unless the taxable person is under the cash-accounting scheme. However, if the invoice remains unpaid for at least 150 days, special rules apply – the creditor is entitled and the debtor is obliged to make appropriate adjustments.

Exempt supplies

The rules follow the Directives closely. Thus, exemption with the right to deduct input VAT on the related purchases ('zero-rating') applies to:

- The supply of goods shipped or transported outside the European Union
- Public transport and related services
- Intra-EU supplies of goods
- International transport of passengers
- Goods placed in free zones and free warehouses
- The supply of goods to a bonded warehouse, a VAT warehouse and related services
- The supply of goods placed under suspensive customs régimes
- The supply of services in connection with goods placed under customs suspensive régimes
- The supply of goods and services to diplomatic missions, international organisations and NATO forces

Exemption without the right to deduct input VAT on the related purchases ('true exemption') applies to e.g.:

- A range of activities including banking, finance and insurance
- Medical, welfare and educational activities, if performed by licensed entities
- Rental and leasing operations involving immovable property, as well as the supply of old buildings for residential purposes
- The supply of land except building land

However, an option to tax may be exercised under certain conditions in respect of the last category of supplies by submitting a written notification to the relevant tax office.

Standard, reduced and zero rates

The standard rate of VAT is 23%. All supplies are chargeable at this rate unless they are exempt or chargeable at one of the reduced rates.

8% reduced rate

This applies, inter alia, to:

- Certain agricultural products and services
- Books, newspapers and periodicals
- Accommodation in hotels or premises with a similar function
- Restaurant services
- Cinema tickets, admission fees at museums, historical monuments, zoos and botanical gardens, fairs and exhibitions (cultural services)
- Certain medicines and medical equipment
- Passenger transport

5% reduced rate

The reduced VAT rate of 5% applies, inter alia, to:

- Certain foodstuffs
- Certain books and periodicals

Special schemes

Special schemes apply to:

- Small businesses
- Flat-rate farmers
- Travel agents
- Suppliers of second-hand goods, works of art, collectors' items
- Antiques
- Investment gold
- Tax refunds for tourists
- Cash accounting
- Supplies of certain electronic devices (e.g. smartphones, laptops, tablets, game consoles)
- Foreign entities supplying electronic services to private customers (persons other than taxable persons) within the European Union (extended from 1 January 2015 to supplies of radio and television broadcasting services and telecommunication services)

Registration

The annual turnover threshold for VAT registration is PLN 150 000.

Businesses with a turnover below this threshold may register voluntarily.

Returns and payment

As a general rule, the return period is monthly. Taxable persons with a turnover below the PLN equivalent of EUR 1.2 million (set at PLN 5 092 000 for 2016) who have opted for cash accounting and new taxable persons file quarterly returns. Quarterly accounting is also an option for other taxable persons, on application, but unless their turnover falls under the EUR 1.2 million threshold, they must nevertheless make advance payments (equal to one-third of the previous quarter's net liability) in both of the first two months of the quarter.

VAT returns should be submitted to the tax authorities by the 25th day of the month following the end of the return period; the VAT is due on the same date. In addition, from 1 July 2016, the largest businesses will be obliged to adjust their VAT evidence to the structure of the SAF – T (Standard Audit File for Tax) and report certain information on a monthly basis to the Ministry of Finance.

Taxable persons having an excess of inputs over outputs for a return period may apply for a refund of the excess or carry forward the balance against VAT liabilities reported in subsequent returns

Banking tax

As from 1 February 2016, Poland has introduced a new tax on banks and insurance companies in Poland. The rate of tax is 0.0366% percent per month on the assets of the financial institution concerned.

7. Personal taxation

Income tax

Territoriality and residence

Individuals who are resident in Poland for tax purposes are liable to income tax on their worldwide income, whereas non-residents are taxable only on their Polish-source income. Personal income tax is governed by the Personal Income Tax Act (*ustawa o podatku dochodowym od osób fizycznych*) and the Tax Ordinance (*Ordynacja podatkowa*).

An individual is considered to be resident in Poland if any of the following four criteria is satisfied:

- The individual's centre of personal or economic interests is in Poland
- The individual is physically present for more than 183 days in the calendar year

Persons liable

The following persons are subject to Polish income tax:

- Resident persons
- Non-resident persons who carry out an independent activity through a permanent establishment in Poland
- Non-resident persons who carry out a dependent activity in Poland
- Non-resident persons who earn some other specified types of income derived in Poland

Partnerships

The general rule is that partnerships are associations without legal personality, so each partner's share of the partnership income is taxable on that partner. This no longer applies to partnerships limited by shares, which are treated as corporate entities with effect from 1 January 2014 (see further Chapter 2).

Structure of income tax

Income tax is charged on the following heads of income:

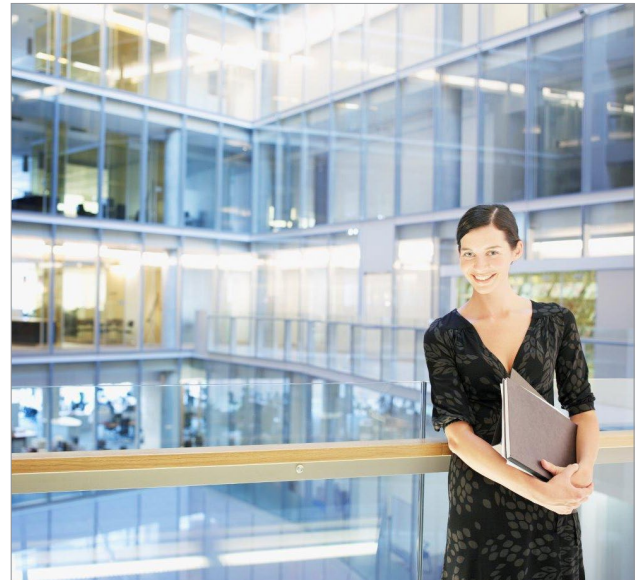
- Income from employment and pensions
- Income from independent services, including income from freelance activities and the liberal professions and income from a business
- Income from specified agricultural activities
- Income from investments (dividends, interest, royalties, rental income)
- The proceeds of alienation of movable and immovable property

Tax-exempt income and gains include:

- Most social security benefits
- Scholarships
- Maintenance for children under the age of 25 or children receiving nursing or social allowances
- Alimony not exceeding PLN 700 per month
- Certain prizes and lottery winnings

The family unit

In Poland, there is no joint assessment of married couples. Each individual is assessed separately to income tax, regardless of his or her marital status. However, spouses who jointly own property and have been married during the whole of the tax year (except where death intervenes) may elect to file a joint return, unless one or both are in receipt of income (other than rental income) taxable at a flat rate.



The income of minor children is usually added to their parents' income, unless derived by their own independent efforts (earned income) or constituting scholarship income or rental income from property.

Relationships outside marriage between a man and a woman are not recognised for tax purposes.

Where joint taxation is in point, the couple pay tax of twice the amount computed on one-half of the couple's joint income.

The taxable period

The taxable period is the calendar year.

Taxation of employment income

Taxable income from employment consists of salaries and wages, and most other forms of remuneration or benefits associated with employment or past employment (e.g. pensions).

Benefits-in-kind

Taxable benefits-in-kind include:

- The private use of a motor vehicle or telephone provided by the employer
- Housing provided by the employer (unless the cost is no more than PLN 500 per month)
- Club memberships
- School fees paid by the employer

Benefits are valued for tax purposes at the market value of comparable goods or services .

Some payments of expenses are exempt from income tax. These include:

- Relocation allowances (limited to twice monthly salary)
- Per diem allowances for business travel (up to a prescribed limit)
- Reimbursement for the cost of work-related training courses

Deductions

Mandatory state social-security contributions and certain types of private pension contributions are deductible (certain limits apply).

Employees are also entitled to claim certain lump-sum deductions:

- PLN 1335.00 for a single employment
- PLN 2002.05 where the employee has more than one employer
- PLN 1668.72 where the employee has to travel from home to work in a different location
- PLN 2502.56 where the employee has to travel from home to work in a different location and has more than one employer

In the case of the commuting deductions, the actual cost may be deducted where greater, provided that the employee has the necessary supporting documentation.

Salary withholding tax

Tax is withheld by the employer from gross salary as reduced above. The employer accounts for the tax and employee social security contributions deducted monthly, and pays these over monthly together with employer social security contributions, no later than the 20th day of the following month.

Directors' remuneration

In most cases, a director's remuneration is treated as income from independent services.

Taxation of personal business income

Business income includes income from the sale of business property, foreign-exchange gains and bank interest from accounts held for business purposes. Expenditure that is incurred in obtaining or retaining taxable income is generally deductible.

The law distinguishes between genuine income from independent contractors and disguised employment income. Taxpayers are not to be considered as genuinely carrying on an independent business where:

- Liability towards third parties for the outcome or performance of certain activities (excluding liability for unlawful acts) rests with the customer not the contractor
- The activities in question are performed under the supervision of, in the place and at the time determined by, the customer and
- The contractor does not bear any economic risk in connection with the activities

Business income may be taxed in one of four ways.

The default rule is that net taxable income from a business is taxed at the normal progressive rates of income tax (see below).

Individuals carrying on a small business, whose annual income in the previous tax year did not exceed the PLN equivalent of EUR 150 000 may opt for a simplified régime, under which they are taxed at one of six flat rates (2%, 3%, 5.5%, 8.5%, 17% or 20%) not on their net income but on gross revenue. The applicable percentage depends on the precise nature of the business.

Alternatively, an individual with a business of any size may opt to be taxed at a flat rate of 19% on net taxable income. Individuals opting for the flat rate forfeit the right to claim any personal allowances and tax credits, and may not file a joint return with their spouse.

The fourth method applies solely to professional income, which is income derived by a (freelance) professional from a contract for services of a scientific, cultural, artistic, journalistic or sporting nature. In the case of the liberal professions (medicine, dentistry, the law, engineering, architecture, accountancy and translation), the income derived is professional income if earned exclusively under a contract with a company, partnership or sole trader. If the liberal professional is carrying on a business in his or her own name, the income is business income.

Individuals deriving professional income may claim a lump-sum deduction of 20% of revenue, unless they can establish that their actual costs exceeded that amount.

Directors' remuneration is classed as professional income, but the deductions that may be claimed are those given for income from employment (see above), regardless of whether actual expenses exceed those lump-sum amounts.

Taxation of investment income

Dividends

Dividends from Polish companies are subject to a final withholding tax of 19% and thus not subject to progressive rates.

Dividends received from abroad must also be paid subject to deduction of a final 19% withholding tax by the bank or other Polish paying agent.

Interest

The same rules apply as for dividends.

Foreign tax credits

Credit for foreign tax is awarded on a per-country basis, and cannot exceed the Polish tax due on the particular income.

Capital gains

Capital gains are computed as the difference between the proceeds of alienation and the acquisition cost, including transaction costs on both sides.

Capital gains realised as part of a business are included in the taxable income of that business.

Capital gains from the alienation of private assets are generally subject to progressive rates of income tax, except that:

- Gains from the alienation of shares, securities and other financial instruments are taxed separately at a flat 19% rate
- Capital gains from the disposal of residential property are also taxed separately at 19% but are exempt if the proceeds are used to invest in other residential property for the taxpayer's own use, and, generally speaking, if the property has been held for over five years. Different rules may apply to properties acquired before 1 January 2007

*Allowances and deductions**Deductions*

A capped deduction for mortgage interest on loans taken out before 1 January 2007 may be available.

Pension contributions paid to individual pension accounts are deductible to the extent that they do not exceed PLN 4866 (2016).

Charitable donations to Polish or qualifying EU and EEA charities are deductible, up to a maximum of 6% of annual income.

Personal allowances

A personal allowance, by way of a tax-free amount of taxable income, is available to all taxpayers. In 2016, the amount of the allowance is PLN 3091. This allowance is also available to non-residents who derive income subject to progressive rates of income tax.

Tax credits

Tax credits are available for:

- Contributions to the mandatory health insurance system (these are not deductible in computing taxable income) and
- Dependent children

Health-insurance contributions are a component of mandatory social security contributions (for which see Chapter 9), payable by employees at 9% of gross employment income. The whole of this contribution is deductible from the taxpayer's liability to income tax, subject to a cap of 7.75% of taxable income.

Child tax credits are available in respect of minor children or children under 25 undergoing full-time education. The amount of the credit depends on the number of children, the taxpayer's marital status and net taxable income, as indicated in Table 3.

Table 3

Marital status	No of children	Net taxable income (PLN)	Tax credit (PLN) ¹
Married	1	No more than 112 000	1112.04
Married	2	No limit	1112.04
Married	3 or more	No limit	92.67/166.67/225 ²
Unmarried but cohabiting	1	No more than 56 000	1112.04
Single parent	1	No more than 112 000	1112.04

Notes

¹ Per year unless otherwise indicated

² Per month and per child; PLN 92.67 for the first two children, PLN 166.67 for the third child and PLN 225 for any further children

Tax rates

Taxable income subject to progressive rates is taxable as shown in Table 4.

Table 4

Taxable income (after deduction of the PA) (PLN)	Rate of tax
First 82 437	18%
Balance over 82 437	32%

PA = Personal allowance

Returns and payments

With certain exceptions, taxpayers have to file an annual income tax return with the tax authorities by 30 April of the following year. Separate returns have to be filed in respect of capital gains from securities and business income taxed at the flat 19% rate. Interest income subject to the flat 19% rate does not need to be included in the return.

Employees have tax deducted from their earnings.

Taxpayers deriving business income or rental income must make monthly advance payments, based on the current year's taxable income. The amount of the payment is the difference between tax due on the cumulative tax income to date less advance payments already made in the relevant year. Taxpayers with business income realising an annual turnover (including VAT) of no more than PLN 5.092 million (2016) may opt for quarterly advance payments.

Taxpayers subject to flat-rate taxation make monthly advance payments of 19% of monthly income.

Taxpayers may also choose to pay one-twelfth of their final liability to income tax in the pre-penultimate year (2013 in the case of 2015) per month.

Advance payments are generally due by the 20th day of the following month (the month following the end of the quarter in the case of quarterly payments).

Appeals

See Chapter 5.

Inheritance and gift tax

Taxable persons and scope

Poland has an inheritance and gift tax (*podatek od spadków i darowizn*) on the transfer of property by way of lifetime gift or on death. The tax falls on the transferee.

The property subject to tax is all movable and immovable property situated in Poland, unless neither the transferor nor the transferee is a Polish national or resident in Poland. Movable and immovable property with a foreign situs is also subject to Polish inheritance and gift tax where the transferee is a Polish national or resident in Poland.

Value and accumulation

Property is valued at its market value, after deduction of liabilities.

Property received from the same transferor over a five-year period is cumulated and treated as a single acquisition.

Exempt assets

Household chattels, works of art, antiques and heritage property are generally exempt, subject to certain conditions.

Exempt transfers

Transfers to the following close relatives are generally exempt:

- Spouses
- Direct descendants (children (including stepchildren and adopted children), grandchildren)
- Direct forebears (parents (including stepparents and adoptive parents, grandparents)
- Siblings

on the proviso that the transfer is reported to the tax authorities within six months. Cash donations should also be evidenced by confirmation of the transfer.

Lifetime transfers of a residential property received by Class 1 taxpayers or transfers on death of such property to Class 1 or 2 taxpayers are exempt up to the value attributable to 110 m² of the dwelling.

Other reliefs

The first PLN 9637 received in a lifetime gift by a transferee in Class 1 is exempt if applied to purchase a residence. Where more than one transferor is involved, the maximum exemption is PLN 19 274.

Transfers to Class 1 transferees are exempt if they do not exceed PLN 9637.

Transfers to Class 2 transferees are exempt if they do not exceed PLN 7276.

Transfers to Class 3 transferees are exempt if they do not exceed PLN 4902.

Rates

The rate of tax depends on the value transferred and the degree of consanguinity between the transferor and the transferee. For this purpose, transferees are divided into three classes:

Class 1

Spouses, children (including stepchildren and adopted children), grandchildren, direct forebears (parents (including stepparents and adoptive parents), grandparents, siblings, sons- and daughters-in-law, parents-in-law.

Class 2

Avuncular relations, siblings' spouses, brothers- and sisters-in-law, direct descendants' spouses.

Class 3

All other transferees.

Tables 5 to 7 show the rates of tax applicable to each class of transferee.

Table 5 Class 1 transfers

Value transferred	Rate of tax (%)
First 10 278	3
Next 10 278	5
Balance over 20 556	7

Table 6 Class 2 transfers

Value transferred	Rate of tax (%)
First 10 278	7
Next 10 278	9
Balance over 20 556	12

Table 7 Class 3 transfers

Value transferred	Rate of tax (%)
First 10 278	12
Next 10 278	16
Balance over 20 556	20

There is no unilateral double tax relief.

Wealth tax

There is no wealth tax.

8. Other taxes

Tax on civil-law transactions

This tax (*podatek od czynności cywilnoprawnych*, hereafter referred to as 'transaction tax') is levied on transfers of most types of property that require notarial registration. It is also charged on the creation or increase of share or partnership capital, acting in such a case as a capital duty.

Where a transaction would fall within the scope of VAT, it is not liable to transaction tax.

Creation and increase of share capital

Transaction tax is charged at 0.5% on the nominal value of the initial share capital or partnership capital of a company or partnership. In the case of a company, the tax applies where the company is incorporated or has its place of effective management in Poland. In the case of a partnership, tax is charged where the partnership has its registered office in Poland.

Subsequent increases in capital are also chargeable at 0.5%.

Transfer of immovable property

Transfers of Polish immovable property that are outside the scope of VAT or exempt from VAT are subject to transaction tax at 2% on the market value of the property. Transfers of immovable property situated outside Poland are also liable to transaction tax where the transaction is carried out in Poland and the transferee has a registered office (seat) or place of abode in Poland.

Transfer of securities

The transfer of securities is liable to transaction tax at the rate of 1% on the market value.

Local-property tax

Local authorities charge an annual tax on the owners of immovable property located within their administrative area. The rates are at the discretion of the authority but are subject to nationally imposed maxima, which vary according to the type of property concerned.

Excise duty

Poland charges excise duty on energy, alcohol and alcoholic beverages, tobacco and tobacco products and passenger cars.

Customs duty

As a member of the European Union, Poland charges customs duty on goods entering Polish territory from outside the European Union. Customs duty is an EU-wide tax regulated by the Community Customs Code (Council Regulation 2913/92/EEC) and its implementing regulations (Commission Regulation 2454/93/EEC).

From 1 May 2016, these Regulations will be replaced by the Union Customs Code (Council Regulation 952/2013/EU).

9. Social security contributions

Employee and employer contributions

Thresholds and rates

Social security contributions are made to seven different funds, to two of which only employers contribute and to two of which only employees contribute.

For the old-age and disability-insurance components, there is a ceiling for contributions liability, namely PLN 121 650 (2016) in annual terms. No further contributions are due on any excess of earnings above this ceiling. There is no ceiling for the sickness and maternity insurance component.

Whereas the old-age, disability-insurance and sickness and maternity components are deductible when computing an employee's taxable income, health-insurance contributions are not. However, relief for health-insurance contributions is obtained by means of a tax credit (see Chapter 7). Furthermore, health-insurance contributions are charged on earnings net of the other contribution components.

Contribution rates are as shown in Table 8.

Table 8

Type of contribution	Paid by employer (%)	Paid by employee (%)	Total (%)
Old-age pension insurance	9.76	9.76	19.52
Disability insurance	6.50	1.50	8.00
Accident insurance	0.67 – 3.33 ¹	-	0.67 – 3.33
Sickness and maternity insurance	-	2.45	2.45
Warranted employee claim fund	0.10	-	0.10
Labour fund	2.45	-	2.45
Sub-total	19.48 – 22.14	13.71	33.19 – 35.85
Health insurance	-	9.00 ²	9.00
Total	19.48 – 22.14	22.71	42.19 – 44.85

Note

¹ The exact rate depends on the employment sector

² On a reduced base (see above)

Self-employed contributions

The self-employed are generally required to pay both the employee and employer elements of the contributions shown in Table 9, but they are at liberty, within certain limits, to choose the amount of earnings on which the contributions are payable. The minimum earnings that may be declared for this purpose are PLN 2433 per month (equivalent to PLN 29 196 per year) in 2016.

As with employee contributions, there is an annual ceiling of PLN 121 650 in 2016 for old-age and disability-insurance contributions but no ceiling for the sickness and maternity insurance.

These contributions are deductible in computing taxable income.

Together with employees, the self-employed must also pay 9% health-insurance contributions. The minimum earnings for this purpose are PLN 3210.60 per month (PLN 38 527.20 per year) in 2016. Health-insurance contributions are not deductible for the purposes of income tax, but a 7.75% tax credit is available

Table 9

Type of contribution	Contribution rate (%)
Old-age pension insurance	19.52
Disability insurance	8.00
Sickness and maternity insurance	2.45
Accident insurance	0.67 – 3.33 ¹
Labour fund	2.45
Sub-total	33.09 – 35.75
Health insurance	9.00 ²
Total	42.09 – 44.75

Note

¹ The exact rate depends on the business sector

² On a reduced base (see above)

10. Moore Stephens in Poland

Moore Stephens has two member firms in Poland. Their activities are coordinated by:

Moore Stephens Polska Sp. z. o. o.

National Umbrella
ulica Sienna 82
00-815 WARSAW
Poland

The two member firms are as follows:

Moore Stephens Central Audit Sp. z. o. o.

ulica Sienna 82
00-815 WARSAW
T +48 (0)22 652 2183
F +48 (0)22 323 6550
E biuro@msca.pl
W www.msca.pl

International liaison and international tax liaison: Iga Kwaśny, i.kwasny@msca.pl

Moore Stephens Trzemżalski, Krynicki i Partnerzy Sp. z. o. o.

ulica Rogaczewskiego 9/19
80-804 Gdańsk
Poland
T +48 (0)58 300 9800
F +48 (0)58 300 9804
E sekretariat@moorestephens.gda.pl
W www.moorestephens.gda.pl

International liaison: Maciej Trzemżalski, m.trzemzalski@moorestephens.gda.pl

International tax liaison: Jakub Walczak, j.walczak@moorestephens.gda.pl

Appendix 1

Double tax treaties

Poland has double taxation treaties with the following jurisdictions:

Algeria	Indonesia	Portugal
Albania	Iran	Qatar
Armenia	Ireland	Romania
Australia	Israel	Russia
Austria	Italy	Saudi Arabia
Azerbaijan	Japan	Serbia ²
Bangladesh	Jersey ³	Singapore
Belarus	Jordan	Slovakia
Belgium	Kazakhstan	Slovenia
Bosnia Herzegovina ¹	Korea (South)	South Africa
Bulgaria	Kuwait	Spain
Canada	Kyrgyzstan	Sri Lanka
Chile	Latvia	Sweden
China	Lebanon	Switzerland
Croatia	Lithuania	Syria
Cyprus	Luxembourg	Tajikistan
Czech Republic	Macedonia	Thailand
Denmark	Malaysia	Tunisia
Egypt	Malta	Turkey
Estonia	Mexico	Ukraine
Finland	Moldova	United Arab Emirates
France	Mongolia	United Kingdom
Georgia	Montenegro ²	United States
Germany	Morocco	Uruguay
Greece	Netherlands	Uzbekistan
Guernsey ³	Nigeria	Vietnam
Hungary	New Zealand	Zimbabwe
Iceland	Norway	Zimbabwe
Isle of Man ³	Pakistan	
India	Philippines	

¹ Treaty with the former Socialist Federal Republic of Yugoslavia

² Treaty with the former Federal Republic of Yugoslavia (Serbia and Montenegro).

³ Treaty relates only to personal income tax.

A treaty has also been concluded with Ethiopia, but is not yet in force.

Treaties on sea and air transport

Poland has concluded the following limited tax treaties relating to sea and air transport:

Guernsey	Jersey
Isle of Man	

Older sea and air treaties preceding full tax treaties are also in existence with Cyprus, Finland, Greece, India, the Netherlands and Switzerland.

Estate tax treaties

Poland has double tax treaties for taxes on inheritances (but not lifetime gifts) with the following countries:

Austria	Hungary
Czech Republic ¹	Slovakia ¹

¹ Treaty with the former Czechoslovakia (1925)

Treaties on administrative assistance

Within the European Union, mutual administrative assistance is governed by the Directives on exchange of information (2011/16/EU), together with its implementing Regulation (Regulation (EU) No 1156/2012), and the recovery of claims (10/24/EC). As regards VAT, the same function is performed by Council Regulation (EU) No 904/2010. Outside the European Union, Poland has to date concluded the following agreements on exchange of information:

Andorra	Guernsey	Jersey
Bahamas	Isle of Man	San Marino

Social security agreements

The interaction of national social security systems within the European Economic Area is governed by EU Regulations 883/04/EC and 987/09/EC, which also extend, by agreement (and with some differences), to Switzerland. Poland has pre-existing bilateral agreements with some of these states. These have largely been superseded by the EU regulations, but may be applied where, occasionally, they give a more beneficial result. The following non-EEA countries have social security agreements with Poland, the terms of which differ from case to case.

Australia	Macedonia	Ukraine
Bosnia Herzegovina ¹	Moldova	United States
Canada	Montenegro ¹	
Korea (South)	Serbia ¹	

¹ Agreement concluded with the former Socialist Federal Republic of Yugoslavia

Appendix 2: Moore Stephens around the world

Moore Stephens member firms may be found in 106 countries and territories around the world, with correspondent firms in another ten.

Albania	Denmark	Latvia	Russia
Argentina	Dominican Republic	Lebanon	Saudi Arabia
Australia	Ecuador	Liechtenstein*	Senegal
Austria	Egypt	Lithuania	Serbia
Azerbaijan	El Salvador*	Luxembourg	Seychelles
Bahamas	Estonia*	Macedonia	Singapore
Bahrain	Finland	Malaysia	Slovakia
Bangladesh	France	Malta	South Africa
Belgium	Germany	Mauritius	South Korea
Belize	Gibraltar	Mexico	Spain
Bermuda	Greece	Monaco	Sri Lanka*
Bolivia	Guatemala	Mongolia*	Sweden
Botswana*	Guernsey	Morocco	Switzerland
Brazil	Honduras	Netherlands	Taiwan
British Virgin Islands	Hong Kong	New Zealand	Thailand
Bulgaria	Hungary	Nigeria*	Tunisia
Burundi	India	Norway	Turkey
Cambodia*	Indonesia	Oman	Ukraine
Canada	Iraq	Pakistan	United Arab Emirates
Cayman Islands	Ireland	Panama*	United Kingdom
Chile	Isle of Man	Papua New Guinea	United States
China	Israel	Paraguay	Uruguay
Colombia	Italy	Peru	Venezuela
DR Congo	Japan	Philippines	Vietnam
Costa Rica	Jersey	Poland	Yemen
Croatia	Jordan	Portugal	Zambia
Cyprus	Kazakhstan	Qatar	Zimbabwe*
Czech Republic	Kuwait	Romania	

*denotes a correspondent firm only

For more detail, see www.moorestephens.com under 'Locations'.

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