

Essential of Doing Business in Poland



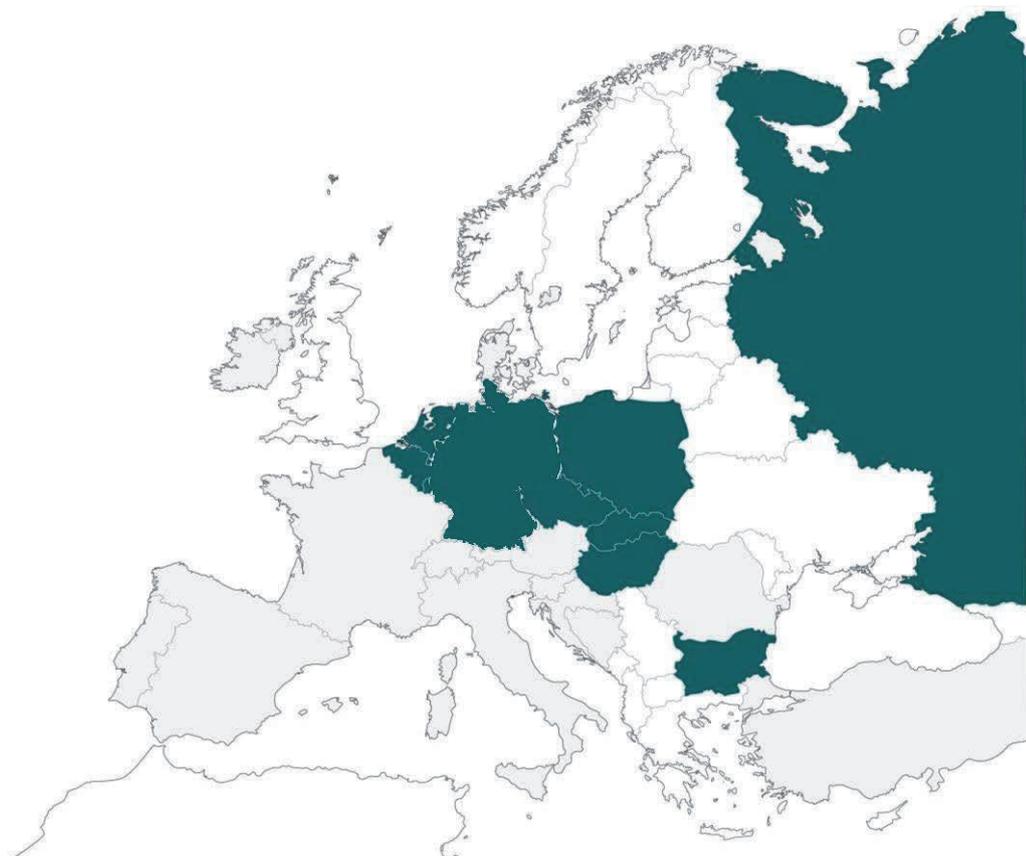
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Top quality services in Central Europe:



1. **GENERAL INFORMATION**

Poland is located in a Central Europe, bordered with Germany to the West; Czech Republic and Slovakia to the South; Ukraine and Belarus to the East; and the Baltic Sea, Lithuania and Kaliningrad Area, a Russian exclave, to the North.

With an area of 312.679 sq. km, Poland is the 9th largest country on the continent. The total length of the border is almost 3.600 km, of which 440 km on the Baltic Sea. The country's population is over 38,5 million people, concentrated mainly in large and medium cities.

Almost 98% of the population is of Polish origin. The vast majority (87%) of Poles are Roman Catholics.

The Capital is Warsaw, which population as of 2016 was estimated at 1.748.916, with a metropolitan area of approximately 3.000.000 people. The city area is 517,24 sq. kilometres making it the 15th biggest city in the EU.

The climate is oceanic in the North and West and becomes gradually more continental on the South and East. Summers are generally warm, with average temperature between 20 °C and 27 °C. Winters are cold, with average temperatures around 3 °C in the Northwest and -8 °C in the Northeast.

Since the collapse of the communism in 1989, Poland has dramatically transformed its economy and has enjoyed unsurpassed success in terms of economic growth, financial stability and investment attractiveness.

Poland joined the European Union on May 1st, 2004, that resulted in a further harmonisation of the Polish law with EU standards.

The currency is Polish złoty (PLN), divided in 100 groszy. On December 31st, 2016, the exchange rate of the EUR to PLN was 4,39.

Polish is the only official language.



2. THE ESTABLISHMENT OF A POLISH CORPORATE ENTITY

2.1 Types of Business Associations

The Polish law provides the following commercial forms of conducting economic activity:

- Limited liability company
- Joint-stock company
- Partnerships (4 types)
- Cooperative
- Sole trader ship
- Branch of a foreign entrepreneur
- Representative office of a foreign entrepreneur

All these forms are available for Polish and foreign investors based in the EU and EFTA member countries.

For foreign investors, the most common form of conducting activity is a limited liability company (spółka z ograniczoną odpowiedzialnością – Sp. z o. o.) followed by a joint-stock company (spółka akcyjna – S.A.)

Major differences between these two types are:

	Limited Liability Company	Joint-stock Company
Number of shareholders / founding members	One or more shareholders. Cannot be formed by another limited liability with one shareholder.	One or more founding members. Cannot be formed by a limited liability company with one shareholder.
Minimum Capital	5.000 PLN	100.000 PLN
Minimum Value of 1 share	50 PLN	0,01 PLN
Contributions	In cash or in kind. 100% of the share capital must be paid up before registration.	In cash or in kind - in cash: 25% to be paid up before registration - in kind: must be fully paid up not later than one year after registration - solely in kind or in cash and in kind: 25% of the nominal share capital should be paid up before registration
Valuation procedure of contributions in kind	No valuation report required.	The founders must prepare a valuation report, to be verified by auditors appointed by the registration court.

Additional payments	The articles of association may oblige shareholders to make additional payments up to a specified amount in proportion to their shares.	Shareholders may be obliged to make additional payments only in exchange for additional privileges granted to their shares.
Authorised capital	Not possible	The article of association may authorize the Management Board to increase the share capital for a period not longer than 3 years.
Supervision	Each shareholder has the right of inspection. A supervisory board or audit commission is optional, unless the company's share capital exceeds 500.000 PLN and there are more than 25 shareholders.	Shareholders have no right of inspection. The company must appoint a supervisory board.
Exclusion of a shareholder	The court may decide on the exclusion of an individual shareholder, on request of other shareholders holding shares representing more than 50% of the capital.	Not possible (except through a compulsory buy-out / squeeze out).
Responsibility	Management Board members are liable jointly and severally with all their assets for the company's liabilities towards its creditors and for the company's tax arrears if enforcement against the company proves ineffective, unless a member of the Board shows that bankruptcy was declared or arrangement proceedings were initiated in due time, or that the lack of such declaration or arrangement proceedings was not his fault, or if he indicates property on which the enforcement can be effected.	Management Board members are liable jointly and severally with all their assets for the company's tax arrears if enforcement against the company proves ineffective, unless a member of the Board shows that bankruptcy was declared or arrangement proceedings were initiated in due time, or that the lack of such declaration or arrangement proceedings was not his fault, or if he indicates property on which the enforcement can be effected.

2.2 Steps to register a limited liability company in a traditional way

- a) The Articles of Association or the Founding Deed (for a single-member company) must be executed in a notarized form before a notary in Poland.

The notary fee for a company with a capital of 5.000 PLN is approximately 500 PLN.

- The Articles of Association or the Founding Deed should stipulate,
- The business name and registered address of the company,
- The activities of the company, as specified in the Polish Classification of Activities (PKD),
- The duration of the company, if established for a definite period of time,
- The amount of the share capital,
- The capacity (or lack thereof) for a partner to hold more than one share,
- The number and nominal value of shares subscribed for by each individual partner.

The next step is to make the contributions to the company's share capital and to appoint the Management Board.

- b) Entry in the Court Register

(the registration fee amounts to 500PLN + additionally 100 PLN for publication)

The application for entry in the Court Register must be filled by the Management Board and signed by all of the board members.

The application should be filed jointly with:

- The Articles of Association,
- A representation of all members of the Management Board and of fully paid contributions of all partners to the share capital,
- If the notarial deed, which includes the Articles of Association, does not provide for the appointment of the members of the company's governing bodies, proof of their appointment with details of their membership must be provided,
- A list of all partners signed by all members of the Management Board, including the first name and the family name or the business names and the number and the nominal value of the shares of each partner, as well as sample signatures of members of the Management Board placed before the Court or certified by a public notary,

- A document confirming the possession of a title to the premises in which the company intends to operate (e.g. lease contract),
- Evidence of payment of the fees for court registration and publication in the Court and Business Gazette (Monitor Sądowy i Gospodarczy).

After the acceptance of the application, the limited liability company is entered into the Register of Entrepreneurs of the National Court Register (KRS).

It should be kept in mind that if the formation of the company is not reported to the Registry Court within six months of the date of execution of the Articles of Association, the Articles of Association will be deemed null and void.

c) Registration with the Statistical Office

Entrepreneurs are required to hold a REGON statistical number.

Registration form is submitted at the National Court Registration and later sent to the Statistic Office by the National Court Register.

The Statistical Office provides the registered entrepreneurs with certificates of the REGON statistical numbers. Certificates are issued free of charge on the spot.

d) Opening of a bank account

According to the Business Activity Law, entrepreneurs are required to carry out transactions in a non-cash form, must open a bank account.

The Law provides that the entrepreneur should:

- Make or accept payments via his or her bank account in each case where the other party to a transaction is another entrepreneur and the value of receivables or payables exceeds the PLN equivalent of 15.000 EUR, calculated at the exchange rate published by the National Bank of Poland on the last day of the month preceding the month in which the transactions are effected,
- Give notice of the fact of holding a bank account for business purposes to the applicable Tax Office. If the entrepreneur holds more than one bank account, he or she should choose one of them as the principal account. The name and address of the bank and the number of the bank account should be disclosed to the Tax Office.

In order to open a bank account, the entrepreneur must enter into an agreement with the bank. The bank usually requires the submission of originals and copies of all documents obtained in the course of the registration of the company.

The agreement should be read carefully. If it includes references to any other instruments, such as the regulations, general terms or resolutions of bank authorities, the entrepreneur should demand to see such documents and revise them carefully. Whether, the operator should ask a bank officer for additional explanations and where explanations provided are inadequate, consult a legal advisor.

The bank account agreement is accompanied by an annex containing sample signatures of persons authorised to use the account, as well as the company's official stamp. The authorised persons place their signatures in the presence of a bank officer.

The banks may charge fees for:

- Opening of an account,
- Issuance of a cheque-book,
- Keeping of an account,
- Transfers,
- Cash payments,
- Other services.

Money deposited on the company's account may accrue interest, although in some banks deposits are interest-free. The solvency of the bank should be taken into account when selecting a bank.

The holder of a bank account may obtain a credit or overdraft facilities under a separate agreement.

Nowadays people can use system S24 to register the company without leaving the house. This system gives the opportunity to sign the agreement and make all payments electronically and then send them to Registration Court.

e) Registration with the Revenue Office. Taxpayer's Identification Number (NIP)

Taxpaying entrepreneurs are required to register with tax authorities, where they can obtain a Taxpayer's Identification Number (NIP). A registration form should be submitted at the National Court Registration and later should be also sent to the Statistical Office by the National Court Register.

The application for registration should include the full and abbreviated business name, legal or organisational form, address of the registered office, list of bank accounts, the place of keeping accounting records, and the objects of business activities compliant with the classification standards.

The requirement to submit the bank account agreement may be met only after such agreement has been concluded with the bank. However, the bank requires the decision on granting a NIP number to be submitted prior to the conclusion of the agreement. As a result, the entrepreneurs wishing to comply with all formalities are faced with conflicting requirements. In practice, banks allow to deliver the NIP granting confirmation later on.

Taxpayers of goods and services tax (VAT) or excise duty are required to register prior to performing the first taxable operation.

f) Registration with the Social Security Office

Although the confirmation is not obligatory, it is better to have it because the company can be asked to present it. Apart from registering with the Revenue office, a taxpayer commencing business activity is required to register with the Social Security Office (see point 3.1).

The entry application must be submitted at the national Court Office together with applications for NIP and REGON.

2.3. Online registration of the company

System S24 allows to register a limited liability company, general partnership and limited partnership online within 24 hours. There is the opportunity to sign the agreement and make payments electronically and send to the registration court all necessary documents.

By creating an account in the system S24 the company has to indicate general information about the owner and address, and authenticate them by giving username and password. These data represent an electronic signature, which serves both to log into the system and sign documents.

The S24 can be used by Polish citizens as well as foreigners. In the case of non-Polish citizens, personal identification number PESEL is not required when registering account. Instead, the person has to present the personal identity document.

3. EMPLOYMENT IN POLAND

3.1 Registration

Once a company has started engaging employees, it has to:

- Register the Company and the employees in the social security office (ZUS).

A payer of social security contributions is required to register no later than in 7 days following:

- The company that has employed the first person or entered into legal relations whereby the other party has acquired the right to be covered by the retirement and pension schemes,
 - The obligation to pay contributions to the retirement and pension schemes arisen for the insured that are required to pay their own social security contributions or the social security contributions of their associates.
- Register with the Tax Office (Urząd Skarbowy). A yearly declaration (PIT-4R) that shows the monthly salaries paid to the employees during the current tax year, should be sent before 31st of January of the following year after the current tax year.

Also foreign companies, having no entity in Poland, can employ Polish citizens in Poland to perform limited activities such as promotional activities. In such case, there are two possibilities:

- The employee is appointed as paymaster for social charges.
- The employer is appointed as paymaster, for which the company needs to request for a NIP (tax identification) number in Poland.

The fastest way to start employment through a foreign entity is to appoint the employee(s) as paymaster. Such procedure takes only a couple of working days.

In case the several people are employed, it might be more profitable to appoint the foreign entity as paymaster, as the monthly social declaration can be grouped on employer base (and not separately per employee). The appointment of a foreign entity as paymaster can take approximately one month though. In practice, employees are sometimes appointed as paymaster for a transition period, awaiting the completion of the foreign entity's registration.

Please note that Polish Labor law requires from employees (at employers cost) before their first working day:

- A medical examination, certifying that the employee's health is sufficient to perform the job,
- A preliminary safety and security training (given by employer who was trained before and has qualifications to process it or a licensed training company).

3.2 Employment contracts

The following types of employment contract can be signed:

- For an indefinite term
- For a fixed term

To replace an employee – in the event of his or her justified absence from work; the employer can hire another worker under a fixed term employment contract for the period of absence.

Once a fourth fixed-term contract is signed, it is deemed that this contract have become an indefinite term contract. The employment on fixed-term contracts is limited up to 33 months.

An employment contract is concluded in writing and should be signed before an employee starts his work. In addition, an employee should be familiarized with the company's work regulations.

An employment contract must specify its parties, type, date of its execution and the condition of the work and remuneration, in particular:

- The type of work, the place of its execution and the date of its commencement;
- The remuneration corresponding to the type of work with an indication of its components;
- Work schedule.

Any changes in employment contract conditions should also be made in the written form.

All of the contract types mentioned above can be preceded by a (separate) employment contract for a trial period of no longer than three months.

Apart from the contract, written information about the basic conditions of employment must be given to the employee during the first seven days of work.

3.3 Working term notes

A normal working week in Poland consists of 40 hours or a 5 working days of 8 hours per day.

The national minimum wage for 2017 is 2 000,00 PLN per month. This minimum is usually yearly adapted by the government. Salaries for a particular month have to be paid at the latest by the 10th of the subsequent month (cash or bank transfer).

All employees are entitled to an annual unbroken (2 weeks) vacation. An employee, who is employed for the first time in his life, gains the right to his first leave after one month of service in the amount of 1/12th of his yearly vacation leave entitlement. Employees who have had some working experience gain the right to their yearly vacation on the first day of employment.

This yearly vacation entitlement is as follows:

- 20 days – if the employee has been working for less than 10 years
- 26 days – if the employee has been working for at least 10 years.

The working period on which vacation entitlement depends on, includes time spent on education, depending on the type of finished school, e.g.:

- Basic vocational school – length of course but not more than three years,
- Secondary vocational school – length of course but not more than five years,
- Secondary school of general education – four years,
- Vocational college – six years,
- Higher education institution – eight years.

The above periods cannot be added together.

Public holidays:

New Year's Day	1 January
The Epiphany	6 January
Easter Sunday	movable
Easter Monday	movable
Labour Day	1 May
Constitution Day	3 May
Whitsunday	movable
Corpus Christi	movable
Assumption	15 August
All Saint's Day	1 November
Independence Day	11 November
Christmas Day	25 December
Boxing Day	26 December

3.4 Termination of an employment contract

In general, an employment contract can be terminated:

- By mutual agreement,
- Upon declaration by one of the parties (with or without termination notice; the second one is used for disciplinary dismissal),
- Upon expiration of the period for which the contract was concluded.

In case the contract is terminated by one of the parties, a termination notice applies (except in some cases), in particular:

employment contract for a trial period:

- Three working days, if the contract is concluded for no more than two weeks,
- One week, if the contract is concluded for more than two weeks but less than three months,
- Two weeks, if the trial period is three months.

employment contract for a definite / indefinite term and replacement contracts:

- Two weeks, if the employee has worked for the employer for no more than six months,
- One month, if the employee has worked for the employer for at least six months but less than three years,
- Three months, if the employee has worked for the employer for at least three years.

If Employer employs more than 20 employees, then severance has to be paid in the case of termination of the contract by Employer for reasons unrelated to the employee (liquidation of the position):

- monthly salary, if the employee has been employed with the employer for less than 2 years,
- 2-month salary if the employee has been employed with the employer from 2 to 8 years
- 3-month salary if the employee has been employed with the employer for over 8 years.

3.5 Social security contributions

An employer is obliged to pay contributions to Social Insurance Office (ZUS), both on behalf of employee and the employer, amounting to:

Type of Insurance	Total	By employee	By employer
Retirement*	19,52%	9,76%	9,76%
Disability*	8,00%	1,50%	4,50%
Sickness	2,45%	2,45%	-
Accident**	From 0,67 to 3,33%	-	From 0,67 to 3,33%
Labor Fund	2,45%	-	2,45%
Fund of Guaranteed Labor Benefits	0,10%	-	0,10%
Total	From 33,19% to 36,85%	13,71%	From 17,48 to 20,14%

*Cap on gross salary subject to contribution (127.890 PLN in 2017)

**Depending on the company profile (1,80% if the company has maximum nine employees, from 0,67% to 3,33% of remuneration depending on occupation risk in a given industry if employer employs 10 or more employees).

Apart from the contributions listed in the table above, employers who hire employees in special conditions are required to pay contributions to the Bridging Pension Fund (FEP).

A contribution to the FEP employer pays for employee who meets the following conditions:

- 1) Was born after 31 December 1948
- 2) Performs work in special conditions.

The rate of contribution to the FEP is 1,5% of the base. The base of the contribution is the same as for contributions for the pension and retirement.

Employers having over 25 employees are also obliged to pay a premium to the Stat Fund for Disabled (PFRON). The duty to pay the premium to the Fund and the amount of premium depends on the number of people employed, average remuneration in Polish economy and the total number of disabled employees.

The health insurance contribution of 9,00% to be paid by the employee, is up to 7,75% deductible from his personal income tax liability.

Social security has to be paid by the 15th day of the subsequent month at the latest.

3.6 Contracts of mandate

Apart from contracts of employment based on labour law, companies may hire people on the basis of civil law. One of the most popular civil contracts is contract of mandate. It is usually signed for definite period of time in order to perform a certain activity. What is important it that the activity is carefully performed and not the specific result of this performance.

Characteristics of the contract of mandate:

- relative independence and freedom of action
- hours of activity performance is not restricted by the company
- no apparent supervision of the company.

Law does not specify elements of the contract; it is advisable to determine:

- parties of the contract
- date of beginning and end of the contract
- scope of the contract
- remuneration
- signatures.

Major differences between employment contract and contract of mandate:

Feature	Employment contract	Contract of mandate
Form	written	no requirements
Remuneration	defined in the contract	compensated or free of charge
Subordination	execution of employer's orders	no strict subordination
Place of work	defined in the contract	no requirements
Time of work	defined in the contract	no requirements
Personal performance	only personal	third party may perform the activity, but such a provision should be included in the contract
Purpose	certain, recurrent	specific (usually a service)
Termination	dependent on type of contract and period of employment	any time, unless stated differently in the contract

When the mandatory has no other title to social security insurance and the value of the contract is up to the minimum remuneration, such contracts of mandate are subject to ZUS (pension and disability insurance; sickness insurance is facultative). If the mandatory has any other title to insurance and his/her base of social security insurance is higher than the minimum remuneration, such contracts are not subject to ZUS, however, the mandatory may at his/her request be covered by the pension and disability insurance (the mandatory cannot be covered by sickness insurance).

Contracts of mandate are always subject to health insurance (the only exception is when the contract is concluded with an up to 26 years old student; in such a case there are no contributions to ZUS from such a contract).

Income on contract of mandate is taxed. If the amount arising from the contract is lower than 200 PLN, a lump sum of tax in the amount of 18%. Social security contributions are not deducted from the taxable income.

From 01 January 2017 there is a minimal hour rate on contract of mandate, which amounts to 13 PLN. To ensure mandatories receive this minimum rate, it is necessary to keep monthly timesheets. If the paymaster does not apply to the regulations the National Labour Inspectorate (PIP – Państwowa Inspekcja Pracy) may impose a fine (from 1 000 PLN up to 30 000 PLN)

4. ACCOUNTING PRACTISES AND AUDIT REQUIREMENTS

4.1 Form and content of accounts

All businesses operating in Poland must adhere to Polish accounting standards. The required accounting procedures are based on a double-entry system. Each company must establish its book of accounts. Except for state organisations no uniform book of accounts is imposed. Nevertheless a book of accounts must still meet certain requirements, such as the ability to show the company's assets, the cost of production and the profitability of the company. The accounting records, the annual balance sheet and the profit and loss account must be maintained in Polish currency and prepared in the Polish language.

Accounting records have to be maintained in the registered office. If they are kept by a third person, the tax office should be informed within 15 days.

The requirements regarding correctness and clarity of the accounting records and vouchers do not differ from those normally applied in western countries. Accounting records, documentation, reports, etc. have to be kept for 5 years.

Companies are required to produce a balance sheet and a profit and loss account. In addition to the financial statements, a company has to produce a written report including additional information.

4.2 Valuation of assets

Fixed assets have to be booked at acquisition or production cost and depreciated over their useful life or written down for impairment. Once in every four years, companies should verify the inventory of their fixed assets by a stock take.

Intangible assets are recorded initially at their purchase price and then are amortised over their useful lives or written down for impairment. The amortisation period for goodwill and development costs qualifying for capitalisation should not exceed five years. If justified, however, the amortisation period for goodwill may be extended up to 20 years

Fixed assets under construction are recorded at the actual cost incurred for the construction. Cost includes all expenditures incurred for construction projects, capitalized borrowing costs incurred on a specific borrowing for the construction of fixed assets incurred before it has reached the working condition for its intended use, and other related expenses. A fixed asset under construction is transferred to fixed assets when it has reached the working condition for its intended use.

Investment property is valued at a purchase price decreased by depreciation and write-offs due to impairment or at their fair value – the policy to be selected. If the fair value model is selected, the changes are recognised in other operating costs or other operating income. Investment property includes properties which the Company does not use for its own purposes but which are held for the purpose of generating profits in the form of increasing value or revenues from rental.

Borrowing costs which relate to the construction, adaption, assembly or improvement of a fixed asset or intangible asset are capitalised as part of the cost of the asset.

Inventories may be valued either at average cost or First In First Out or Last In First Out.

Receivables and loans are valued at the amount due, with the prudence principle.

Receivables and loans classified as financial assets may be valued at adjusted purchase price, and if the company intends to sell them for up to three months, according to market value or otherwise determined fair value.

Liabilities are measured at the amount payable.

Financial liabilities can be measured at adjusted purchase price, and if the company intends to sell them for up to three months, according to market value or otherwise determined fair value.

A lease is classified as a finance lease if at least one of the following seven conditions is met.

Own shares (stocks) are valued at purchase cost.

Equity (funds), with the exception of shares (stocks), and other assets and liabilities are valued at nominal value.

Provisions have to be made for doubtful receivables and obsolete inventories.

Deferred tax liabilities as well as deferred tax assets (under some conditions) are recognized.

4.3 The Financial statements

The financial statements have to be prepared in Polish language and expressed in Polish currency. They consist of:

- The balance sheet,
- The income statement,
- Notes to the balance sheet and the income statement (introduction and additional notes),
- Cash flow statement (only for audited entities),
- Statement of change in equity (only for audited entities).

The format of the balance sheet, income statement, cash flow statement and statement of change in equity are fixed.

Listed entities and entities that are part of a group where the parent company prepares consolidated financial statements in accordance with IFRS, are permitted to apply IFRS on their standalone financial statements.

The standalone and consolidated financial statement should be approved within 6 months after the balance sheet date.

The financial statements have to be filed with the registration court together with the auditor's opinion (if applicable), the shareholders resolution on the approval of the financial statements, and the report of the Management Board. Such filing should be performed within fifteen days of approval by the shareholders.

4.4 Consolidated accounts

A company that controls (cfr. the regulations of the EU-Directives) another company must prepare consolidated statements if two of following thresholds are met in the financial year and the preceding financial year:

- The average number of employees exceeds 250
- Balance sheet assets exceeds 7,5 million EUR
- Net sales exceeds 15 million EUR

Group entities can be included using the full consolidation method: the proportional consolidation method and the equity accounting method, depending on the relation between the entity and the consolidating holding.

Listed companies and banks are obliged to draw up consolidated financial statements in accordance to IFRS.

4.5 Audit requirements

Banks, insurance companies, investment and pension funds, joint stock companies and listed companies, cooperative savings and credit unions are required to have an annual audit.

Other companies must be audited if two of the following three conditions are met in the preceding year:

- a) Average annual full-time employment attained or exceeded the level of 50 persons,
- b) Total balance sheet assets at the end of the financial year attained or exceeded a Polish currency equivalent of 2.500.000 EUR,
- c) Net revenue from the sales of products and goods, as well as financial transactions for the financial year attained or exceeded a Polish currency equivalent of 5.000.000 EUR.

Additionally, entities after a merger are required to be audited after year of merging.

4.6 Uniform control file

On 1 July 2016, the new regulations governing the use of uniform control file (UCF) enter into force. As a result of the amendment, the business owners who keep online accounting ledgers by means of computer software will be bound to allow full or partial access for tax authorities to the ledgers and accounting documents which will be available to them in uniform electronic format in compliance with the new regulations.

UCF pertains to accounting ledgers, bank statements, storage data, VAT register of purchases and sales, VAT invoices, revenue and expense ledger and revenue record.

Such file will be provided only at the request of tax authorities (e.g. in the course of tax-related proceedings or tax inspection) by means of electronic data transmission or data carriers.

As of 1 July 2016, the obligation to allow access to the uniform control file at the request of tax authorities will apply to big businesses (with at least 250 employees and annual net turnover from the sale of products, goods and services and financial transactions of more than EUR 50 mio or the total sum of assets in the balance sheet of more than EUR 43 mio).

Small and medium businesses within the meaning of the Act on freedom of economic activity will be bound to provide information in the UCF format at the request of tax authorities as of 1 January 2017 and from 2018 this will affect microbusinesses as well.

However, an act on the amendment of the Tax Ordinance Act and some other acts obligated business owners to automatically send to tax authorities the information in the UCF format contained in the VAT register from January 2017. Such information covering periods of one month should be submitted by the 25th day of the following month (it also applies to taxpayers who pay their taxes on a quarterly basis).



4.7 Transfer pricing

Starting from January 1, 2017 new regulations regarding subject, entity-based scope of transfer pricing documentation, thresholds and types of documentation, come into force. Taxpayers are obliged to present the complete transfer pricing documentation within 7 days of the request from the tax authorities. These have to be documented:

- related parties where capital share, direct or indirect, is at least 25%
- transactions with associated enterprises
- other transactions which have a significant impact on taxpayer's business activity
- these transactions include transactions of one type exceeding more than EUR 50 mio in a tax year

Exemption from the documentation requirement for entities with revenues or costs less than EUR 2 mio in the previous year. Taxpayers with more than EUR 10 mio in revenues or costs have to prepare a local file only. Taxpayers with revenues or costs exceeding EUR 20 mio have to prepare additionally a master file. Taxpayers who earn consolidated revenues of more than EUR 750 mio have to prepare, in addition to a local file and master file, a Country-by-Country report.

Taxpayers with more than EUR 10 mio in revenues or costs, have to prepare also benchmarking study and file a summary report on transactions with associated enterprises along with a tax return.

5. CORPORATE INCOME TAX

5.1 Taxable entities

A company is regarded as a Polish resident when it is either incorporated in Poland or managed and controlled in Poland.

Resident entities are subject to taxation with respect to their global irrespective of where it was generated (unlimited tax liability).

Entities which do not have their seat or management in Poland are subject to taxation in Poland only with regard to the income sourced in Poland (limited tax liability). The same rule applies to branches. This rule may be modified by a double tax treaty.

5.2 Tax year and tax payments

The tax year consists of 12 consecutive months and usually corresponds to a calendar year. If the company was established during the second half of a calendar year, the first tax year may be extended from the day of start up by the end of the calendar year following the year of starting up.

A company is free to change its tax year to another 12 months period. However, the first tax year resulting from this change cannot be shorter than 12 months or longer than 23 months.

Monthly advances of corporate income tax have to be made. A final settlement of tax should be made on the day of the annual tax declarations will be submitted, so no later than the end of the third month of the following year (usually March 31st).

5.3 Tax base

5.3.1 Taxable profit

The taxable income is calculated by adjusting accounting profits for tax purposes. Taxpayers are obliged to keep accounting books in a manner that allows determination of the taxable base and the amount of tax due. Otherwise, income will be assessed by the tax authorities.

Generally, taxable revenues are recognised on an accrual basis. However, for certain revenues (i.e. interests) apply a cash basis.

Generally, costs incurred for the purposes of earning revenue are tax deductible at the time when the revenue is earned. Certain costs are not tax deductible, such as:

- Most penalties and fines,
- Costs incurred in excess of the statutory limits (e.g. depreciation charges and insurance of passenger cars over 20.000 EUR, representation, ...),
- Certain accruals and provisions (even if mandatory from an accounting point of view).

5.3.2 „Thin Capitalisation”

Interest exceeding the debt-to-net equity ratio of 1:1 is non-deductible (the previous allowable ratio was three times share capital).

The list of qualified lenders includes indirect shareholders with at least 25% of the borrower’s shares (previously only direct shareholders and sister companies were treated as qualified lenders).

Taxpayers are able to choose an alternative method that would limit interest deductibility to 50% of operational income and certain benchmark rates.

Grandfathering rules apply to loans granted and cash physically transferred before 2015.

Applicability of the grandfathering rules to loans with capitalised interest remains unclear.

5.3.3 Depreciation

Assets which have a useful life of more than one year are subject to depreciation. Nevertheless, assets costing less than 3.500 PLN may be fully expensed in the year of acquisition.

Both straight line and reducing balance methods are allowed (the latter applies only to machinery and equipment, except for passenger cars).

Typical examples of depreciation rates are:

Asset	Rate (%)
Buildings	1,5 to 2,5
Office equipment	14
Office furniture	20
Computers	30
Motor vehicles	20
Plant and machinery	7 to 25

Land is not a subject to depreciation.

Intangible assets are typically written off over five years.

5.3.4 Dividends and withholding tax

Dividends paid by a Polish company are subject to a withholding tax of 19% (both, payment to residents and non-residents). Since the implementation of the Parent-Subsidiary Directive, dividends paid out by Polish companies are exempt from withholding tax if the shareholder holds 10% of the shares in the Polish company during a period of two years. This two years requirement does not have to be met on the payment date. In particular, it is possible to declare the intention of holding the shares for the period required for exemption.

Interest and royalties payments are the subject of a withholding tax of 19% (payments to residents) or 20% (payments to non-residents).

In case of non-residents payments, a tax treaty may provide differently. In such case, a tax residence certificate of the receiving entity is required.

Poland has approximately 80 tax treaties with foreign countries, amongst others:

	Dividends %	Interest %	Royalties %
Belgium	5/15	0/5	5
Luxembourg	5/15	0/5	5
Netherlands	5/15	0/5	5
Germany	5/15	0/5	5
Hungary	10	0/10	10
Slovak Republic	5/10	0/10	5
United States	5/15	0	10
UK	0/10	5	5
France	5/15	0	0/10
Czech Republic	5/10	0/5	10

The low rates apply if specific conditions are met. Please consult VGD for a detailed analysis.

5.3.5 Capital gains and losses

Capital gains are taxed as normal income.

Capital losses are deducted from normal business income.

5.3.6 Tax losses

Tax losses incurred in the previous tax years can be deducted from income earned in future years. However, the losses can be carried forward for a maximum of 5 years. Additionally, the deducted amount in one year is limited to 50% of the total tax losses carried forward.

5.4 Tax rate

The standard corporate income tax rate is 19%.

6. PERSONAL INCOME TAX

6.1 Residency

Residents for income tax purposes are generally:

- Persons having a permanent residence in Poland,
- Persons spending at least 183 days a year in Poland
- Persons having a center of personal or economic interests in Poland

Broadly speaking, Polish residents for income tax purposes are taxed on their worldwide income, whereas non-residents are taxed on their Polish source of income only and this is a subject of the provisions of double tax treaties.

6.1.1 Tax non-residents

Non-residents are individuals who reside in Poland for less than 183 days in the relevant calendar year, and who are liable to Polish income tax only on Polish source income. Polish source income is regarded as income that arises from one of the following areas:

- Work carried out on the territory of Poland,
- Activities carried through permanent establishment located in Poland,
- Business, technical and other consultation services and similar activities provided on the territory of Poland,
- Rental income from real estates in Poland and others.

Most double taxation treaties exempt employment income in Poland for less than 183 days from Polish income taxes, unless this work is performed for a Permanent Establishment.

6.2 Tax base

The tax base for a Resident is his gross income from both: domestic and foreign sources.

The income of individuals in Poland is split up into different groups of income. The taxation of each group is usually a bit different, the profits and losses of each group cannot always be compensated. If the total income of the year consists of more than one kind of income we advise to use specialists.

The different groups of income are:

- Service relationship and employment relationship,
- Activity carried on personally,
- Non-agricultural business activity,
- Special branches of agricultural production,
- Lease, sublease, tenancy, sub tenancy and other contracts of similar character,
- Money capitals and property rights,
- Activities carried out by a controlled foreign company,
- Repayable transfer of:
 - immovable property, parts thereof and shares in immovable property,
 - co-operative right of living or business quarters and right to have the detached house in co-operative,
 - perpetual usufruct of lands,
 - other items.
- Other sources.

6.2.1 Deductions and exemptions

A deduction between 111,25 PLN and 139,06 PLN per month is available in respect of expenses associated with earning employment income. Those with more than one employment are entitled to an increased deduction up to 1,5 times this maximum. An annual tax credit of 556,02 PLN is available to all individuals.

Individuals engaged under Polish Civil Code contracts may deduct 20% of their income as costs of earnings, irrespective of whether these expenses are actually incurred.

6.2.2 Capital gains

Capital gains are subject to tax of 19%. However, there are some exceptions and exemptions, including tangible assets held for longer than six months and real estate held for more than five years.

6.3 Tax rates

In Poland there is a progressive tax scale with two income thresholds:

Gross income p.a. (PLN)	Tax liability
Less than 85.528	18% less an allowance of 556,02 PLN
Over 85.528	14.839,02 PLN + 32% over 85.528 PLN

For some individuals, e.g. the self-employed, a flat tax rate of 19% is applicable if certain conditions are met.

6.4 Tax returns and tax payments

6.4.1 Tax returns

All individuals are required to file a tax return in the prescribed format. Married couples may under some conditions filed joint returns. Then their tax liability is calculated on half of the total income and multiplied by two.

This tax return must be filled annually, by April 30 following the end of the calendar year. This date is also the due date for tax payments.

6.4.2 Tax payments

Income tax from employment income must be withheld by the employer on a monthly basis.

This rule applies to all employees of a Polish company, as well as to all employees working for a Polish branch of a foreign company, including expatriates.

The employer will withhold income tax on the gross income. It is up to employee to provide proof to his employer that certain deductions can be made.

7. OTHER TAXES

7.1 VAT

There are four rates if VAT applies: a standard rate of 23%, and reduced rates of 8%, 5% and 0%.

The standard rate applies to all supplies of goods or services, unless a specific provision allows to a reduced rate or exemption. For example, the 8% rate applies to health care related goods and hotel services.

0% supplies include export of goods outside the European Union and intra-community supplies of goods. In addition, a super-reduced VAT rate of 5% may be applied to foodstuff, books and special magazines.

As a rule, VAT declarations are filed on a monthly basis. The declaration has to be filled within 25 days after the end of the taxable period, to which also the payment (if applicable) is due to.

Excess of input VAT may be carried forward against future VAT liabilities or refunded. Refunds are generally made within 180 days.

7.2 Tax on civil law transactions

The tax on civil law transactions is charged on legal procedures, contracts of sale or exchange, loan agreements, company statutes and a number of other contractual agreements.

Examples of such charges are as follows:

- Company statutes: 0,5% of the capital,
- Sales contract:
 - movable goods, real estate and certain rights: 2%,
 - other property rights: 1%,
- Loans: 2%.

The tax does not apply if the transaction is subject of VAT or is treated as a VAT-exempt supply by one of the parties.

7.3 Custom duties

As a member of WTO, Poland applies import duties according to the valid and internationally recognised customs tariff, with a range of relieves and waivers available.

7.4 Excise duties (Consumption tax)

Excise duties are payable on the import or production of certain consumption goods: hydrocarbon fuels and lubricants, spirits and distilled liquors, beer, wine, and tobacco products.

Excise duties are levied as a fixed amount per unit of measure of each product.

Excise duties are administered by customs for imported goods, and by the local tax authorities for local production.

7.5 Local taxes

Among the different taxes imposed by local authorities, the most important are those levied on real estate and transportation equipment. The tax law only provides the maximum amounts of the taxes/charges. The local authorities decide about the actual rates.



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