2017 TAX GUIDELINE

Poland
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Location: The Republic of Poland is located in Central Europe and borders Germany, Czech Republic, Slovakia, Ukraine, Belarus and Russia

Capital: Warsaw

Area: 312,679 sqkm

Population: 38.5 million

Official language: Polish

Official currency: zloty (PLN)

The head of state: President

GDP growth: 2.5% in 2016 (www.cnb.cz, preliminary data)

Membership:

- EU Schengen Agreement (2007)
- OECD (1996)
- UNO (1948)
- NATO (1999) and some other international organisations.
LEGAL FORMS OF BUSINESS

General rules on purchasing real estate by foreigners

The real estate investor can acquire Polish real estate by way of an asset deal (e.g. direct acquisition of real estate) or a share deal (e.g. acquisition of a corporation owning real estate) only after obtaining a permit from Ministry of Internal Affairs. Both legal and natural persons from European Economic Area and Switzerland are exempt from obtaining such permit (generally).

Asset deal

EEA/Swiss foreign persons (natural or legal) may directly acquire real estate in Poland, except:

- areas close to state borders,
- farmland with the area exceeding 0.3 ha.

Asset deal is subject either to Transaction Tax or VAT (depending on the status of supplier).

Share deal

Foreign investor that acquired a Polish corporation that owns any real estate require a permit. The permit is not required for investors from EEA/ Switzerland.

Share deal is subject to Transaction Tax.

Limitation in acquiring farmlands

On May 1<sup>st</sup> 2016 entered into force the Act on Shaping Agricultural System, which substantially restricts the purchase of farmlands. For example, in case farmland is being sold the following subjects...
will have the preemptive right to buy it: the tenant of the sold property, its neighbour and the State Farmland Agency.

Legal forms of business

<table>
<thead>
<tr>
<th>The form of business</th>
<th>The minimum capital</th>
<th>Tax treatment</th>
<th>Tax rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>English</td>
<td>Polish</td>
<td></td>
<td></td>
</tr>
<tr>
<td>General partnership</td>
<td>spółka jawna (sp.j.)</td>
<td>N/A</td>
<td>Income tax base is calculated at the level of partners; tax is levied at the level of the partners.</td>
</tr>
<tr>
<td>Professional partnership</td>
<td>spółka partnerska (sp.p)</td>
<td>N/A</td>
<td>Income tax base is calculated at the level of partners; tax is levied at the level of the partners.</td>
</tr>
<tr>
<td>Limited partnership</td>
<td>spółka komandytowa (sp. k.)</td>
<td>N/A</td>
<td>Income tax base is calculated at the level of partners; tax is levied at the level of the partners.</td>
</tr>
<tr>
<td>Joint-stock partnership</td>
<td>spółka komandytowo-akcyjna (s.k.a.)</td>
<td>PLN 50,000</td>
<td>Non-transparent, dividends subject to tax.</td>
</tr>
<tr>
<td>Limited liability Company</td>
<td>spółka z ograniczoną odpowiedzialnością (sp. z o.o.)</td>
<td>PLN 5,000</td>
<td>Non-transparent, dividends subject to tax.</td>
</tr>
<tr>
<td>Joint stock company</td>
<td>spółka akcyjna (s.a.)</td>
<td>PLN 100,000</td>
<td>Non-transparent, dividends subject to tax.</td>
</tr>
<tr>
<td>Sole entrepreneur</td>
<td>Działalność gospodarcza</td>
<td>N/A</td>
<td>Tax liability of sole entrepreneur.</td>
</tr>
<tr>
<td>Contribution for</td>
<td>Employee</td>
<td>Employer</td>
<td></td>
</tr>
<tr>
<td>----------------------------------------</td>
<td>----------</td>
<td>----------</td>
<td></td>
</tr>
<tr>
<td>Retirement pension contribution</td>
<td>9,76 %</td>
<td>9,76 %</td>
<td></td>
</tr>
<tr>
<td>Pension contribution</td>
<td>1,5 %</td>
<td>6,5 %</td>
<td></td>
</tr>
<tr>
<td>Sickness contribution</td>
<td>2,45 %</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Disability pension</td>
<td>N/A</td>
<td>from 0,4 % to 3,6 %</td>
<td></td>
</tr>
<tr>
<td>Health insurance</td>
<td>9 %</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Employment Fund</td>
<td>N/A</td>
<td>2,45 %</td>
<td></td>
</tr>
<tr>
<td>Fund of Guaranteed Employment Benefits</td>
<td>N/A</td>
<td>0,1 %</td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td>22,71 %</td>
<td>19,21 % – 22,41 %</td>
<td></td>
</tr>
</tbody>
</table>
**Income and capital gains**

*Corporate income tax is levied at a rate of 19% (standard rate) or 15% (reduced rate for small taxpayers and new companies in the first year of business activity).*

**Withholding tax on domestic payments**

*Withholding tax of 19% is levied on income from participation certificates, certain debentures, vouchers and investment coupons; and interest from bank deposits and current accounts in general.*

**Corporate income tax – general information**

**Residence** - A company is treated as resident if it has its legal seat or place of effective management in Poland.

**Taxable income** - Resident companies are taxable on their worldwide income, including capital gains. The taxable income is computed on the basis of the accounting profits and is adjusted for several items as described in the tax law.

**Tax period** – Calendar year or the financial year chosen by the taxpayer.

**Tax returns and assessment** - The taxpayer has to calculate the tax due in the corporate income tax return (self-assessment). The deadline for filing the return is by the end of the third month following the end of the tax year. The filing deadline cannot be extended.
Tax advancement – Monthly. Quarterly in the first year, or if gross sales did not exceed EUR 1,200,000 in the previous year. A new business entity established during the tax year is required to make advance tax payments.

Deductions - As a general rule, expenses incurred in connection to obtaining, ensuring and maintaining taxable income are fully deductible, unless they are listed as non-deductible items. Some items are deductible only up to a limit set by the law.

Carry forward of losses - Tax losses may be carried forward up to 5 tax years. During each year the company cannot utilize more than 50% of the loss.

Intercompany dividends - Dividends paid out of profits are taxed at 19% rate. However exemptions from the EU Parent-Subsidiary Directive apply.

Incentives

Revenues derived from activity in Special Economic Zones (SSE) are exempt up to certain level (depending on amount invested and workplaces created).

A company can deduct expenses on Research and Development (R & D), including development of prototypes and pilot projects, demonstration, testing and validation of new or improved products, processes or services whose main purpose is to improve the technical Encoding Products. In 2017 the R&D relief is from 30% up to 50% of qualified expenses.

International aspects

Resident companies

Foreign income and capital gains - Resident companies are subject to tax on their worldwide income and capital gains. Taxable amount is generally calculated in the same way as in the case of domestic income.

Foreign losses - Losses of foreign permanent establishment (calculated based on Polish tax rules) may be offset against domestic profits unless, on the basis of an applicable double tax treaty, the exemption method applies for double tax relief.

Dividend income paid by non-resident company - Dividends paid out of profits are taxed at tax rate of 19% unless rule implementing EU Parent-Subsidiary Directive applies.

Double taxation relief - No unilateral double taxation relief is provided. Double taxation is relieved only on the basis of tax treaties.

Non-resident companies
**Taxable income** - Non-resident companies are taxed only on income derived from Polish sources. They are generally taxed according to the rules applicable to residents. Income attributable to a Polish permanent establishment is generally taxed at 19% rate through a tax return (self-assessment).

**Withholding tax** - Generally, 19% withholding tax or tax security is levied (unless limited under a tax treaty). For interest and royalty payments EU Interest and Royalties Directive was implemented.

**Dividend paid by resident companies to non-resident** - Dividends paid out of profits are (unless rules implementing EU Parent-Subsidiary Directive apply) subject to a 19% final withholding tax, unless a reduced rate applies under a tax treaty.

**Anti-avoidance rules**

**Thin capitalization**

Applicable on interest expenses arising in the tax period starting from January 1st 2015. All resident legal entities and non-resident legal entities having a permanent establishment in Poland are covered. For previous periods different regulations apply.

The deduction of interest expenses (including of other related expenses) on loans from related parties exceeding paid equity (1:1 debt to equity ratio).

**Controlled foreign company**

Companies having seat in tax heaven, or in a country with no exchange of information, are treated as controlled foreign company.

The regulation refers also to companies established abroad deriving at least 50% of revenues of dividends, interests, copyrights, etc.

Part of CFC income attributable to Polish parent is taxable in Poland. Under certain conditions foreign company is excluded from CFC rules.

**Tax avoidance clause**

From 2016 every artificial action consisting in the performance of an act primarily in order to achieve a tax advantage is defined as tax avoidance.

New regulations assume that in case of tax avoidance, tax consequences shall be determined based on such state of affairs that could have occurred had a relevant act been performed.

**Transfer pricing**

With effect from January 1st 2015, the transfer pricing rules apply also to partnerships and consortiums between related parties.
From 2017 the capital threshold to qualify as a related party will increase from 5% to 25%. Thus, transactions between entities holding less than 25% shares (directly or indirectly) will not be covered by documentation obligation.

Transfer pricing documentation requirements generally follow the recommendations contained in the OECD Guidelines on Transfer Pricing and the EU Code of Conduct on Transfer Pricing Documentation. In certain cases country-by-country reporting applies.

It is expected to prepare the transfer pricing documentation not later than on the date of submission of the tax return for given tax year.
Personal income tax – rates

The tax rates applicable for income derived in 2015 are:

- annual taxable income up to PLN 85,528 is taxed at 18%
- annual taxable income above PLN 85,528 is taxed at 32%

Certain types of income are not aggregated, but are subject to a flat rate tax of 19%.

Personal income tax – general information

Residence - Individuals who have their permanent residence or habitual abode in Poland are treated as residents. An individual has his habitual abode in Poland if he/she is present in Poland for at least 183 days (in aggregation) in a calendar year (except individuals who stay there for the purposes of studying, receiving medical treatment, or who cross the borders of Poland on a daily basis or in the agreed upon intervals exclusively for the purposes of performance of his/her dependent activity, the source of which is located in the territory of Poland).

All other individuals are treated as non-residents.

Taxable income - Individuals who are residents for tax purposes in Poland are taxable on their worldwide income.

Taxable income of an individual is usually calculated by aggregating the separate net results of the following income categories:

- employment income;
- business activity;
- independent professional activities and income from the use of work and art performance;
- rental income;
- sale of real property;
- income from capital;
- other income (e.g. income from occasional activities).

Specific exemptions and deductions apply for the purposes of determining the net result of each income category.

**Tax period** - Calendar year.

**Tax assessment** - Taxpayers deriving income that is included in the aggregate income have to file an income tax return by April 30th in the year following the tax year (self-assessment).

**Losses** - Tax losses generated from business activities and other independent professional activities may only be set off against income derived from those types of activity. Losses that could not have been set off may be carried forward for the maximum period of 5 years. Up 50% of loss may be utilized in a given year.

**PIT advance payments** - Individuals who conduct business have to make tax advance payments till the 20th day of the following month.

In the case of employment income, the employer is obliged to remit the tax to the tax authorities not later than on the 20th day of the month following the month the wages were paid out.

**Allowances**

**Personal allowances**
Starting from 2017 individuals with yearly net earnings under PLN 6,600 will be liable to pay personal income tax. In case of earnings higher than PLN 6,600 the allowance will be decreasing depending on the income. Where yearly earnings exceed PLN 127,000 the personal allowance will not apply at all.

**Credits**
Resident taxpayers are entitled to a tax credit for each child living in the same household with him if his employment or business income does not exceed PLN 112,000 (joint income with spouse when married) or PLN 56,000 (when single) for 2017. The credit can be claimed in the amount of PLN 92.67 per child per month.

**International aspects**

**Resident individuals**

**Foreign source income** - Resident individuals are subject to tax on their worldwide income. Taxable amount is generally calculated in the same way as in the case of domestic income.
**Dividend income** - Dividends paid out of profits are subject to a 19% withholding tax, unless a reduced rate applies under a tax treaty.

**Double taxation relief** - Income earned from employment performed abroad is subject in Poland to tax credit (if DTT does not state differently). If DTT envisages exemption in Poland, taxpayer calculates tax only on the part of income derived in Poland. However, the tax is calculated using rate as if an entire income was taxable.

**Non-resident individuals**

**Taxable income** - Non-resident individuals are taxed only on their income derived from Polish sources. Employment income derived by non-residents from employment performed in Poland for a period not exceeding 183 days in 12 consecutive months is exempt. The exemption does not apply to activities performed by artistes or sportsmen, or through a permanent establishment. The income of non-residents is generally taxed according to the rules applicable to residents, unless a law or a tax treaty provides otherwise.

**Personal allowances** - Non-residents are entitled to personal allowance (see above). If certain conditions are met non-residents are entitled to the dependant-spouse allowance.

**Withholding tax** - Generally, 19% withholding tax or tax security is levied (unless limited under a tax treaty).

**Dividend income** - Dividends paid out of profits are subject to a 19% withholding tax, unless a reduced rate applies under a tax treaty.
VALUE ADDED TAX

VAT – rates

Standard rate: 23%, reduced rates: 8% and 5%.

Export of goods and services is zero rated.

Intra-Community supplies of goods are zero rated under certain conditions.

VAT – general information


Taxable person - Legal entities and individuals that carry on an economic activity.

Taxable event

- supply of goods and services for consideration within the territory of Poland by taxable persons acting as such;
- intra-Community acquisition of goods for consideration within the territory of Poland from another EU Member State; and
- import of goods to Poland.

Taxable amount - Total consideration charged for the supply, excluding VAT but including any excise duties or other taxes and fees.

Tax period - Month or quarter (small taxpayers only).

Tax assessment - Periodical VAT returns (monthly or quarterly, by the 25\textsuperscript{th} day of the following month/quarter).
The amount of VAT liability consists of the VAT due on supply of goods and services carried out by the entrepreneur less input VAT of the same period. In addition, taxable person carrying out intra-Community supplies or supplying services according to the basic rule for B2B services has to file an EC Sales List (that shows the VAT identification numbers of his business partners and the total value of all the supplies of goods and services performed by the entrepreneur) on a monthly basis depending.

**VAT registration**

The threshold for mandatory VAT registration for taxable person with registered office, place of business or fixed establishment in Poland is sales turnover of PLN 200,000 attained in the period of 12 previous consecutive months. Voluntary VAT registration is possible. In case of intra-community acquisition of goods from another EU-Member state, the taxable person not registered for VAT has to register for VAT before the first transaction. A taxable person (not registered as a VAT payer) has to register and pay output VAT or to report the supply of service in EC Sales List if the place of delivery for that service is:

- following the Article 44 of the Directive 2006/112/EC,
- located in another EU-Member state as is the EU-Member state of supplier of that service.

VAT registration is mandatory for foreign taxable persons without registered office or fixed establishment in Poland before it carries out activity which is subject to VAT in Poland and where the reverse-charge mechanism does not apply.

A foreign taxable person that makes distance-sales (mail order business) in Poland to any person that is not registered for VAT in Poland has to register for VAT in Poland before the net value of the goods reaches PLN 160,000 in a calendar year.

**VAT group registration** – Not available in Poland.
Taxes on capital

Transaction Tax (PCC)

Certain civil law transactions are subject to this tax, among others:
- Sale of things or rights,
- Exchange of things or rights,
- Loan,
- Mortgage,
- An Articles of Association.

The tax refers to non-professional transactions, when a transaction falls under VAT the tax does not apply.

Typically the tax is levied as percentage of the value of transaction, e.g. sale of real property or loan are taxed at 2%.

Real estate tax

This tax consists of land tax, building tax and apartment tax. The general rate of the land tax is PLN 0.89 per m². In building the rate of the business space is PLN 22.66 per m². Apartment space is taxed at PLN 0.75 per m². The municipalities may decrease these rates in accordance with local conditions.
Other business related taxes

Motor vehicle tax
Levied on motor vehicles and trailers in categories L, M, N, and O if registered in Poland and used for business purposes.

Excise duties
Excise duties are levied on mineral oil, beer, wine, spirits, electricity, coal, natural gas and tobacco products.

Customs duties
Goods imported from non-EU countries are subject to import customs clearance.

Disclaimer
Please note that our materials have been prepared for general guidance on the matter and it does not represent a customized professional advice. Furthermore, because the legislation is changing continuously, some of the information may have been modified after the material has been released and Accace does not take any responsibility and is not liable for any potential risks or damages caused by taking actions based on the information provided herein.
ABOUT ACCACE

With more than 330 professionals and branches in 7 countries, Accace counts as one of the leading outsourcing and advisory services providers in Central and Eastern Europe. During the past years, while having more than 1,400 international companies as customers, Accace set in motion its strategic expansion outside CEE to become a provider with truly global reach.

Accace offices are located in Czech Republic, Hungary, Romania, Slovakia, Poland, Ukraine and Germany. Locations in other European countries and globally are covered via Accace’s trusted network of partners.

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