



TAX SERVICES



EN



Invest in Poland 2014

Societies and taxes

(with amendments from 01 January, 03 March and 01 April, 2014)



A world-wide network of independent accounting firms and business advisers.



■ Directory:

First-class performance	
For full service finance & accounting solutions	1

FOREIGNERS' BUSINESS START-UP

Foreigners' starting up a business in Poland	2
Branch of a foreign company	3
Representative office	3
Forming of companies in Poland	4
Investment basics	6
Tax system in Poland consist of 16 types of tax	6
Administration & compliance	6
Business regulation	7

LEASING

Leasing	11
---------	----

TAXES

Corporate Income Tax (CIT)	13
Other tax on corporates	20
Anti-avoidance rules	20
Private Income Tax (PIT)	21
Value Added Tax (VAT)	26
Taxes on contracts according to Stamp Duty (PCC)	36
Tax audit and legal recourse in Poland	36
General Tax Code	36
Interest	37
Double Taxation Agreement (DTA)	38

SOCIAL SECURITY

Social security contributions	41
-------------------------------	----

RECENT TAX / LAW CHANGES

Changes valid from 01 January, 2014	50
Changes valid from 03 March, 2014	56
Changes valid from 01 April, 2014	58
getsix® Partners	60

■ Publisher:

getsix® Group
ul. Szwedzka 5

Bielany Wrocławskie
55-040 Kobierzyce

Tel.: +48 (71) 388 13 00

Fax: +48 (71) 388 13 10

E-mail: wroclaw@getsix.eu

■ Editorial office:

TaxaGroup:

Sabina Moczko-Wdowczyk

Tax Adviser,

Licence number : 09738

getsix® Group:

Claus Frank

Monika Martynkiewicz-Frank

Anthony Kerr

Marlena Stilger

■ Design:

getsix® Group:

Marta Bazan-Baranowicz

© Copyright getsix® Group

Poland, 2014

All rights reserved

Item Code: E0006 (Jun. 14)



FIRST-CLASS PERFORMANCE FOR FULL SERVICE FINANCE & ACCOUNTING SOLUTIONS

Many companies are confronted with the need to reduce accounting costs and to comply with the required financial reporting standards. Compounding this problem is the requirement that they must address these requirements, with resource constraints on their capital budget and staffing. These compliance standards have also added complexities to many of the financial processes.

getsix® has set itself the aim to support companies and entrepreneurs in Poland in addressing these challenges. getsix® in Poland offers a variety of outstanding professional and complementary services in the following areas:

- Business Services & Consulting
- Accounting & Payroll
- IT Sales & Services
- Tax & Legal

The customer base of getsix® includes Polish clients, but also a variety of international companies with Polish subsidiaries and/or branches, especially from German speaking areas. In order to facilitate our mutual co-operation with our clients, we operate at their disposal a getsix® English Desk with a fluent English

speaking team of dedicated specialists. As well as offering our services in the English language, we also offer in German and Polish.

With over 65 dedicated staff members who have many years of experience in their different areas of expertise, will gladly assist you with your business activities in Poland. The range of services we offer can be individually tailored and structured in line with the needs of your company.

A dedicated staff member will always take responsibility for their clients service, as a permanent contact person for advice and support.

If you have any questions or queries, or just have a question to ask - please do not hesitate to contact us.

getsix® Group is at your service.

FOREIGNERS' STARTING UP A BUSINESS IN POLAND

Legal basis

The main law governing the business activity of foreigners in Poland is the Economic Activity Freedom Act of 02 July, 2004. In accordance with the Economic Activity Freedom Act a foreigner is: (1) a natural person holding no Polish citizenship, (2) a legal person with the seat abroad and (3) an organisational entity which has no legal personality and is furnished with legal capacity, possessing its seat abroad.

A. Foreigners from:

- member states of the European Union,
- member states of the European Free Trade Agreement (EFTA) - parties to the agreement on the European Economic Area,
- states that are not parties to the agreement on the European Economic Area and that enjoy freedom of established under agreements concluded by those states with the European Community and its member states - may establish and conduct economic activity based on the same terms as the Polish citizens.

B. The above rule also applies to foreigners who are not citizens of the states indicated in point A and who:

- have received a permit to settle in Poland;
- have received a permit to stay in Poland under the status of a long-term resident of the European Community;
- have received a residence permit in Poland for a specified period of time due to circumstances referred to the Foreigners Act of 13 June, 2003;
- have a refugee status in Poland or enjoy supplementary protection;
- have received a permit for tolerated residence;
- have received a residence permit in Poland for a specified period of time and have been married to a Polish citizen residing in Poland;
- enjoy temporary protection in Poland;
- have a valid Pole's Card;
- are family members of citizens of states indicated in point a above and join or stay with them in Poland.

C. Business activity forms:

Unless international agreement state otherwise. Foreigners other than those indicated above in points A and B have the right to establish and conduct business activity (including joining below-mentioned partnerships/companies and acquiring their shares) only in the form of:

- a limited partnership,
- a limited joint-stock partnership,
- a limited liability company and,
- a joint-stock company.

Moreover, foreign entrepreneurs, i.e. a foreign person conducting economic activity abroad and a Polish citizen conducting economic activity abroad, may conduct business activity in the form of a branch office or they may establish a representative office in Poland.

BRANCH OF A FOREIGN COMPANY

Basis

According to the Polish law, foreign entrepreneurs may set up branch offices to carry out business activity in the Polish territory. An entrepreneur from a foreign country is allowed to establish a branch on condition that a Polish entrepreneur enjoys equivalent rights in the country of origin of the foreign entrepreneur (reciprocity rule), unless the international agreements ratified by Poland state otherwise. The above does not concern entrepreneurs from EU and EEA countries as well as from countries that are parties to association agreements with the EU in the area of the freedom of establishment. Such entrepreneur's may freely set up branch offices in the Polish territory. a branch does not possess legal personality, it constitutes an integral part of the foreign enterprise and cannot acquire rights or incur obligations in its own name, cannot sue or be sued. However, branches have significant independence with respect to employment matters. The scope of business activity of the branch may not go beyond the foreign entrepreneur's scope of activity. Some special regulations (both in Poland and European Union) regarding opening a branch may be applicable to specific industries, e.g. when opening a branch of a foreign bank, insurance company or investment company. In such cases, the opening of a branch should be seen in light of those specific regulations (which may differ from the general rules).

REPRESENTATIVE OFFICE

Basis

Foreign entrepreneurs may set up their representative offices in Poland. The representative office does not constitute a separate legal entity and is treated as part of a foreign enterprise's organisational and functional structure.

It cannot acquire rights or incur obligations, sue or be sued. The representative office may be established by the foreign entrepreneur only to advertise and promote the business of the entrepreneur in Poland.

FORMING OF COMPANIES IN POLAND

	POLISH TERM	ENTRY INTO COMPANY REGISTRY / LEGAL PERSONALITY	MINIMUM CAPITAL	SINGLE-MEMBER COMPANY
LIMITED LIABILITY COMPANY (LTD.)	Spółka z ograniczoną odpowiedzialnością	Yes / Yes	5,000.00 PLN Minimum face value 50.00 PLN	Yes
Incorporated Company	Spółka Akcyjna	Yes / Yes	100,000.00 PLN Minimum face value 0.01 PLN	Yes
Co-operative (Co-op.)	Spółdzielnia	Yes / Yes	No	No at least 10 members (5 in anagricultural co-operative). Does not apply if at least 3 members are legal persons.
General Partnership	Spółka jawna	Yes / No	No	No at least 10 members (5 in anagricultural co-operative). Does not apply if at least 3 members are legal persons.
Limited Partnership	Spółka komandytowa	Yes / No	No	No
Limited joint- stockpartnership	Spółka komandytowo- -akcyjna	Yes / No	50,000.00 PLN	No
Partnership under the Civil Code	Spółka cywilna	No / No	No	No
Branch	Oddział	Yes / No	No	
Permanent tax establishment	Zakład	No / No	No	

	START-UP DUTY	WRITING / NOTARIAL	TRANSPARENCY	REGISTRATION WITH THE TAX AUTHORITIES	STATUTORY AUDIT: TURNOVER ≥ 5,000,000.00 EUR; BALANCE SHEET TOTAL ≥ 2,500,000.00 EUR; EMPLOYEES ≥50
LIMITED LIABILITY COMPANY (LTD.)	0.5% tax on the articles of association / Entry in the Commercial Register	Yes / Yes	No	Yes	Provided that at least two of those requirements are met
Incorporated Company	0.5% tax on the articles of association / Entry in the Commercial Register	Yes / Yes	No	Yes	Compulsory
Co-operative (Co-op.)	No / Entry in the Commercial Register	Yes / No	No	Yes	Mandatory
General Partnership	0.5% tax on the articles of association / Entry in the Commercial Register	Yes / No	Yes	Yes	Provided that at least two of those requirements are met
Limited Partnership	0.5% tax on the articles of association (Yes for the Limited Partnership having a Limited Liability Company as general partner) / Entry in the Commercial Register	Yes / No	Yes	Yes	Provided that at least two of those requirements are met
Limited joint- stockpartnership	0.5% tax on the articles of association / Entry in the Commercial Register	Yes / Yes	Yes	Yes	Provided that at least two of those requirements are met
Partnership under the Civil Code	0.5% tax on the articles of association / Entry into the CEIDG free of charge	Yes / No	Yes	Yes	Provided that at least two of those requirements are met
Branch	As a rule no; Entry in the Commercial Register	—	—	Yes	In the context of any audit of the parent company
Permanent tax establishment	—	—	—	Yes	In the context of any audit of the parent company

INVESTMENT BASICS

Currency - Polish Złoty (PLN)

Accounting principles/financial statements - Polish GAAP or, in some cases, IFRS. Financial statements must be prepared annually. Special rules apply to stock listed companies.

Foreign exchange control - None (generally) for transactions with EU, EEA, OECD and certain other countries. Permission may be required for certain transactions with other jurisdictions and to conduct certain transactions in a foreign currency.

Principal business entities - These are the limited company (Sp. z o.o.), joint stock company (SA), limited joint-stock partnership, limited partnership, sole proprietorship and branch of a foreign corporation.

TAX SYSTEM IN POLAND CONSIST OF 16 TYPES OF TAX

Direct taxes:

- Corporate income tax (CIT)
- Personal income tax (PIT)
- Social security
- Inheritance and Gift tax
- Civil law transactions tax
- Stamp duty (PCC)
- Market fees
- Visitor's tax
- Capital gains tax
- Transfer tax

Indirect taxes:

- Value Added Tax (VAT) & Excise duty
- Lottery tax

Local taxes:

- Real property tax
- Transport vehicle tax
- Agricultural & Forest tax
- Dog ownership tax

ADMINISTRATION & COMPLIANCE

Tax year:

Calendar year: alternatively financial year can be applied for, in which the Revenue & Tax office must be informed in writing.

Filing requirements:

Taxpayers must self-assess and pay advance income tax during the year and may use a simplified method based on previous years' results. The final calculation and reconciliation of the tax due should be made within three months of the end of the tax year.

Penalties:

Persons responsible for the tax reconciliation, as well as members of the management board in certain cases, are subject to penalties for non-compliance. In certain cases, corporate entities may be subject to penalties.

Taxation procedure:

Contrary to other European countries applying for general tax assessments performed by revenue authorities, Poland applies the principle of the self-assessment by the tax subjects.

The taxpayer must calculate the tax themselves to issue a tax return and to pay the amount due on time.

Limitation period:

In principle tax debts become time-barred after 5 years.

Once the limitation period expires, the tax liability along with accrued default interest ceases to exist default interests

BUSINESS REGULATION

Registration and licensing	<p>Polish law protects intellectual property, and the licensing of foreign brand names and products is accepted practice. Licensing is prevalent in high-tech industries, pharmaceuticals and retail franchises. Licensed products produced in Poland may be exempt from import tariffs and excise duty and may also benefit from being classified as a Polish product.</p> <p>The granting of licences is not subject to official restrictions or approval. A licensor may not sublicense.</p>
Accounting standards	<p>Under the IASCF Constitution the objectives of the International Accounting Standards Board are:</p> <ul style="list-style-type: none"> • To develop, in the public interest, a single set of high-quality, understandable and enforceable global accounting standards that require high-quality, transparent and comparable information in financial statements and other financial reporting to help participants in the world's capital markets and other users make economic decisions; • To promote the use and rigorous application of those standards; and • To bring about convergence of national accounting standards and International Accounting Standards to high-quality solutions.
Principal forms of doing business	<p>Companies can take a variety of forms, including joint-stock company (S.A. - Spółka Akcyjna) and limited-liability company (Sp. z o.o. - Spółka z ograniczoną odpowiedzialnością).</p>
Requirements of an S.A. and Sp. z o.o.	<p>Capital</p> <p>Sp. z o.o.: The minimum capital required to establish a limited-liability company is 5,000.00 PLN. A limited-liability company may have a single shareholder. S.A.: The minimum start-up capital for a joint-stock company is 100,000.00 PLN of which 25% must be paid up before registration. A joint-stock company can be established by one or more founding members, who must sign an articles of association agreement.</p> <p>Taxation of capital companies (CIT)</p> <p>Capital companies are separate taxpayers to CIT. In principal, the companies are subject to taxation on their global income. With regards a management board, taxation on their global income only if they have a Polish certificate of residence. Taxable income consists of all revenues earned in a tax year (financial and operational), net of deductible costs. This income is subject to CIT at the rate of 19%. Capital companies are payers of VAT and other taxes in an ordinary fashion</p> <p>Reserve</p> <p>Sp. z o.o.: None. S.A.: 8% of annual net profits, until reserve reaches one-third of share capital.</p>

BUSINESS REGULATIONS *CONTINUATION*

Requirements of an S.A. and Sp. z o.o.

Founders, shareholders

Sp. z o.o.: There are no restrictions on number, nationality or residence of shareholders. **S.A.:** The company must be founded by at least one natural or legal person. Once the company has been established, one shareholder may buy out others. There are no residence or nationality requirements

Supervisory board

Sp. z o.o.: If share capital exceeds 500,000.00 PLN and there are more than 25 shareholders, the company must have a supervisory board with at least three persons. **S.A.:** a supervisory board with at least three members, each appointed for a term of up to 5 years, is required. **Both:** No residence or nationality requirements, but the chairman of the board for banks registered in Poland must have a working knowledge of Polish.

Management

There are no residency requirements. Management need not be shareholders for either joint-stock or limited-liability companies. **Sp. z o.o.:** The term of office is not defined. **S.A.:** The management board may be appointed for an initial term of up to 2 years, with subsequent terms of up to 3 years each.

Labour

Employees have no influence over the management of private-sector firms unless they are shareholders. Employees appoint one-third of the supervisory board of firms undergoing privatisation, but this right expires once 51% of shares are sold. Employees are entitled to form trade unions.

Disclosure

Both are obliged to prepare annual balance sheets and profit-and-loss statements for filing with a local tax office.

Sole proprietorship (general overview)

A sole proprietor is an individual who conducts business activity in his/her own name and on his/her own behalf. There is no legal requirements regarding the amount of the initial capital to undertake business activity as a sole proprietor in Poland.

Also, no new legal entity is established as a result of such undertaking.

The business of the sole proprietor may be transformed into a capital company, i.e. a limited-liability company or a joint-stock company

Civil law partnership

(general overview)

Two or more sole proprietors as well as other legal entities, i.e. partnerships and capital companies, may decide to establish a civil law partnership. A civil law partnership is not a separate legal entity and does not possess legal personality.

It also cannot acquire rights or incur obligations in its own name and on its own behalf, it can not sue or be sued. Contributions and possessions generated during the business operations of the civil law partnership are owned by partners as joint co-ownership.

Civil law partnerships may be transformed into registered partnerships based on a unanimous decision of the partners.

Professional partnership

(general overview)

Professional partnerships may be established by specific professionals as defined and listed in the Polish Commercial Companies' Code (lawyers, architects, tax advisers, accountants, doctors, dentists, and others). The professional partnership may be formed for the purpose of pursuing more than one profession, unless the law prohibits this specifically. As in the case of registered partnerships, professional partnerships do not have legal personality, but have legal capacity and capacity to perform legal actions (they may acquire rights, including ownership of a real estate, and incur obligations in their own name, as well as sue and be sued).

Limited partnership

(general overview)

A limited partnership is usually preferred when investors seek a way to differentiate their involvement in the partnership entity and consequently their liability for the transactions performed by partnership. The distinctive feature of this partnership is that the legal positions of partners are not equal - general partner(s) and limited partner(s) - which results in significantly different levels of rights and liabilities.

Limited joint-stock partnership

(general overview)

A limited joint-stock partnership is the most complex type of partnership, as its structure combines the elements of both the registered partnership and the joint-stock company. Like other partnerships, the limited joint-stock partnership has no legal personality, but it has legal capacity, which means that it may acquire rights, and incur obligations in its own name. The limited joint-stock partnership may also sue and be sued. Limited joint-stock partnerships are established by at least one general partner and one shareholder. Participation of shareholders is a consequence of a capital-focused character of the limited joint-stock company.

BUSINESS REGULATIONS *CONTINUATION*

Limited liability (general overview)

A limited liability company is the most popular and flexible form of conducting business activity in Poland. It is Polish equivalent of the private limited liability company in the UK, a société à responsabilité limitée (sarl in France, or a Gesellschaft mit beschränkter Haftung (GmbH) in Germany. Limited liability companies may be established for any purpose allowed by law. They are often used as special purpose vehicles, holding companies and as national companies controlled by international corporations. The personal structure of the limited liability company may be, in general, changed without affecting the legal structure of the limited liability company, which is normally not the case with a partnership. A limited liability company may also be run by a single founder/shareholder. However, a single-shareholder limited liability company cannot incorporate another single-shareholder limited liability company. Although a limited liability company is a capital company, it still preserves some personal elements, such as the possibility to limit the disposal of the company's shares or establish the shareholder's right of individual control of the limited liability company. The shares of a limited liability company do not take the form of a document and cannot be listed on the stock exchange.

Joint-stock company (general overview)

A joint-stock company is the Polish equivalent of the public liability company in the UK, société anonyme (SA) in France and the German Aktiengesellschaft (AG). Joint-stock companies are rather expensive to run and are primarily used for large-scale business activities, in particular, if public is to be considered as a way of obtaining capital.

Formally it is more structured than the limited liability company.

The shares of joint-stock companies may be publicly traded (listed on the Stock Exchange). The Polish law provides stricter and more complex rules with respect to public joint-stock companies regarding their capitalisation, composition of the governing bodies, compliance and reporting duties.

LEASING

Leasing types

In their everyday work entrepreneurs deal with two kinds of leasing: operational and financial. These two definitions also result from the tax regulations. Choosing the form exclusively depends on the taxpayer using the lease contract which can be subject to the needs of settling the tax costs and the term of predicted usage of the subject of the leasing.

The Operational Leasing

With this form of the contract the subject of the leasing is recognised as assets of the leasing party (for instance, a leasing company). Thus, it is the leasing party who is obliged to make the depreciation and amortisation expenses. However, the leasing instalments constitute the tax deductible expenses of the party using the subject of the contract; VAT and an initial charge are added to these instalments. The sum of the instalments set in the contract reduced by the due VAT has to correspond to at least the initial value of the tangible fixed assets. Shall the term of the contract expire the leaseholder is entitled to redeem the used subject.

The Financial Leasing

Choosing this kind of the lease contract the taxpayer has to know that the subject of the contract is to be recognised as the asset of the Leaseholder; thus, unlike the operational leasing, it is the leaseholder who is obliged to make the depreciation and amortisation expenses. Additionally, the user may only recognise the interest part of the leasing instalment as the tax deductible expenses. VAT shall be paid in full in advance together with the first instalment, immediately after collecting the subject of the contract. It is worth mentioning, that the customer becomes the owner of the subject of leasing automatically after the last instalment is paid.

LEASING *CONTINUATION*

Key Differences:

	The Operational Leasing	The Financial Leasing
Depreciation and amortisation	Duty of the leasing party	Duty of the leaseholder
Term	Longer than 40% of the depreciation and amortisation time of the subject (real property - at least 10 years)	Over 12 months
Tax deductible expenses	The user recognises the net instalments and the initial charge as the expenses	The user recognises the interest part of the leasing instalments and the depreciation and amortisation as the expenses
VAT	Added to the leasing instalments	Paid in advance together with the first instalment
Redeeming	Depending on the depreciation and amortisation rate and the redemption term	After paying the last instalment the subject becomes the possession of the user

The key factor when choosing the form of leasing are definitely the initial costs which are significantly lower in case of the operational leasing due to the lower involvement of equity. The majority of contracts concluded on the Polish market are the operational lease contracts; one of the reasons of such situation may be the fact that in case of the financial leasing VAT has to be paid in full in advance.

Choosing the operational leasing is also recommended in case the planned term of using the subject is relatively short. For this reason it is possible to increase the current operational costs which means reducing the tax base.

CORPORATE INCOME TAX (CIT)

Legal basis	<i>Act of 15 February, 1992 on corporation tax</i>
Basis	Residents are taxed on worldwide income; non-residents are taxed on Polish-source income only. Foreign-source income derived by residents is generally subject to corporation tax in the same way as Polish-source income, usually with a foreign tax credit available, unless a tax treaty provides otherwise. Branches are generally taxed the same as subsidiaries.
Tax rate (CIT)	19% Corporate income tax rate for unlimited and limited taxable corporations, however, no minimum corporate income tax
Payment method	Monthly advance payments, amounting to the difference between the tax due at the beginning of the year and the total sum of already made advance payments, where applicable settlement of the advance payments in simplified form possible
Tax liability	<ul style="list-style-type: none"> unlimited: corporations with their executive board or headquarters in Poland limited: corporations having no executive board or headquarters in Poland – tax liability on the revenue generated in Poland
Financial year	Calendar year: alternative financial year can be applied, in which the Revenue & Tax Office must be informed in writing
Accounting	generally double-entry accounting according to the Accounting Law dated 29.09.1994
Loss Compensation / Loss carried forward	Possible; limits of losses brought forward and their settlement: possible for a period of 5 years, annually usually not exceeding 50%, the balance in subsequent years; no loss carryback
Affiliated companies	<p>According to the OECD – Model Tax Convention (OECD-MA) if:</p> <ul style="list-style-type: none"> Company is involved directly or indirectly in the management, control or capital of the other company (subsidiary), or The same persons participate directly or indirectly in the management, control or capital of both companies (sister company). <p>Note: there is no legal definition in the Polish tax law</p>
Deductible operating expenses	<p>Those expenses are tax deductible, when incurred to generate revenue, or to maintain respectively to secure the source of income; exceptions hereof are written down in the Law on Corporate Income Tax (e.g. purchase of land, representation expenses e.t.c.)</p> <p>The obligation for correction of accounted deductible operating expense, provided that the appropriate bill was not paid within the defined period</p>
Transfer prices	<ul style="list-style-type: none"> External or internal price comparison Resale price method <p>Profit distribution methods / net margin method (if the above are not applicable)</p>

CORPORATE INCOME TAX (CIT) *CONTINUATION*

Interests of credit/externally financed stakeholdings	Generally deductible
Debt / Equity Ratio	3 : 1
	The thin capitalisation rules apply to certain related party debt and provide for a debt:equity ratio of 3:1. Any interest on debt exceeding this amount is non-deductible.
Ways of depreciation	<p>Depreciation methods: straight-line, declining, balance method only allowed for special machinery, equipment and transport. An immediate write-off is possible for low-value assets with an acquisition value up to 3,500.00 PLN (net)</p> <p>Depreciation rates:</p> <ul style="list-style-type: none"> • Real Estate: 2.5% • Buildings: 4.5% • Machinery and equipment: 7% - 25% • Cars and Trucks: 20% • Computer: 30% <p>If technically verifiable or in case of used assets, other rates are permitted.</p>
Provisions	Balance Legal Provisions are not recognised for tax purposes in general (a few very restrictive exceptions)
Passenger car costs	Depreciation and insurance costs for cars with an acquisition value of over EUR 20,000.00 - in the part which refers to the value of the car over 20,000.00 EUR - non-deductible expense
Non-tax-deductible expenses	<p>amongst others (detailed compilation in article 16 Law on Corporate Income Tax)</p> <ul style="list-style-type: none"> • Expenses for the purchase of land plots in ownership or the purchase of beneficial interests (usufruct rights) for a specified in advance limited period in time except the deal-related fees and commissions • Depreciation and insurance costs for cars with an acquisition value of more than 20,000.00 EUR net • Interest, bank charges and exchange rate differences of loans, which increase the investment costs in the acquisition stage • Non realised (paid respectively received) interests and exchange rate differences (provided that entrepreneurs who are subject to auditing duty switch to the valuation rules under the Act of Accounting, non realised exchange rate differences can be treated as taxable income or expenses). • Most of the accruals set up on the balance sheet • Expenses for the acquisition or purchase of shares • Entertainment expenses, mainly for entertainment

CORPORATE INCOME TAX (CIT) *CONTINUATION*

Dividends *(Cont.)*

International:

Dividends received by a Polish resident company (with certain exceptions in the case of limited joint-stock partnerships) from another Polish company or an EU/EEA or a Swiss company are exempt from taxation if certain holding and participation requirements are met. If the exemption does not apply, dividends received are subject to taxation, but a credit for foreign withholdings tax and, in some cases, underlying foreign corporate tax paid is available.

European Union (EU), European Economic Area (EEA):

Exemptions from withholding tax for dividends, paid by a resident in Poland corporation towards a corporation resident in a country of the EU or the EEA.

Condition: The entitled to the dividends must dispose of minimum 10% (15% until 31 December, 2008) of the shares of the liable to pay dividends corporation for an uninterrupted period of 2 years.

The beneficiary of the dividends shall not make use of a tax exemption with respect to his whole income independent from the source of its realisation (declaration of the beneficiary of the dividends required).

Switzerland:

Exemption from withholding tax for dividends, paid by a corporation resident in Poland towards a corporation resident in Switzerland.

Condition: The entitled to the dividends must dispose of minimum 25% of the shares of the liable to pay dividends corporation for an uninterrupted period of 2 years.

The beneficiary of the dividends shall not make use of a tax exemption with respect to his whole income independent from the source of its realisation (declaration of the beneficiary of the dividends required).

Dividends a Polish corporation receives from:**European Union (EU), European Economic Area (EEA)**

Tax exemptions for dividends which a corporation resident in Poland receives from a corporation being resident in one of the European Union (EU) or European Economic Area (EEA) countries.

Condition: The Polish corporation must dispose of minimum 10% (15% until 31 December, 2008) of the shares of the liable to pay dividends corporation for an uninterrupted period of 2 years.

The beneficiary of the dividends shall not make use of a tax exemption with respect to his whole income independent from the source of its realisation (declaration of the beneficiary of the dividends required).

Dividends (Cont.)**Switzerland**

Tax exemptions for dividends which a corporation resident in Poland receives from a corporation being resident in Switzerland.

Condition: The Polish corporation must dispose of minimum 25% of the shares of the liable to pay dividends corporation for an uninterrupted period of 2 years.

The beneficiary of the dividends shall not make use of a tax exemption with respect to his whole income independent from the source of its realisation (declaration of the beneficiary of the dividends required).

Other countries with Double Taxation Treaties

Set-off of already paid withholding tax and pro-rata corporate income tax for Polish corporations, which dispose for an uninterrupted period of 2 years, at least 75% of shares of the liable to pay dividends corporation with its registered headquarters in another country with which Poland concluded a double taxation treaty.

Other countries (without double taxation treaties)

Set-off of already paid withholding tax for Polish corporations, which dispose of shares of the liable to pay dividends corporation with its registered headquarters in another country with which Poland did not conclude a double taxation treaty.

CORPORATE INCOME TAX (CIT) *CONTINUATION*

Tax security	No other rules in addition to the withholding tax
Capital gains	Capital gains are taxed as ordinary income at the standard corporation tax rate 19%.
Losses	Losses may be carried forward for 5 years, but the deduction in a given year may not exceed 50% of the loss incurred. The carry back of losses is not permitted.
Foreign tax credit	Foreign tax paid may be credited against Polish tax on the same profits, but the credit is limited to the amount of Polish tax payable on the foreign income.
Incentives	Expenses incurred for acquiring technological knowledge may reduce the taxable base in certain cases. A one-time depreciation write-off up to 50,000.00 EUR also may be available for small and start-up taxpayers.
Profits from investments	Are taxable, are taxed at the CIT rate of 19%
Parent-Subsidiary Directive	Exemption from withholding tax of capital gains distributions provided that: <ul style="list-style-type: none"> • Holding period 2 years • Minimum shareholding: 10%
Cross Shareholding / EU interests	
Licence Directive	Capital gains from investments are taxable <ul style="list-style-type: none"> • Withholding tax exemption of interest on loans <p>Starting from 01 July, 2013, an outright exemption took place.</p> <p>Transition rules/full exemption following 01 July, 2013 apply for :</p> <ul style="list-style-type: none"> • Only for interest and royalty payments made between associated companies (parent-subsidiary relationship, or sister-sister-company) • Thereby, the beneficiary of the payment must maintain a capital shareholding of minimum 25%
Goodwill Amortisation	<ul style="list-style-type: none"> • Possible for an asset deal, but only performing the purchase of the whole company respectively a separable part of the business operations • When the share deal not possible
Corporate group taxation -Consolidated tax filing status Group of companies	<p>Since 01 January, 1996 possible, most important pre-conditions (cumulative):</p> <ul style="list-style-type: none"> • Parent company must have at least 95% of the equity of the other members of the group Group members must have a minimum equity of 1 million PLN • The group must generate taxable income of at least 3% of gross income • Group members must be resident only in limited liability companies or joint stock companies Poland

Tax collection dates and deadlines

- Annual tax declaration: filing until the 31 March of the following year, having a deviating tax year until the last day of the third month following the closing date of the tax year
- During the fiscal year monthly payments on corporate income tax are due. Payments must be settled until the 20th of the following month

Residence

A corporation or a limited joint-stock partnership (with some temporary exceptions) is tax resident in Poland if its registered seat or management is located in Poland.

Taxable income

Corporation tax is imposed on a company's profits, which consist of business/trading income, most passive income and capital gains. Normal business expenses (with some limitations) may be deducted in computing taxable income.



OTHER TAX ON CORPORATES

Capital duty

Capital duty is levied at 0.5% of the nominal value of share capital.

Real property tax

Tax is generally levied on the owner of real estate (land, buildings and construction) at rates imposed by the local authorities.

Property tax rates depend on property type and location. Tax is paid annually. Tax rates are determined by district authorities, and in 2014, they cannot exceed:

Property type Tax rate	
Land designated for the conduct of business	0.88 PLN/m ²
Residential buildings	0.73 PLN/m ²
Buildings designated for the conduct of business	22.82 PLN/m ²
Structures	2 per cent of the property value (entered as the basis for depreciation)

Social security

Employers and employees must make social security contributions in an amount that is approximately 35% of an employee's remuneration (with certain caps).

Stamp duty

Stamp duty is levied, for example, when filling a power of attorney and when the (central or local) authorities are requested to perform activities such as issuing certificates, grant permission, etc. The applicable rates or fixed amounts are specified in the stamp duty law.

Transfer tax

Tax is imposed at a rate of 1%-2% on certain types of transactions (e.g. sales, exchanges of rights, loans) that are not generally covered by VAT. As a rule, transactions exempt from VAT are exempt from transfer tax (except for real estate and shares).

Other

Excise tax is charged on turnover of selected goods. Shipping companies may opt to pay tonnage tax on certain types of income. A special tax is imposed on the excavation of silver and copper.

ANTI-AVOIDANCE RULES

Transfer pricing

The tax authorities are authorised to make necessary adjustments if they find that transactions between related parties do not accord with the arm's length principle. Transfer pricing documentation must be prepared for related party transactions exceeding a certain materiality threshold.

Disclosure Requirements

Certain transactions must be reported to the tax authorities and/or National Bank of Poland.

PRIVATE INCOME TAX (PIT)

Legal basis	Law dated 26 July, 1991 on Income Tax
Registration <i>For tax purposes, if PESEL is not applicable</i>	Needs to be performed in the relevant tax office before the date when first PIT advance is due.
Tax period	For natural persons: Calendar year
Tax rates <i>(provided that no flat rate taxation scheduled)</i>	0 – 85,528.00 PLN: 18% minus 556.02 PLN ab 85,528.00 PLN: 14,839.02 PLN + 32% above 85,528.00 PLN
Tax-free income <i>(income tax allowance)</i>	3,091.00 PLN (ca. 750.00 EUR) for 2014
Tax period	For natural persons: Calendar year
Tax liability	<ul style="list-style-type: none"> unlimited tax liability on worldwide income (unless a Double Taxation Treaty does confine the taxation obligation) natural persons, who stay in Poland longer than 183 days a year, who have their center of their economic activity or their centre of vital interests in Poland limited tax liability in certain domestic income natural persons who neither stay in Poland longer than 183 days a year, nor who have their center of their economic activity or their centre of vital interests in Poland <p>PLEASE PAY SPECIAL ATTENTION TO: In contrast to the German tax law there is no distinction between profit and surplus income</p>
Types of income	8 different revenues from: <ol style="list-style-type: none"> Special areas in agriculture Economic activity Self-employed (personally performed) activity Employed activity Capital investment and property rights Rent & leasing Capital gains from transfers Other income
PIT progressive rates	18% and 32% for the excess over 85,528.00 PLN (ca. 21,000.00 EUR) (applicable e.g. to employment income or income on dependent services)
PIT flat rate	20% (applicable to board members, being Polish tax non-residents after having completed certain requirements) 19% (applicable e.g. to Interest, capital gains)

PRIVATE INCOME TAX (PIT) *CONTINUATION*

Monthly tax compliance	PIT advances for a given month to be paid by 20th day of the following month
Annual tax compliance	Annual tax return for a given year to be submitted by 30 April of the year following the given year (with some exceptions)
Relevance of the tax authorities	Both registration form as well as payment of PIT liabilities and submission of annual PIT return should be made to the tax office relevant for Polish tax non-residents in the region where a foreign individual stays or to the III Tax Office Warszawa Śródmieście if the work is rendered on the territory of more than one region
Tax residency	<p>Foreign individuals arriving to Poland may become Polish tax residents if their centre of vital (economic or personal) interest moves to Poland, or if they spend in Poland more than 183 days in a tax year.</p> <p>Foreign individuals having their domicile in Poland (i.e. having status of Polish tax residents) are subject to unlimited tax liability in Poland, i.e. they are subject to taxation in Poland on their worldwide income, while individuals not domiciled in Poland (i.e. having status of Polish tax non-residents) possess limited tax liability status in Poland, i.e. they are subject to taxation in Poland only with respect to income earned on the territory of Poland.</p> <p>It should be noted that in order to determine the tax residency status, the regulations of the relevant Double Tax Treaty concluded by Poland should be also taken into consideration.</p>
Legal basis for rendering work in Poland	<p>Employment contract with the Polish entity</p> <p>Regardless of the tax residency of the foreign individuals, income received by them under the employment contract concluded with the Polish entity is always subject to the Polish PIT according to the progressive rates of 18% and 32%. The Polish employer is obliged to pay monthly PIT advances on the discussed income calculated according to the progressive PIT rates. Foreign individuals are obliged to calculate their final annual tax liability for given year as well as submit the annual PIT return until 30 April of the following year.</p>

Legal basis for rendering work in Poland *(cont.)*

Foreign employment contract and secondment to Poland

a) Polish tax non-residents

The foreign individuals are personally responsible for all PIT compliance activities required by Polish PIT law, i.e. neither foreign employer nor host entity have any obligations in this respect. Please note that the taxable income for Polish PIT purposes includes all income obtained in connection with work in Poland, including remuneration, bonuses of all kind and benefits-in-kind. Thus, most benefits provided by the employer or host entity along with or in place of salary are taxable as regular employment income. Income earned by the foreign individuals in Poland may not be subject to PIT in Poland starting from the first day of his or her stay in Poland, only if the following conditions defined in the relevant Double Tax Treaty are simultaneously met:

- presence in Poland last in the aggregate less than 183 days during the particular tax year of 12 consecutive months (depending on the Double Tax Treaty, and
- the remuneration is paid by, or on behalf of, an employer who is not a resident of Poland (it should be however noted that appropriate analysis of economic employer concept should be performed to assess if this condition is met), and
- the remuneration is not borne by a permanent establishment of the employer in Poland.

If one of the above conditions is not met remuneration from the foreign employment contract is subject to progressive PIT taxation in Poland, as of the first day of his/her stay in Poland. PIT advances on income received from foreign employment contract should be paid on a monthly basis for the months, in which the discussed income was received. PIT advance for the given month shall be paid by the 20th day of the following month with the use of 18% PIT rate (32% rate may be also applied). Foreign individuals are obliged to calculate their final annual tax liability with the use of progressive PIT rates. Foreign individuals are also obliged to submit the annual PIT return until 30 April of the following year. Only income related to work performed in Poland is reported for Polish PIT purposes.

b) Polish tax non-residents

Generally, the same rules applicable to Polish tax non-residents as mentioned in point a) above should be also applied in case of foreigners being Polish tax residents. As a consequence, the foreign individuals are personally responsible for all PIT compliance activities required by Polish PIT law, i.e. neither foreign employer nor host entity have any obligations in this respect. Please also note that the taxable income for Polish PIT purposes includes all income obtained in connection with work in Poland, including remuneration, bonuses of all kind

PRIVATE INCOME TAX (PIT) CONTINUATION

Board members

a) Polish tax non-residents

Income realised by foreign individuals, being Polish tax non-residents and appointed as the members of the management board of a Polish entity based on the relevant shareholders' resolution may be subject to 20% flat rate taxation in Poland. All PIT compliance obligations related to this scheme are performed by a Polish entity of which the individual is a board member.

b) Polish tax residents

If a foreign individual being a member of the board of a Polish entity would become Polish tax resident, income received from the membership in the management board based on the relevant shareholders' resolution would be subject to progressive PIT taxation in Poland. In such a case the Polish entity would be obliged to pay month PIT advances on the discussed income calculation according to the progressive PIT rate of 18% (upon taxpayer's choice 32% PIT rate can also applied) while the year-end final reconciliation is made according to progressive PIT rates up to 32%. Foreign individuals are also obliged to submit the annual PIT return until 30 April of the following year.

Revenue costs:
(for income from
self-employment)

From an employment contract	Monthly	111.25 PLN
	Annually	1,335.00 PLN
From several employment contracts	Annual maximum	2,002.05 PLN
From an employment relationship for foreign employees	Monthly	139.06 PLN
	Annually	1,668.72 PLN
For more employment for foreign employees	Annual maximum	2,502.56 PLN

Income from
self-employment

Income from self-employment:

- Income of persons belonging to, regardless of the manner of their appointment, directors, supervisory boards, commissions or other decision-making bodies of legal persons
- Revenue from services rendered in the conduct and management on the basis of the contract or contracts for work

Income from economic activity

In particular income from trade or business which include the income of self-employed among others:

- Manufacturing, construction economics, trading/providing services employment
- Work related to mining
- Employment in connection with the use of property or rights

This type of income also covers acquisition revenue from the sale of operating assets, unless it is property for residential purpose.

Option opportunity for income from economic activity:

Since 01/2004 those revenues can be taxed with a linear tax rate of 19% deviating from the regular taxation (on application of the taxpayer until the 20th January each year)

But: by choosing so, deductions from the taxable base and joint assessment with the spouse can not be drawn on.



VALUE ADDED TAX (VAT)

Legal basis	Act of 11 March, 2004 on the taxation of goods and services
Tax rates	<ul style="list-style-type: none"> • Standard Tax Rate 23% • Reduced Tax Rate 8%: (e.g. some foods, plants, associated with health goods, catering and hotel services, transportation services, public housing) • Reduced tax rate 5%: (Especially food, specialist books and journals) • Reduced tax rate 0%: (Export of goods, Intra-Community supplies of goods)
General	<ul style="list-style-type: none"> • Values Added Tax on goods and services is a broad-based tax levied on the supply of goods and services in Poland. • Polish regulations are based on EU directives.
Registration	A Polish entity is required to register for VAT once its annual turnover on transactions subject to VAT exceeds 150,000.00 PLN. Foreign entrepreneurs must register for VAT in Poland before they start any VAT-able activity in Poland (except for limited and expressly listed cases). Based on the Polish Fiscal Penal Code if an entity obliged to register for VAT purposes fails to fulfil this obligation, it will be liable to pecuniary penalty for fiscal offence in an amount determined individually in each case (multiples of the lowest monthly salary).
Compliance	<p>(a) Invoicing</p> <p>Transactions between VAT taxpayers must be documented with invoices. The Polish VAT laws strictly regulates the elements that should be included in invoices. In general, an invoice should contain at least the following obligatory data:</p> <ul style="list-style-type: none"> • name and surname or business name of the seller and its address; • name and surname or business name of the purchaser and its address*; • Polish tax identification numbers of the purchaser and the seller; • sequential number of the invoice that identifies the invoice; • date of issue; • date of supply - if such date is determined and differs from the invoice issue date (in the case of continuous supplies the taxpayer can indicate the month and year of the supply); • name (kind) of goods or services; • unit of measure and quantity of the goods sold or scope of the services rendered*; • unit of price of the goods or services without VAT (Net unit price)*; • value of the potential rebates, including these for the earlier payment, if they were not included in the net unit price.

Compliance *(cont.)*

Please note that from the beginning of 2013 so called simplified invoices were introduced to the Polish VAT provisions. Such invoices may be applied in case the total amount due on the invoice does not exceed 450.00 PLN or 100.00 EUR (if the invoice is issued in EUR). Simplified invoices may not include elements of the invoice that are marked with '*' on page 26 provided that the invoice includes information enabling to determine the value of VAT in relation to particular VAT rates.

(b) EU VAT package

In January 2010 Polish VAT provisions were amended to accommodate the VAT package introduced into EU legislation. Generally, the Polish provisions reflect the VAT Directive in this respect and the services are subject to VAT in the country where the recipient of the services is established (with certain exceptions, especially concerning the services related to immovable property).

(c) Filing

Registered VAT taxpayers are required to submit monthly or quarterly returns to the competent tax office and keep registers of purchases and sales subject to VAT. Additionally, registered VAT EU taxpayers performing intra-community and acquisitions of goods into Poland and intra-community supplies of goods and services from Poland are also required to submit EC Listings returns on a monthly bases (or a quarterly basis - provided certain conditions are met).

(d) Payment/refunds

The tax due to the tax authorities is calculated as the output VAT minus the input VAT on purchase invoices.

As a rule, the surplus of output VAT over input VAT must be paid within 25 days following the month in which the VAT obligation arose (for small taxpayers, the VAT due must be paid within 25 days following the quarter in which the VAT obligation rose). If the input VAT exceeds the output VAT, a VAT refund is generally available.

(e) Penalties

In general, if the obligations binding upon Polish VAT taxpayers are not fulfilled, the tax authorities may impose the penalties provided for in the provisions of the Polish Fiscal Penal Code. Additionally, if any VAT liability arises, taxpayers are obliged to pay the outstanding VAT amount due along with the attendant penalty interest.

VALUE ADDED TAX (VAT) *CONTINUATION*

Application to non-residents	<p>The entities without the status of Polish residents (i.e. seated outside Poland) performing transactions taxable in Poland according to the Polish VAT provisions (e.g. intra-community acquisitions of goods in the territory of Poland) are obliged to register for VAT purposes in Poland, as a consequence, fulfil the obligations imposed under Polish VAT law on registered VAT taxpayers.</p> <p>It should be noted however that the obligatory reverse-charge mechanism (settlement of tax by the purchaser) was introduced on 01 April, 2011 in respect of the supply of goods and services by foreign taxpayers that do not have their fixed establishment for VAT purposes. Please note that starting from 01 April, 2013 the reverse-charge mechanism is not applicable (with certain exceptions) to the supply of goods if the foreign taxpayer without fixed establishment in Poland being a supplier is registered for VAT purposes in Poland. In such a case a foreign supplier (not the purchaser) is obliged to charge VAT on these supplies in Poland.</p>
Taxable supply	VAT is imposed on the supply of goods and the provision of services in Poland, the import into Poland, export of goods, intra-community acquisitions of goods and intra-community supply of goods unless the transaction is exempt.
Deliveries	The tax is remunerated delivery of goods, which includes, inter alia, also gratuitous transfer of part of the company goods, the right to deduct input tax on the acquisition of state
Gratuitous transfers	A gratuitous transfer of gifts of small value and samples are not subject to taxation, as long as it is made for associated with the business purposes. Handovers of publicity and information printing materials are now generally not excluded from taxation. a new definition of the sample has been introduced.
Place of supply of goods	<ul style="list-style-type: none"> • The goods from the supplier, purchaser or a third party dispatched or transported - the place where the goods are placed at the beginning of the promotion to purchasers • The goods are not dispatched or transported - the place where the goods are located at the time of delivery
Services	Is liable for tax in return for payment of performance, and as such applies, inter alia, gratuitous service for purposes that are not connected with the business activity of the taxpayer.

If you have questions related to particular tax topics, please contact us at your earliest convenience.



VALUE ADDED TAX (VAT) *CONTINUATION*

Place of performance **Rule:**

- Place of service in favour of a taxpayer (businessman) is the location of its registered office (or fixed place of management or permanent residence)
- Place of service in favour of a subject who is not an entrepreneur (consumer), is the country of the seat (or fixed place of management or fixed place of residence) of the power generator

Exeptions:

- Intermediation services in favour of final consumers - place of the primary activity with real estate related services - location of the property
- Transportation services:
 - » Transport of persons - the place of transport, taking into account the distances covered
 - » Transport of goods in favor of consumers - the place of transport, taking into account the distances covered
 - » Transport of goods in favour of consumers, the beginning and the end of the movement on the territory of two different member states take place - the place of commencement transport
- Support services to the transport services - place of activity execution



Place of performance

- Services in the field of arts, culture and nature of the sport, science, education, entertainment:
 - » In favour of contractors - Application is the basic rule (location of the seat of the contractor)
 - » Favor of consumers - the place of activity execution
 - » Admission to an event (business and consumer) - location of event
 - Restaurants and catering services - place of activity execution
 - Short term rental of means of transport - place where the means of transport is actually put at the disposal of the customer
 - Electronic services:
 - » In favor of contractors - application is the basic rule (location of the seat of the contractor)
 - » In favour of final consumers
 - Based / resident outside the EU or based / resident in the EU, where the services are provided from a third country by a resident service suppliers - location of the seat / domicile of the beneficiary
 - Based / resident in the EU, where the services are provided from an EU Member State by a resident service suppliers - location of the seat (or fixed place of management or fixed place of residence) of the power generator
 - Intangible services (e.g. sale of rights, advertising, legal, banking, financial and insurance services, supply of staff) in principle apply the basic rule exception applies only to consumers, have the office / residence in a third country - location of the seat / residence of the beneficiary
 - Telecommunications, radio and television broadcasting services - exemptions, if the services are rendered for the benefit of end users vary by domicile / residence of both the provider and the service recipient
 - Services in the tourism sector - location of the seat (or fixed place of management or fixed place of residence) of the power generator
-

VALUE ADDED TAX (VAT) *CONTINUATION*

Reverse Charge “Reversal of the tax liability”

Requires the performing entrepreneur is a foreigner (in Poland has neither a residence nor fixed place of management) and the receiver is Polish VAT payers.

Invoices without VAT, reference on passage of tax liability, tax identification numbers of the entrepreneurs, both supplier and beneficiary.

As of 01 January, 2013, the foreign trader is obliged to settle the tax:

- if he provides real estate related services, and is registered for VAT purposes in Poland, in the case of other services, the control of the Polish beneficiaries must be settled
- in the case of goods trade, the foreign supplier is obliged to settle the tax if he/she for VAT purposes in Poland

Clearing of the supplies, for which the buyer stays tax liable (reverse charge)

So far, the reverse charge procedure was in any case the acquisition of goods by foreign taxpayers who have in Poland neither seat nor fixed place of management, application. Since 01.04.2013 the reverse charge procedure does not apply if the foreign supplier is registered as a Polish VAT. In such a case the sales tax is charged according to the general rule.

Real estate

VAT is owed by the purchaser.

Rental

Subject to VAT in either case.

Sale

Subject to either the VAT or the tax on civil law transactions. The latter is payable if the VAT exemption or neither side VAT payer is.

Tax exemption

Distinction concerning 0% tax rate or exemption

0% Tax Rate

Inter alia

- Intra-Community supplies of goods
- Export of goods
- specific costs directly linked to the export of commodities related services,
- international transport services
- Services in the scope of processing and refinement of goods

VAT exemption inter alia

- Delivery of used goods (without deduction)
- Financial services (provision of loans, management of bank accounts, money exchange) with the exception of leasing, factoring or advice
- Insurance and re-insurance services
- certain medical services
- certain education services
- Services in the area of social welfare
- Services in the area of social insurance
- Certain services in the area of culture or sport

Input tax reduction

No deduction for the purchase of fuels for passenger cars of accommodation services as well as catering services.

VAT deductible amount to depend on what the vehicle is used for

The rules of VAT deductibility on motor vehicles with permission maximum weight not exceeding 3.5 tonnes will change from 01 April, 2014. The deductible amount will depend on what a taxpayer uses the vehicle for. If a car is used for mixed purposes, that is, for both business and private use, the right to deduct will be limited. But if a taxpayer uses a car exclusively for own business purposes, they will be entitled to deduct the full VAT amount.

Limited deductibility - not only VAT on purchase

If a motor vehicle with the permissible maximum weight not exceeding 3.5 tonnes is used for both business and private use, the taxpayer will be entitled to deduct 50% of VAT. This applies not only to VAT on purchase, ICA or import of vehicles (as it used to be), but also to VAT on repair, operation and purchase of component parts. The 50% limit is not capped by any amount. Consequently, the taxpayer will be entitled to deduct 50% of VAT regardless of the VAT amount shown in the invoice. The 50% limit will also apply to vehicles used under lease, rental or similar agreements.

Unlimited deductibility - recording obligations

The taxpayer will be entitled to deduct 100% of VAT provided that the vehicle is used exclusively for the taxpayer's business activity purposes. Furthermore, the following conditions must be met:

- The taxpayer must establish the rules of using the vehicle saying that they may be used exclusively for the taxpayer's business purposes;
- A vehicle mileage logbook must be kept for the vehicles used exclusively for the taxpayer's business purposes.

The vehicle mileage logbook should include, without limitation: vehicle registration number, logbook's start and end date; odometer count and number of kilometres driven. It should be kept starting from the date when a vehicle is used exclusively for the taxpayer for the taxpayer's business activity.

If the taxpayer fails to file the above-mentioned information on time, his vehicle will be considered to be used exclusively for business purposes only after the day the information is filed.

VALUE ADDED TAX (VAT) *CONTINUATION*

Input tax reduction

(cont.)

Information filing deadlines

Taxpayers who are going to use cars exclusively for business purposes, for which a logbook will be kept, will be obliged to notify the head of competent tax office of the vehicles used exclusively for business purposes (VAT-26 form). The VAT-26 information should be filed within statutory deadlines.

Liability for breach of the information obligation

A taxpayer who fails to file the VAT-26 information on time or who provides false information, and deducts 100% of VAT at the same time, is subject to penal and fiscal liability (fine of up to 720 so-called daily rates, where such daily rates range from 56.00 PLN to as much as 22,400.00 PLN).

Fuel - no deduction until 30 June, 2015

VAT on purchase of fuel for, amongst other things, passenger cars, cannot be deducted until 30 June, 2015. This limitation does not apply to vehicles used exclusively for business activity purposes.

Car lease - contract made before 01 April, 2014

The 50% deduction limit does not apply to lease instalments, rent etc. for vehicles used under a lease, rental or similar agreements made before 01 April, 2014, on which the entire VAT amount invoiced is deductible as of 31 March, 2014.

- Fundamental period - 60 days from the date of filing the tax return, shortening to 25 days possible (assuming all reported in the tax return accounts must be settled at the time of filing the tax return)
- 180 days - if in a given billing period no taxable transactions were made

Foreign companies

Companies that do not have a seat or fixed place of management in Poland.

Registration of foreign companies

No registration necessary.

Re-imbursment of input tax for foreign companies

Can be filed for:

- Application in Polish language for entrepreneurs from the EU - in electronic form
- Appropriate Revenue Office: II Warsaw-Srodmiescie
- The application can cover a period of minimum 3 months and can not exceed 1 year
- Handing over until the 30th of September of the following year
- Issued by the tax office on the amount of the recognised tax is generally issued within 4 months from the application levy
- Reimbursement will be made within 10 working days of the decision

Intra-Community transport

- Intra-Community acquisition
- Intra-Community supply

Intra-Community supply (to registered entrepreneurs)

Provided that the following conditions are fulfilled, a tax rate of 0% in Poland will be applied:

- The supply was carried out towards an entrepreneur registered for VAT-purposes in another membership country of the European Union, and
- The goods have left Poland and the supplier has appropriate evidence, and
- The supplier has mentioned the correct tax identification number on the invoice

To end users

The taxation on supplies of goods to consumers (private individuals) in another membership country of the European Union takes place in Poland.

Exceptions:

- Means of transport, inter alia passenger cars, are always taxed in that country to which the consumer ships the new means of transport
- Mail order business (the goods will be dispatched on behalf of the supplier in favour of final consumers, provided that the value of the sold goods exceeds on the side of the supplier a certain price limit)

Reporting requirements

- Summing up reports are to be delivered in general on a monthly base
- To be captured:
 - » Intra-community deliveries of merchandise
 - » Intra-community purchases
 - » Deliveries under the so-called intra-Community supply triangle
 - » Services to foreign companies (from EU Member States), in which the tax liability to beneficiaries passes

*The changes from 01.01.2014
you can find on page 50 onwards.*

TAXES ON CONTRACTS ACCORDING TO STAMP DUTY (PCC)

Purchase of real estate:	2.0%
Memorandum of association:	0.5%
Loans:	2.0%
Proprietor/Shareholder-loans:	0.5%

TAX AUDIT AND LEGAL RECOURSE IN POLAND

Control measures	The formal correctness of the tax declaration stands in the focus of the control. A separate tax bill is not created.
Audit of the Tax Office	Determination of the tax liability on the merits and amount. The revenue office issues a protocol thereafter, which can serve as evidence in a tax proceeding.
Control method	It is determined whether the taxes were paid on time. If default interest accrues, the tax authority shall issue a tax assessment in the amount of tax due and default interest are fixed.
Tax audit performed by the finance control group	It is checked whether the taxpayer has declared his tax liabilities on the merits and the amount properly; If a tax liability determined, a separate tax bill enacted. Tax payers can draw on in Poland in fiscal matters on the following rights: <ul style="list-style-type: none"> • Appeal against a decision • Complaint to the Provincial Administrative Court • Nullification suit with the supreme administrative court • Legal action with the European court of justice

GENERAL TAX CODE

Ruling	Yes, relating to the fiscal circumstances of a tax payer possible
Consequences of delay by failure to meet the deadlines and dates	Delay penalties: currently 13% per annum (9.75% p.a. - of reduced sentence in the case of delivery of an effective correction of a tax return before the activity of the tax office) Penalties for late payment: only for VAT - up to 30% of the tax liability
Criminal Tax Law	Financial Criminal Law <ul style="list-style-type: none"> • Punishment for negligent tax evasion: Criminal Charges • Penalty for willful tax evasion: Financial or Imprisonment • In principal administrative proceedings



INTEREST

Fiscal

13% per annum (9.75% p.a. - of reduced sentence in the case of delivery of an effective correction of a tax return before the activity of the tax office)

Legal

13% p.a.

DOUBLE TAXATION AGREEMENT (DTA)

Double Taxation Agreement (DTA):

Poland concluded Double Taxation Agreements (DTA's) with 81 countries, which comply with the OECD Model convention.

Governance of the right for taxation looks differently in the case of share disposals in real estate companies. Following the OECD Model Convention, for those Double Taxation Agreements (DTA's) marked with "yes", the country of location of the real estate possesses the right for taxation vis-a-vis share deals, and not the country of residence/domicile of the seller.



Tax rates mentioned in the Double Taxation Agreements (DTA's) can be applied only then, when the tax payer possesses and provides a certificate of residence issued by the Inland Revenue office of the applicable country.

COUNTRY	ENTRY INTO FORCE	PROPERTY CLAUSE	DIVIDENDS IN%	INTERESTS IN%	LICENSES IN%
ALBANIA	27.06.94	no	5/10	10	5
ARMENIA	27.02.05	yes	10	5	10
AZERBAIYESN	20.01.05	yes	10	10	10
AUSTRALIA	04.03.92	yes	15	10	10
BELGIUM	29.04.04	yes	5/15	0/5	0/5
BULGARIA	10.05.95	no	10	0/10	5
CHINA	07.01.89	no	10	0/10	7/10
DENMARK	31.12.02	yes	0/5/15	0/5	5
GERMANY	19.12.04	yes	5/15	0/5	5
ESTONIA	09.12.94	no	5/15	0/10	10
FINLAND	30.03.79	no	0/5/15	0	0/10
FRANCE	12.09.76	yes	5/15	0	0/10
GREECE	28.09.91	no	19	10	10
GREAT BRITAIN	27.12.06	yes	0/10	0/5	5
INDIA	26.10.89	yes	15	0/15	20
INDONESIA	25.08.93	no	10/15	0/10	15
IRELAND	22.12.95	yes	0/15	0/10	0/10
ICELAND	protocol - 08.12.12	yes	5/15	0/10	10
ISRAEL	30.12.91	yes	5/10	5	5/10
ITALY	26.09.89	no	10	0/10	10
YESPAN	23.12.82	no	10	0/10	0/10
CANADA	08.12.12	yes	0/5/15	10	5/10
KAZAKHSTAN	13.05.95	yes	10/15	0/10	10
KOREA	21.02.92	no	5/10	0/10	10
CROATIA	11.02.96	yes	5/15	0/10	10
KUWAIT	25.04.00	no	0/5	0/5	15
LATVIA	30.11.94	yes	5/15	0/10	10
LITHUANIA	19.07.94	yes	5/15	0/10	10
LUXEMBOURG	protocol - 11.12.12	yes	0/15	0/5	5
MALAYSIA	05.12.78	no	0	0/15	0/15

(*) Exemption from withholding tax pursuant to the directive on rulers and controlled companies (Parent-Subsidiary-Directive)

CONTINUATION

COUNTRY	ENTRY INTO FORCE	PROPERTY CLAUSE	DIVIDENDS IN%	INTERESTS IN%	LICENSES IN%
MALTA	24.11.94	yes	5/15	0/10	10
THE NETHERLANDS	18.03.03	no	5/15	0/5	5
NORWAY	29.01.13	yes	0/15	5	5
AUSTRIA	01.04.05	yes	5/15	0/5	5
THE PHILIPPINES	07.04.97	yes	10/15	0/10	15
PORTUGAL	04.02.98	no	10/15	0/10	10
RUMANIA	15.09.95	no	5/15	0/10	10
RUSSIA	22.02.93	no	10	0/10	10
SAUDI ARABIA	01.06.12	yes	5	0/5	10
SWEDEN	15.10.05	yes	5/15	0	5
SWITZERLAND	25.09.92	no	5/15	10	0/10
SINGAPORE	Probably in 2013	yes	0/5/10	0/5	2/5
SLOVAKIA	21.12.95	no	5/10	0/10	5
SLOVENIA	10.03.98	no	5/15	0/10	10
SPAIN	06.05.82	yes	5/15	0	0/10
SOUTH AFRICA	05.12.95	no	5/15	0/10	10
THAILAND	13.05.83	no	20	0/10	5/15
CZECH REPUBLIC	13.06.12	no	5	0/5	10
TUNISIA	15.11.93	no	5/10	12	12
TURKEY	01.10.96	no	10/15	0/10	10
UKRAINE	11.03.94	yes	5/15	0/10	10
HUNGARY	10.09.95	no	10	0/10	10
USA	23.07.96	yes	5/15	0	10
UNITED ARAB EMIRATES	21.04.94	no	0/5	0/5	5
BELARUS	30.07.93	no	10/15	0/10	0
CYPRUS	Protocol - 09.11.12	no	0/5	0/5	5

(*) Exemption from withholding tax pursuant to the Directive on rulers and controlled companies (Parent-Subsidiary-Directive)

SOCIAL SECURITY CONTRIBUTIONS

Ruling

Polish employers have to pay social security costs and compulsory insurances to the social insurance office (Zakład Ubezpieczeń Społecznych) and to the National Health Fund. The employer is responsible for withholding and remitting the full amount of social security contributions (employee's share and employer's share) to the relevant authorities. The rates of social security contributions for 2014 are:

Fund	Employer	Employee
Pension/retirement fund	9.76%	9.76%
Disability insurance	6.5%	1.5%
Sickness benefits	Not applicable	2.45%
Accident insurance	Between 0.67% and 3.33%	Not applicable
Health insurance	Not applicable	9.00%

The employer and employee pay contributions to the pension and disability funds. The 9.76% employee contribution is transferred to the Open Pension Fund.

Contributions by employees are based on their gross income tax purposes. The ceiling on income on which contributions for the pension and disability insurance are due is 112,380.00 PLN in 2014. There is no ceiling for health insurance.

In addition, 9% of gross pay (less contributions for pension and disability insurance) for obligatory health insurance contributions (covering medical expenses) is payable by employee.

The 2.45% sickness benefit is paid into Labour Fund.

Social security in Poland

The social security system in Poland is of a general and compulsory character. Social security – in respect of selected risks - covers persons who are, inter alia, employees, persons who work on the basis of contracts of mandate or who carry out business activity.

NOTE:

Social security in Poland covers the EU citizens on the same basis as Polish citizens.

SOCIAL SECURITY CONTRIBUTIONS *CONTINUATION*

Pension insurance

Pension insurance is an insurance provided in the event of inability to work because of old age. Persons who pay premiums, ensure their income at the moment of stopping professional work, after achieving pensionable age.

The reform of the pension system entered into force on 01 January, 1999. It introduced a three-pillar system:

- Pillar I is governed by the public institution - Social Insurance Company,
- Pillar II is governed by private institutions - open pension funds (OFE) - An open pension fund is a legal person whose aim is to collect funds from insurance premiums and invest them on the financial market. Those funds are designated for pensions for the open pension fund's members when they reach pensionable age.
- Pillar III, voluntary, which is to ensure extra benefits for additional premiums, is occupational pension schemes (PPE) and individual retirement accounts (IKE).

From 01 May, 2011 until 31 December, 2016 the Social Insurance Company forwards part of the pension insurance premium to the open pension fund selected by the insured person, in the amount of:

- 2.3% of the basis of the assessment of the amount of the pension insurance premium due for the period from the date of entry into force of the Act until 31 December, 2012;
- 2.8% of the basis of the assessment of the amount of the pension insurance premium due for the period from 01 January, 2013 until 31 December, 2013;
- 3.1% of the basis of the assessment of the amount of the pension insurance premium due for the period from 01 January, 2014 until 31 December, 2014;
- 3.3% of the basis of the amount assessment of the of the pension insurance premium due for the period from 01 January, 2015 until 31 December, 2016.

The account of the insured person at the Social Insurance Company includes a sub-account where information is recorded on the valorised amount of paid premiums to Pillar II from the part of the premium not forwarded currently to open pension funds, together with the recovered interest on arrears for those premiums. The division of the premium between the pension fund which is at the Social Insurance Company's disposal and an open pension fund is obligatory for insured persons born after 31 December, 1968. Insured persons born after 31 December, 1948 and before 01 January, 1969 could join a selected open pension fund until 31 December, 1999. Persons born before 01 January, 1949 could not and still cannot join an open pension fund, their whole premium is forwarded to the Social Insurance Fund.

Pension insurance
(cont.)

The pension premium is financed equally by the employer and the insured person, but the whole premium paid to the open pension fund is from the part paid by the insured person. The employer is responsible for paying premiums to the Social Insurance Company.

The pension system is based on the tight connection between the amount of the benefit and the amount of the actually paid premium. The basis for calculating the pension is the (total) amount of premiums for pension insurance.

Pension is granted to women who are at least 60, and men who are at least 65. There is no minimum insurance period required for granting the pension.

Decisions about granting pensions are made by the Social Insurance Company's bodies which are of proper jurisdiction due to the place of living of the person who is applying for the benefit. The proceedings for granting pensions start after submitting the application by an applicant.



SOCIAL SECURITY CONTRIBUTIONS *CONTINUATION*

Disability insurance

Disability insurance guarantees cash benefits in case of losing income connected with the risk of disability (inability to work) or death of a breadwinner in a family. In such a situation persons who pay disability insurance premiums are granted disability pension for incapacity for work, which is a substitution for remuneration or income, and in the case of death of an insured breadwinner in a family, the members of their family are granted family pension.

The premium for disability insurance is 8% of the basis of the assessment of the amount of premium, where 6.5% is from the funds of the employer, and 1.5% from the funds of the employee.

1. Disability pension for incapacity for work

Disability pension for incapacity for work can be granted to an insured person who fulfils all of the following conditions:

- Is considered a person who is partially or entirely unable to work
- Has proven contributory and non-contributory periods
- Inability to work started in the periods strictly set out in the Act

A person who is entirely unable to work is a person who has lost the ability to perform any job.

A person who is partially unable to work is a person who to a considerable degree lost their ability to perform a job which is consistent with the level of that person's qualifications.

Inability to work and its level is certified by a board certified occupational medicine physician from the Social Insurance Company as the first certifying instance. An applicant has the right to raise an objection to the physician's opinion to the Social Insurance Company Medical Board - as the second certifying instance.

2. Family pension

Family pension is granted to entitled family members (children, widow, widower, parents) of a person who at the moment of death took pension or disability pension for incapacity for work, and a working person who had the required periods for granting pension or disability pension for incapacity for work. When analysing the right to the family pension, it is assumed that a deceased person was entirely unable to work.

Disability insurance*(cont.)***3. Training allowance**

Training allowance is granted to a person who fulfils the conditions for granting disability pension for incapacity for work, and with reference to whom retraining was stated as appropriate due to the inability to work in the current profession. It is granted for the period of 6 months. That period can be shortened or lengthened up to 30 months. The amount of training allowance is 75% of the basis of an assessment, and when the inability to work is the result of an accident at work or occupational disease - 100% of the basis of its assessment.



SOCIAL SECURITY CONTRIBUTIONS *CONTINUATION*

Social security for industrial accidents and occupational diseases

Security for industrial accidents and occupational diseases covers, inter alia, employees, persons who work on the basis of contracts of mandate, and persons carrying out business activity.

Benefits for industrial accidents and occupational diseases can be granted to a person who is insured for such cases. These are:

- **Sickness benefit** - for an insured person whose inability to work has been caused by an industrial accident or occupational disease
- **Rehabilitation benefit** - is paid after the sickness benefit has finished, if the insured person is still unable to work, and further treatment or rehabilitation give them a chance to regain ability to work
- **Compensating benefit** - is for an insured person who is an employee, whose remuneration was lowered due to permanent or long-term damage to their health
- **One-time compensation** - for an insured person whose health was damaged permanently or for a long period of time, or for the members of the family of a deceased insured person or a person who collected disability pension
- **Disability pension for an industrial accident or occupational disease** - for an insured person who has become unable to work due to an industrial accident or an occupational disease
- **Training allowance** - is granted to a person with reference to whom retraining was stated as appropriate due to the inability to work in a current profession because of an industrial accident or occupational disease
- **Family pension**- for the family members of a deceased insured person or a person entitled to disability pension for an industrial accident or occupational disease and allowance to family pension - for an orphan
- **Attendance allowance** - for a person who is entitled to pension, considered entirely unable to work and existence on their own, or who is over 75
- **Covering the costs of treatment** - in the field of dentistry and preventive vaccination and supply of orthopaedic equipment, within the scope stipulated by the Act

The amount of the accident security premium varies from 0.67% to 83.86% of the basis of premium assessment. The accident security premium is entirely covered by the employer.

Social security for sickness and maternity

Persons who are obligatorily insured for sickness and maternity are mainly employees. Persons covered by obligatory pension and disability pensions insurance, who, inter alia: work on the basis of an agency agreement or contract of mandate, carry out non-agricultural activity (business activity, authors, artists, freelancers) can also be insured, voluntarily, for sickness and maternity.

The amount of premium for insurance for sickness and maternity is 2.45% of the basis of the premium assessment. The premium is covered from the insured person's funds.

The following benefits are paid due to insurance in case of sickness and maternity:

Sickness benefit

The sickness benefit is granted to an insured person who became ill during the period of sickness security. Generally, the right to the sickness benefit is granted after the so-called waiting period. a person who is obligatorily covered by sickness security, gains the right to the sickness benefit after the period of 30 days of continuous sickness security. a person who is covered by this security voluntarily, gains it after the period of 90 days of continuous sickness security.

The sickness benefit is granted to an insured person in the amount of 80% of the basis of assessment, and for the period of being hospitalised - in the amount of 70% of the basis of assessment.

If the inability to work which was caused due to an accident on the way to or from work started during pregnancy or concerns tissue, cell or organ donors, then the sickness benefit is paid in the amount of 100% of the basis of assessment.

Rehabilitation benefit

The rehabilitation benefit is granted to an insured person who can no longer be given the sickness benefit but still is unable to work, and further treatment or rehabilitation give them a chance to be able to work again. The benefit is granted for the period necessary to give them a chance to regain ability to work but not longer than for the period of 12 months.

Compensating benefit

The compensating benefit is granted only to insured persons who are employees. That benefit is granted to employees whose remuneration was lowered due to undergoing professional rehabilitation or who was moved to another post due to the state of health.

SOCIAL SECURITY CONTRIBUTIONS *CONTINUATION*

Social security for sickness and maternity *(cont.)*

Maternity allowance

Maternity allowance is granted to an insured woman who at the time of sickness security or at the time of a child care leave:

- gives birth to a child;
- takes a child up to 7 years of age for upbringing, and in the case of a child with regard to whom there was a decision about an adjournment of compulsory education - up to 10 years of age, and who started legal proceedings for adoption in the Guardianship Court,
- takes for upbringing, as surrogate parents, except for professional surrogate parents not related to the child, a child up to 7 years of age, and in the case of a child with regard to whom there was a decision about an adjournment of compulsory education - up to 10 years of age.

Provisions concerning the right to maternity allowance in the case of taking a child for upbringing are also to be followed in the case of an insured man.

Maternity allowance is paid during the period of maternity leave - for 20 weeks in the case of giving birth to one child (possibly longer, in the case of giving birth to more than one child at a time – from 31 weeks to maximum 37 weeks) and throughout the period of the additional maternity leave.

Maternity allowance can be also granted to an insured father of a child for the period of 2 weeks as the period of maternity leave which can be granted to an employee-father raising a child.

The amount of maternity allowance is 100% of the basis of the allowance assessment. The basis of the allowance assessment is an average monthly remuneration paid for the period of 12 months before the month in which the right to the allowance is created.

Premiums for pension and disability pension insurance are calculated from maternity allowance (Those premiums are financed from the State budget).

**Social security
for sickness and
maternity** *(cont.)***Attendance allowance**

Attendance allowance is granted for the period of a special leave, when it is necessary to take care of a healthy child who is under 8, a sick child who is under 14 or other sick member of the family.

Attendance allowance is granted for not more than 60 days in a calendar year if a person takes care of a healthy child who is under 8 or a sick child who is under 14. If a person takes care of a sick child who is over 14 or other sick member of a family, the allowance is granted for not more than 14 days. The allowance is paid in the amount of 80% of the basis of allowance assessment.

Additionally, in the case stipulated in Article 180(61) of the Labour Code, the insured father of a child is entitled (irrespective of the attendance allowance for 60 days per calendar year) to an attendance allowance in the amount of up to 8 weeks if he interrupts employment or other gainful activity in order to take care of the child.



CHANGES VALID FROM 01 JANUARY, 2014

Changes in tax law in 2014

Year 2013 has brought big changes in tax law. These changes affect the VAT tax, as well as income tax from natural and legal persons. Other major modifications will come into force from the beginning of 2014. They consist of changes in income tax from legal persons and changes in VAT tax.

Below you can find the most important changes in tax law, which will affect all companies based in Poland from 01 January, 2014:

- Changing the time of incurring costs from generated revenue;
- Introduction of criminal sanctions for companies which do not submit the financial statement in a specific period of time;
- CIT amendment, which enables firms to transfer 1% of their taxes for scientific research;
- Income tax for controlled foreign companies;
- Introduction of income tax from legal persons which applies to limited partnerships and partnerships limited by shares;
- VAT tax changes: invoice term, liability to tax and deduction of VAT tax;
- Changes in VAT tax deducted from purchase and operation of a car.

Some VAT Act provisions will be repealed as of 01 January, 2014 and replaced with the new ones.

The most important changes include replacement of the following regulations:

- Article 19 of the VAT Act (tax obligation);
- Articles 29–31 of the VAT Act (taxable base);
- Article 86 of the VAT Act (input tax deductibility);
- Article 106 of the VAT Act (invoicing).

At the same time, the so-called Invoicing Regulation issued by the Minister of Finance on 28 March, 2013 will be repealed and partially incorporated in the VAT Act.

We would like to present you with an overview of the selected changes in the Value Added Tax Act which will come into force on 01 October, 2013.

Changes in VAT - 01 January, 2014

From 01 January, 2014 will have long heralded a revolution in the Polish regulations regarding VAT. Changes from that day, coming into force will have a major impact on the way accounting for VAT in Poland. They may make it necessary to modify the current procedures of tax, and adjustment of financial and accounting programs (including the accounting rules at the time of the VAT payable and accrued, and the dates of invoices and their contents). In addition, in cases where taxpayers in the past received from the Minister of Finance, individual interpretations of any areas - from 01 January, 2014, these interpretations may lose their protective power.

Changes in VAT - 01
January, 2014 *(cont.)*

The most significant of the changes to VAT:

The tax liability for VAT

Changes in the tax point will be the most radical changes in this field over the past 20 years. The tax point will cease to be dependent on the time of invoicing. As a rule, it will occur at the time of the delivery of goods or provision of services. Also, most of the existing requirements on special until the formation of the tax will be repealed and replaced by the new regulations - this will apply to such electricity, water and sewage services such as construction services, telecom services, leasing services, etc. There will be a significant moment while the tax provided directly to the license and transport services, as is currently the case.

New definition of the Tax Base

This will be a direct implementation of the definition contained in the VAT directive. The tax base will be all that is paid. The tax base will be increased in such additional costs (e.g. commissions, packaging, transport and insurance cost) payable by the purchaser. On the other hand, in the case of free supply, the taxable amount is the purchase price of the goods or similar goods, and if there is no cost - the cost price, determined at the time of delivery of the goods. This definition of the tax base can cause a variety of practical problems. There will be no specific definition of the tax base for services commission, which may raise doubts as to the settlement of such transactions after 01 January, 2014, the amendment also provides for the possibility of settling unconfirmed memos - but you will need to meet certain conditions.

Law to deduct input VAT

This will occur in the period in which the trader has the tax in respect of goods supplied or services rendered, but not earlier than in the tax return for the period in which the invoice or customs document has been received by the buyer. Thus, after 01 January, 2014 it will be important to deduct VAT on the invoice to make sure that the trader has the tax on the sale documented the said invoice. The new rules will also form the right to deduct input VAT on intra-Community acquisition of goods from receipt of the invoice from the vendor. If within 3 months of the invoice is not received, the taxpayer will be required to make the appropriate adjustments - reducing the deduction. Correcting the reduced input tax deduction will be possible in the period in which the taxpayer receives the invoice.

CHANGES VALID FROM 01 JANUARY, 2014 *CONTINUATION*

Changes in VAT - 01 January, 2014 *(cont.)*

Invoicing

The most important change regarding billing, which will come into effect from 01 January, 2014 will be the ability to issue an invoice by the 15th of the month, following the month of delivery of goods/performance of the service, and also the ability to issue an invoice 30 days prior to the delivery of goods/provision of the service.

Changes in the taxation of limited partnerships from 2014 apply only to limited by shares

At the meeting of the Technical Committee of the Polish parliament control systems on 09 October, 2013, the draft law amending the law on income tax has been verified (PIT) and corporate income tax (CIT). The original bill proposed that Polish limited partnership (KG) and limited partnerships are to be affected by shares (KGaA) from 01 January, 2014, with corporate income tax.

The committee members have supported that the new rules on the taxation of limited partnerships with corporate tax, should only apply to partnerships limited by shares. However, limited partnerships should continue to be exempt from the tax as unchanged. The significant factor was the reason that they are afraid to push through the dramatically increased taxation for existing limited partnerships to the business traffic, and actually limiting the attractiveness of the Polish market for investors.

The recommendation of the Sub-Committee by the Board of the Finance Committee has already been confirmed on 10 October, 2013. Thus, the pending bill passed with the amendments adopted at the next session of Parliament on 23 October, 2013.

The text introduced by the members of the Technical Committee Amendment has the outcome that only the limited partnerships can make a claim to shares with the corporation from 01 January, 2014.

For the companies in question, it means that there are two levels of income tax - similar to limited liability companies - are introduced. The first a taxation of the profit generated by the economic activity at the level of company taxation and the second at the level of the partners, the general partners and shareholders.

Selecting a tax method for carrying foreign exchange differences

CIT taxpayers and PIT taxpayers presenting accounts can choose a method of carrying foreign exchange differences referred to in Articles. 9b Paragraph. 1 Point 2 of the Law on CIT and Art. 14b. 2 of the PIT. The adoption of this method is possible under certain conditions.

First of all, the choice should be notified in writing to the correct tax office by the end of the first month of the fiscal year, which comes into effect (in the case of taxpayer's start-ups - within 30 days from the date of its commencement). If the unit of on-going operations needs to start using the balance sheet method, accounting for exchange differences from 01 January, 2014, they shall notify in writing to the tax office by 31 January, 2014.

Moreover, in the application of the method sheet drawn up by the taxpayer, accounts must be audited by authorised entities for their research. At this point the fixed exchange rate differences in the accounts in accordance with the provisions of the Accounting Act will also take into account for tax purposes. The introduction of the obligation to verify the financial statements by the auditor is to confirm, among others, regularity of fixed exchange rate differences.

The duration of the balance sheet method cannot be less than three fiscal years. a taxpayer who chooses this method of accounting, for exchange differences from 01 January, 2014, and announced in due time the tax office relevant to their choice. This office must then be used at least until the end of 2016, with a potential abandonment taking place only from the 2017 financial statements for all years in which this method is used, must be audited by an auditor.

If you choose the method of establishing the carrying amount of the exchange differences, taxpayers on the first day of the tax year, in which this method was chosen, will include the income or deductible expenses accrued against the exchange rate differences, determined on the basis of the accounting regulations on the last day of the previous fiscal year. From the first day of the tax year in which you chose a method, the rules will apply for determining the differences arising from the Accounting Act.

CHANGES VALID FROM 01 JANUARY, 2014 *CONTINUATION*

New regulations regarding the deduction of VAT for the Intra-Community acquisitions of goods

Starting on 01 January, 2014 the right to deduct VAT calculated for the Intra-Community acquisition of goods (WNT) arises on general rules. The taxpayer may deduct VAT in the settlement for the period in which, for goods purchased by the taxpayer, the tax liability arose.

However, it should be noted that in the case of the business does not receive an invoice for the goods within 3 months (from the end of the month when, in terms of the purchased goods, the tax obligation arose), in ten absence of an invoice, the business will be required to correct (reduced) the amount of calculated VAT. The receipt on this invoice at a later date, shall entitle the contractor (buyer) to increase the tax calculated accordingly.

The change of regulation in this possibility, have practical consequences for the taxpayer, namely:

1. Tax for the Intra-Community acquisition of goods can still be settled as VAT calculated within the settlement for the month the tax obligation arose. However, in the case of purchases in relation to which the business does not have the invoice at that moment - the deduction is in a way conditional. The taxpayer shall be obliged to verify whether in the period of three subsequent months, it received an invoice for such purchases from the foreign suppliers.
 2. If in this time the invoice is received, the original settlement shall not be changed. However, in case it does not receive the document, then in the settlement for the month, when the 3-month period expired, the taxpayer shall be obliged to correct the calculated tax.
 3. In case the business receives the invoice after the period, it shall be entitled to make the second increase in the calculated tax. It should be done within the settlement period in which the taxpayer received the invoice (systematically). Simultaneously, the method of stating the due VAT remains unchanged.
 4. In case the taxpayer keeps receiving significantly late invoices, the transaction which was tax neutral, will become a temporarily taxable operation. The business shall be obliged to present the due VAT, without the right to deduct the calculated tax.
-

New income limits regarding, among others, the status of a small taxpayers

As of 01 January, 2014 new higher income limits regarding, among others, the status of a small taxpayers, which are not obliged to keeping the accounting ledgers.

The status of a small taxpayer (PIT, CIT and VAT) shall be kept by companies whose income value from the sale achieved in 2013, did not exceed 5,068,00.00 PLN. This amount has been increased by 146,000.00 PLN.

Also, the depreciation expense limit has been increased. The maximum total amount of immediate write-offs for 2014 is 6,000.00 PLN higher, when compared to the preceding year and amounts to 211,000.00 PLN.

The value up to which the company may use the flat-rate tax on registered income, without deductible costs, has been also changed and shall apply to companies whose income for the last year did not exceed 633,450.00 PLN.

The necessity for keeping accounting ledgers by individuals, general partnerships, limited companies, professional partnerships and co-operatives shall emerge when their net income for the sale of goods, products and financial operations, for the preceding financial year amounted to, at least, to the equivalent of 1,200,000.00 EUR expressed in Polish currency. Taking into account the EUR rate as at 30 September, 2014, the company whose income for 2013 did not exceed 5,059,560.00 PLN, will not have to keep the accounting ledgers.



CHANGES VALID FROM 03 MARCH, 2014

New regulations regarding the deduction of VAT for the Intra-Community acquisitions of goods

The tax authorities continually strive for more effective control of transactions among associated enterprises. The clarifications concerning business restructuring published by the Ministry of Finance on 03 March, 2014 are yet another step towards achieving this goal.

The clarifications are based on the OECD Transfer Pricing Guidelines and deal with examination of business restructuring processes defined as transfer of economically significant functions, assets and risks among associated enterprises.

The most common reasons for restructuring are centralisation processes, including centralisation of management of e.g. intangible assets, as well as production, distribution, or research & development processes. Functional changes, especially those connected with transfer of e.g. intangible assets, or termination or major re-negotiation of the existing contracts (e.g. for production, distribution, licence agreements, contracts for services) are considered to be the forms of business restructuring. The tax inspectors' attention may be drawn as well to the terms and conditions of the transfer of loss-making activities.

The clarifications further suggest an increased focus of the inspectors on the examination of economic aspects of the restructuring process. The economically significant criteria include:

- the course of the restructuring process;
- the restructuring terms set out in the contract or agreement;
- the economic circumstances;
- the business strategy;
- the characteristics of the entities involved in the transfer of functions, assets or risks.

The above information presents only a part of the extensive clarifications published by the Ministry of Finance. We would like to remind you that the executive regulations to the Corporate Income Tax Act have been in force since July 2013. They set out the rules to be followed by taxpayers in carrying out the restructuring processes.

We will gladly offer you our assistance and tax and legal advice if you are interested in further information in this matter.

CHANGES VALID FROM 01 APRIL, 2014

A company car - changes in accounting for VAT from 01 April, 2014

From 01 April, 2014 new rules for calculating and accounting for VAT on expenses regarding automotive vehicles, with an allowable total weight not exceeding 3.5 tones shall apply. The new regulations intend to limit the right to account for VAT in the instance of automotive vehicles which are being used both for business and private purposes of a taxpayer. However, in the occasion where the cars are used exclusively for business purposes, the full accounting for VAT shall apply. In both cases, the legislator simultaneously introduced the 'system securing' the correct accounting for VAT.

Limitations in accounting for VAT

In accordance with the fundamental rule the VAT payer using a car (no matter if it is a passenger car or a car equipped with a cargo partition), as a VAT taxed business it is entitled to deduct 50% of the amount of VAT resulting from the invoices documenting the expenses related to such vehicles.

We need to emphasise that the limited right of deducting VAT in the case of expenses connected with the automotive vehicles, applies only to the situation when the vehicles is used for purposes related to taxed activities, as well as for private purposes (mixed usage).

Accounting for 100% VAT

The following limitations in deducting VAT shall not apply:

- In case the automotive vehicles are:
 - » used exclusively for the taxpayer's business activities, or
 - » by design used for transporting at least 10 people including the driver, in this case such use is specified in the documents issued under the Traffic Law.
- To goods installed in the automotive vehicles and to the related installing services, repairs, and maintenance, if the purpose of these vehicles objectively indicates the possibility that they are used solely for the taxpayer's business activity.

In the clarification to the draft of the discussed amendment to the VAT Act, the Ministry provided examples when there is no potential possibility of using the vehicle for private purposes. These are as follows:

- the taxpayer's business activity includes selling such vehicles - the possibility of using them for private purposes is eliminated - these cars are not registered,
-

CHANGES VALID FROM 01 APRIL, 2014 *CONTINUATION*

A company car - changes in accounting for VAT from 01 April, 2014 *(continuation)*

- the taxpayer's business activity includes renting the vehicles; however, the possibility of using them for private purposes will be eliminated,
- the design of the vehicle objectively indicates the sole usage for business activity purposes, for example, an excavator,
- the documentation in possession of the taxpayer (regulations, contracts and orders) indicates that the vehicle is being used solely for business activity purposes and it is not possible to for the employee to use the company car for private purpose, for example: driving home.

Obligatory register

As it was specified before, in circumstance where the taxpayer decides that the automotive vehicles are to be used solely for business activities, it has to additionally keep (for these vehicles) a mileage logbook.

The mileage logbook shall be kept from the first day the automotive vehicle is used for business activities of the taxpayer, until the day the vehicle stops being used solely for the business activities.

Taxpayers who purchased cars by the end of March 2014, are obliged to keep the logbook from when the first day they incurred the first expense related to these vehicles from 01 April, 2014.

Taxpayers who are going to deduct 50% VAT amount from expenses related to the usage of a car and those who do not have right to deduct the due tax amount by the amount of tax calculated from the related expenses, are not going to be obliged to keep the logbook.

Also, taxpayers who use the VAT taxed vehicles in their business activity and the construction of vehicles, eliminates their usage for purposes not related to the business activity or makes their usage for non-business activity purposes irrelevant, will not be obliged to keep the logbook.

Date of issuing an invoice in the case of delivery of goods

An invoice should include the following: the date of issuing, the date of executing or finalising the delivery of goods, when you performed the service and the date of receiving money, as mentioned in Article 108b, Section 1, Subsection 4 of the VAT Tax (Dz. U. of 2011, No. 177, Item 1054, as amended), if the date is specified and is different than the date of issuing the invoice.

According to the general rule expressed in Article 19a, section 1 of the VAT Act, the tax obligation arises the moment the goods are delivered or the services are provided. Thus, the tax becomes due and payable in the month of the delivery of goods or provision of the service and, as a rule, it should be accounted for within this settlement period.

Date of issuing an invoice in the case of delivery of goods
(continuation)

In accordance with Article 7, Section 1 of the Act, the delivery of goods means the day of transferring the right to manage the goods as the owner. The delivery of goods usually means a physical release of such goods to the taxpayer or a person authorised to collect the goods on behalf of the taxpayer.

Currently, taxpayers are allowed to issue invoices even 30 days before the goods are delivered. In such case the seller does not always know when the rights to manage the goods as the owner, meaning when the delivery of goods will be transferred. Those invoices, as a rule, do not have to specify the date of delivery, unless the date is known to the seller on the day of issuing the invoice.



getsix® PARTNERS

getsix® Partners would like to consider this tax brochure has been and will be of benefit to you throughout the year. We have tried to encompass all that you might want to know, and also what we feel is important, in one handy sized booklet. Of course we cannot include all tax and legal laws, but hope we have helped to bring the 'main' laws together for quick and easy reference.

getsix® Partners have the philosophy that our employees are not only the wealth of the business, but also make getsix® different and stronger. We focus on self-reliance of our staff, without having to impose their duties. This allows for the free operation of personal responsibilities and has a positive effect on efficiency of duties.

It is important to us that we always provide 'added-value' for our clients and potential clients, in this ever changing world, customer service and support is very close to our getsix® principles.

Our mission is to provide our clients with a full range of Account, Tax & Financial Services, complimented with our IT Solutions. This will allow us to deliver to you the highest level of quality, service and technical expertise. getsix® Partners understands that its success, is a direct result of your success. Our team will be committed to servicing your business beyond your expectations.



Monika Martynkiewicz-Frank

Claus Frank

Roy Heynlein

Ortwin-Uwe Jentsch



The status of all information complies with the effective date of the publication. No responsibility is taken for the published information.

Editorial deadline: 30.04.2014

Publication: Year 2014

This publication was prepared by getsix® in co-operation with the TaxaGroup.

TAXAGROUP®

TAX ADVISORS GROUP

All rights, including partial reprints, photo-mechanical reproduction, as well as the evaluation of databases or similar devices, reserved.

The authors have prepared this publication at hand with the utmost care. Nevertheless small inaccuracies can never be avoided in such a comprehensive work. The editors-in-chief therefore do exclude all liability for any consequences, which might result from an application of this whole documentation in real life and practice.

For binding information you are requested to take up direct contact with the editors-in-chief.

Memberships

 **Swiss**
Chamber of Commerce



D | W | K



british polish
chamber of commerce

Competencies



Partnerships



A world-wide network of independent
accounting firms and business advisers.

Certificates



NCAGE 2152H

