TAX SERVICES

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TAXES IN POLAND 2023

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HLB THE GLOBAL ADVISORY AND ACCOUNTING NETWORK

CORPORATE INCOME TAX (CIT)

Legal basis	Act of **15 February 1992**, on corporation tax with all subsequent amendments
Basic information	**Sources of revenues:** • from capital gains, • from business activity and from special sections of agricultural production. The consequence of this amendment is the separate calculation of the amount of income from these two sources and the lack of possibility to compensate losses from investments with income from other business activity. The exceptions apply only to banks (their revenues will be allocated to one source). **Subject of taxation** The subject of CIT taxation is income constituting the sum of income from both sources: capital gains and other economic activity. This means that if both of these sources generate a profit, it will be subject to a joint taxation at the rate of **19%** (**9%**). As a rule, also revenues from capital gains will be created on an accrual basis (due revenues). The exception in this respect relates to revenues of a typically cash nature, i.e. from 2021 including division of profits in a limited partnership. 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 way as subsidiaries.

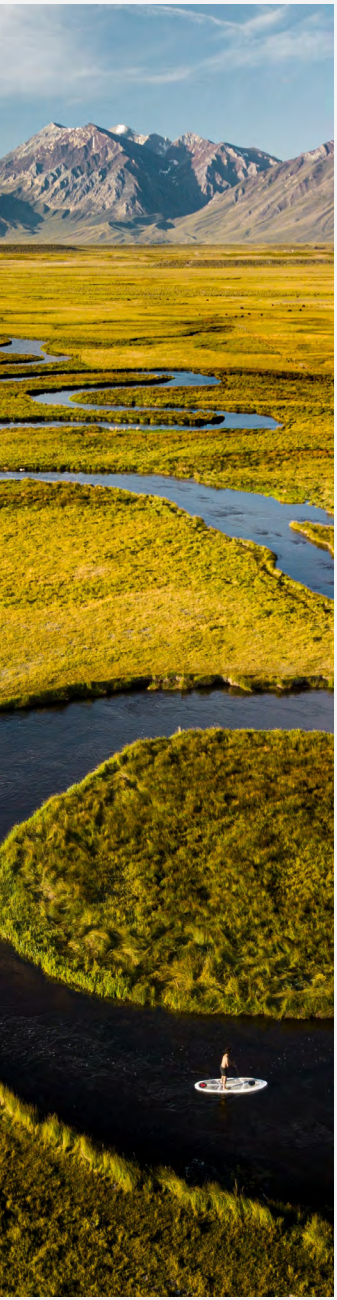
Tax rate (CIT)	**There have been two corporate tax rates:** • **19%** - corporate income tax rate for unlimited and limited taxable corporations, however, no minimum corporate income tax, • **9%** - corporate income tax rates for: » so-called 'small taxpayers'. These are all taxpayers whose income in the previous tax year does not exceed **PLN 2,000,000.00**, including value added tax, » people starting a business (in the tax year of commencement of the business) - there are limitations in using the **9%** rate for some corporations which were transformed during a restructuring process.
Minimum Corporate Income Tax	The legislator has introduced on the grounds of CIT regulations a minimum income tax in the amount of **10%** of the tax base obligatory for companies which are either CIT taxpayers or tax capital groups who: • incur losses from a source of revenue other than capital gains (that is, essentially from operating activities), or • show a share of income from operating activities in the income from these activities which does not exceed **1%** of the tax base. For the purpose of proper calculation of the loss and the participation of the income in the total proceeds are not to be taken into consideration in the given tax year the tax-deductible costs which refer to amortization, or leasing expenses, and any expenses related to the purchase or the refurbishment of long term fixed assets. The tax base, which is the basis for calculating the minimum tax, is defined separately and includes a certain percentage of revenue, alternatively a percentage of revenue plus the cost of debt financing and advisory services incurred for related parties. **The legislator has provided for exemptions from minimum taxation. The regulation will not apply for:** • entities commencing their activity: in the year of its foundation and in the two consecutive tax years immediately following that year, the so-called "start-ups" (with the exception of entities having come into being as a result of restructuring), • financial institutions, • entities that obtained revenues lower by at least **30%** in comparison with the revenues obtained in the tax year immediately preceding that tax year • small taxpayers • enterprises achieving, in one of the three tax years immediately preceding the tax year for which the tax falls due, a share of income in the proceeds of at least **2%**. The tax is not due until the end of **2024**.

Payment terms for corporate income tax	Monthly advance payments amounting to the difference between the tax due from the beginning of the year and the total sum of already paid advance payments are transferred into an individual tax account of the taxpayer. In certain cases, advance payments may be paid in a simplified form. The obligation to pay advance payments does not apply to taxpayers who are incurring tax losses. Advance payments do not have to be paid by those PIT and CIT taxpayers, whose advance payment for a given month does not exceed **PLN 1,000.00**. These are cases in which the tax due on income earned from the beginning of the year less the amount of advance payments paid since the beginning of the year does not exceed **PLN 1,000.00**. If the tax due on income earned from the beginning of the year, less the amount of advance payments paid since the beginning of the year, exceeds **PLN 1,000.00**, then the current tax advance payment must be paid. This method is applicable both to taxpayers paying advance payments monthly and quarterly. In addition, in the case of PIT taxpayers, such a rule applies to taxpayers who generate revenues from rental contracts which are subject to taxation according to the general rules. The CIT and PIT taxpayers who use a simplified method of advance payments are not exempt from the obligation to make advance payments.
Tax loss settlement	Tax loss can be settled within **5 years**. In each year no more than **50%** of the loss may be deducted (and the remainder in subsequent years), alternatively it is allowed to make a one-off reduction on income in one of the next consecutive tax years by the amount not exceeding **PLN 5,000,000.00**. The amount not deducted is subject to the settlement in the remaining years of the five-year period, provided that the amount of the reduction in any of these years can never exceed **50%** of the tax loss amount.
Limited Tax Liability	Unlimited tax liability for revenue generated in Poland applies to the businesses whose board of management or registered address are based on the territory of Poland. Whereas, businesses which do not have their registered address or board of management located in Poland are subject only to the limited tax liability in this respect. Save for income from business activity achieved on the Polish territory and from real estate situated in Poland, income obtained on the territory of Poland comprises also proceeds from receivables squared by enterprises with headquarters or permanent place of living in Poland, irrespective of the place of conclusion of the contract and service delivery. Income achieved in Poland encompasses also proceeds from securities and derivatives licensed for trade in Poland on a stock exchange, as well as those originating from a transfer, directly or indirectly, of shares in a company as well as participation units issued and managed by an investment fund.

	Dividends, interest, and other receivables being subject to withholding tax paid by a Polish enterprise are considered to be generated on the territory of Poland. The catalogue does not exclude recognizing other categories of income as obtained on the territory of Poland. It should also be noted that double taxation treaties concluded by Poland may, in practice, entail in particular cases that a specific revenue will not be subject to taxation in Poland.
Real Estate Company	These are entities that meet certain criteria for the value of assets constituting real estate or rights to such real estate, or for holding shares (units) in companies that are real estate companies, including funds that invest in real estate. The sale of shares by a non-resident in a real estate company, representing **5%** or more of those participation rights, obliges the real estate company to collect tax as payer on the proceeds of that disposal.
Affiliated companies	According to the OECD convention (OECD-MA), an affiliated entity exists whenever: • a 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).
Estimating the value of the service provision transactions	When the value expressed in the price determined in the contract significantly deviates from the market value of such an object, right or service, the tax organ summons the parties to the contract to change the value or to list the arguments of application of a price significantly deviating from the market value. In case of nonresponse, non-application of a change of a value or non-listing of the arguments justifying a price deviating significantly from the market value, the tax organ will determine the value calling in the opinion of an auditor/appraiser. Provided that the value determined in such a manner differs by at least **33%** from the value expressed in the price in the contract, the cost of the opinion of the auditor/appraiser will be borne by the seller or the service provider, dependent on the decision of the tax organ.
Deductible operating expenses	Tax-deductible expenses are expenditures that have been incurred to achieve revenues from a source of revenues or to maintain or secure a source of revenues, with the exception of costs listed in Article 16(1) of the CIT Act. See the part: **“Non-tax-deductible expenses” on page 23**.
Taxation of non-monetary contributions	A non-monetary contribution to a capital company in the form of an enterprise or its organized part does not give grounds to CIT tax consequences, neither for the company nor for the contributor. On the other hand, in the case of a non-monetary contribution in a form other than an enterprise or its organized part, the in-kind contribution to the company by the contributor entails the creation of revenue and, consequently, the payment of corporate income tax.

In such a case, the value of the object of the contribution as specified in the articles of association or other corporate documents constitutes revenue. The contributor of such a contribution is entitled to recognize the costs related to the subject of the in-kind contribution. In such a case, the taxable base shall be the potential surplus of the value of the contribution over the costs related to the expenditure on the contribution after required by law reconciliations in value.

If the value of the object of the contribution differs from its market value, revenue will be determined in the amount of the contribution's market value. However, no revenue arises on the part of the company which receives the contribution.



TRANSFER PRICES 2023

The taxpayer is required to prepare local transfer pricing documentation for a controlled transaction of a homogeneous nature whose value, less value added tax, exceeds the following documentation thresholds in the reported financial year:

- **PLN 10,000,000.00** in the case of a commodity trade transaction,
- **PLN 10,000,000.00** in the case of a financial transaction,
- **PLN 2,000,000.00** in the case of a service transaction,
- **PLN 2,000,000.00** in the case of a transaction other than the one specified above.

In the case of controlled transactions with an entity having its place of residence, registered office or management in a territory or in a country applying harmful tax competition or a foreign permanent establishment located in a territory or in a country applying harmful tax competition (transactions with entities from so-called tax havens), the documentation threshold is:

- **PLN 2,500,000.00** in the case of a financial transaction,
- **PLN 500,000.00** in the case of a transaction other than a financial transaction.

Documentation thresholds will be established separately for:

- any controlled transaction of a homogeneous nature irrespective of the allocation of the controlled transaction to commodity, financial, service or other transactions,
- cost and revenue side.

Transfer pricing is verified using the most appropriate method in the circumstances, selected from the following methods:

- a comparable uncontrolled price,
- a resale price,
- cost plus,
- net transaction margin,
- distribution of profits.

In determining the amount of income (loss), the tax authority shall apply the method adopted by the affiliate, unless the application of a method other than that adopted by the affiliate is more appropriate under the identified circumstances.

Local transfer pricing documentation should be prepared by the end of the 10th month after the end of the tax year.

The taxpayer is required to submit the transfer pricing information on the TPR form by the end of the 11th month after the end of the tax year.

An integral part of the transfer pricing information, is a statement issued by the management board that the local transfer pricing documentation has been prepared and that it has been prepared in accordance with the actual state of affairs and that the transfer prices covered by the documentation are determined on the arms' length principle applying for unrelated parties.

In the catalogue of exemptions from the obligation to prepare local documentation, the most important is the exemption from the obligation to prepare local documentation for transactions concluded exclusively by affiliates having their residence, registered office or management on the territory of the Republic of Poland in the tax year in which each of these affiliates meets certain conditions, in particular none of them suffered a tax loss.

If the consolidated income of the capital group in the previous tax year exceeded the limit of **PLN 200,000,000.00**, the capital group is obliged to prepare the Master File documentation, by the end of the 12th month after the end of the tax year.

From 2022, pursuant to the legal act amending the CIT legislation, the obligation to prepare local transfer pricing documentation will not cover any more (among others):

- transactions between foreign permanent establishments (from the EU or the EEA) located on the territory of Poland and transactions between such permanent establishments and a Polish related party provided that no tax loss incurred and no exemptions used,
- transactions involving only the settlement between affiliated parties of expenditure incurred on behalf of an unrelated party, where the following cumulative conditions are met:
  - » no added value is created, and the settlement is made without taking into account a profit margin or mark-up,
  - » the settlement is not directly related to another controlled transaction
  - » the settlement occurred immediately after the payment to the unrelated party,
  - » the related party is not an entity that has its residence, registered office or central administration in a territory or country applying harmful tax competition,
- transactions involving low value-added services where the conditions set out in the legal act are met (safe harbour for low value-added services),
- transactions involving a loan, credit, or bond issue - where the conditions set out in the legal act are met (safe harbour for financial transactions).

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If you have any questions regarding accounting, taxation, or other aspects of tax law in Poland, please contact our team of advisors.

TAX & LEGAL

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Interests of credit/ externally financed stake holdings	Generally deductible.
Thin capitalization rules	**Insufficient capitalization - debt financing** The Corporate Income Tax Act introduced a limitation on the possibility of recognizing interest on bank and non-bank loans in costs. Taxpayers are required to exclude the costs of debt financing from the tax-deductible expenses in the part in which the excess of debt financing costs exceeds **PLN 3,000,000.00** or **30%** of the amount corresponding to the surplus of revenues from all revenue sources less interest income over the sum of tax-deductible expenses less the amounts of depreciation and amortization expenses counted as tax-deductible expenses, as well as costs of debt financing not recognized in the initial value of a fixed asset or an intangible asset (so-called tax EBIDTA).
Depreciation	Depreciation methods: straight-line, declining balance method only allowed for special machinery, equipment, and means of transport. In cases specified in the tax act, it is possible to apply individual depreciation rates. If, on the date of commissioning for use, the initial value of a fixed or intangible asset stays below **PLN 10,000.00** (net), taxpayers may apply one-off write-offs on these low value assets. **Depreciation rates:** • Non-residential buildings: **2.5%** • Other buildings and structures: **4.5%** • Machinery and equipment: **7%** - **25%** • Cars and lorries: **20%** • Computers: **30%** If technically verifiable or in the case of used assets, other depreciation allowances are permitted (with reservations, e.g. with regard to activities in an SEZ - Special Economic Zone or PIZ - Polish Investment Zone, on the basis of a permit). From 2022, the possibility of depreciation of residential buildings has been stopped (in 2022, depreciation is only allowed for buildings acquired by the 31st of December 2021 and can only last until the 31st of December 2023). Due to the changes, a taxpayer cannot include residential buildings in the register of tangible and intangible assets. Taxpayers may use depreciation premium. Using such a solution, the taxpayer may apply a one-off depreciation and amortization write-off up to **PLN 100,000.00** and include it in costs in the year in which he commissioned the brand new fixed asset for use.

Provisions	Accruals for events are not recognized for tax purposes in general (a few very restrictive exceptions nevertheless exist).
Non-tax-deductible expenses	**Examples of non-deductible costs** (detailed list in Article 16, Paragraph 1 of the Tax Act) • 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 fees and commissions related to the purchase of beneficial interests, • Write-offs for the wear and tear of a passenger car in the portion determined on the basis of the value of the car exceeding the amount of: » **PLN 225,000.00** - in the case of a passenger car being an electric vehicle within the meaning of Article 2(12) of the Act of 11 January 2018 on Electromobility and Alternative Fuels, » **PLN 150,000.00** - in the case of other passenger cars, • Interest, bank charges and exchange rate differences of loans, which increase the investment costs in the acquisition stage, • Charged but unpaid interests or interests waived, payable for debts including loans, • Most of the accruals set up on the balance sheet, • Expenses for the acquisition or purchase of shares, • Entertainment expenses, • The unlawful employment of an employee and the failure to disclose, in whole or in part, remuneration of such an employee to the competent tax authorities.
Special regulations for intangible services	**Until the end of 2021, taxpayers were obliged to exclude the following costs from deductible expenses:** • services purchased from related parties or from tax heaven countries directly or indirectly, • in opposite, this does not apply to costs for services, licences, and fees paid to third party entities, • the limitation concerns the amount over **PLN 3,000,000.00** per annum plus **5%** of the so-called tax EBIDTA, • on a grandfathering basis, the amounts of costs not deducted in each year under the aforementioned legislation may be deducted in the following 5 tax years, under the rules and within the limits applicable in this year.

Commercial real estate properties tax

The so-called "minimum income tax" was introduced in relation to taxpayers who own commercial and service properties as well as buildings classified as office (Article 24b, Article 24c of the Corporate Income Tax Act) - commonly referred to as "commercial property tax."

The tax shall apply to buildings which:

- are owned or co-owned by a person subject to taxation,
- have been handed over wholly or partly for use under a lease, tenancy or similar contract,
- are located within the territory of the Republic of Poland.

This tax applies to revenues from ownership of a fixed asset being a trade, commercial or service building, whose initial value exceeds **PLN 10,000,000.00.** Properties must be properly classified in accordance with the Classification of Fixed Assets.

The solution applies to the following commercial properties:

- trade, commercial, and service buildings classified as: shopping centres, department stores, independent shops and boutiques, other trade, commercial and service buildings,
- office buildings included in the Classification as office buildings.

What is the tax rate?

- **0.035%** monthly,

WITHHOLDING TAX (WHT) 2023

Interest, royalties, and others

Interest and royalties paid to a non-resident and fees for certain intangible assets and legal services (e.g. consulting, accounting, legal and technical services, advertising, data processing, market research, recruitment, management, inspection services and guarantees, etc.) are subject to **20%** withholding tax, unless the rate is not reduced under the agreement on the avoidance of double taxation, or the EU Directive on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States.

Requirements for exemption from withholding tax on interest and royalties

The condition for exemption from the withholding tax, in the case of interest and royalties arising between affiliated companies, is that the recipient of the claims is the actual beneficial owner of these claims.

For the exemption to be applied, the Polish taxpayer must obtain a certificate which, in addition to the previous elements, contains a statement that the company or the foreign enterprise, which is the recipient of the creditor claims, is the actual economic owner.

Dividends

The taxation of dividends runs up to **19%** respectively, or the particular double taxation treaty rate or the application and adherence of the EU-Parent-Subsidiary Directive for the taxation of parent and affiliated companies.

The so-called dividend exemption:

- exemption from withholding tax for payments done by a Polish resident
- withholding tax exemption for dividends that a company with a tax residence in Poland pays to a company with a tax residence in another country.

Condition:

the entitled party to the dividends must dispose of a minimum **10%** 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 realization (declaration of the beneficiary of the dividends required).

Flight tickets

The obligation to collect withholding tax on the purchase of flight tickets (in the amount of **10%**) was abolished, if the purchase of such flight ticket concerns a regular scheduled passenger flight.

WHT Pay and Refund mechanism

Application

If payments to the same related party, within the meaning of the transfer pricing regulations, in respect of interest, dividends, and royalties exceed an amount in the amount of **PLN 2,000,000.00**, the payer is obliged to collect the tax in the full amount (**19%** or **20%**) at the rate resulting from the Polish regulations, regardless of whether he is entitled to apply a reduced rate.

The tax collected in this manner is refunded upon request:

- to the taxpayer or
- payer - if the payer has paid the tax from his own resources and has borne the economic burden of this tax.

The application is submitted electronically and the regulations indicate the information that should be included and the list of attachments.

The application of the WHT pay and refund mechanism applies to payments to related parties as defined in the transfer pricing legislation and to payments of a passive nature - the aforementioned interest, dividends, and royalties. The mechanism does not apply to dividends paid to Polish residents.

This implies that taxpayers will still, as a rule, be obliged to pay WHT once the **PLN 2 million** threshold is exceeded, and only after withholding tax is deducted will they be able to claim a refund, but this will only apply to the payments to related entities that are not Polish tax residents.

Importantly, the pay and refund mechanism will not apply if:

- the taxpayer obtains a binding opinion on the application of the exemption issued by a competent tax authority,
- or he verifies on his own the applicability of the tax exemption on the basis of the aforementioned EU directives and submits an appropriate declaration within the statutory deadlines to the tax authorities.

Statement

The statement indicated should specify that the taxpayer:

- is in the possession of the documents required by tax law for the application of the rate of tax, its' exemption or non-collection of tax resulting from special provisions or double taxation treaties;
- after verification, has no knowledge of circumstances excluding the possibility of applying a tax rate or exemption or non-collection of tax resulting from the application of special provisions or double taxation conventions.

This statement, shall be signed by the management board of the entity.

Due diligence criterion	When verifying the conditions of the application of an exemption or a tax rate resulting from special regulations or double taxation conventions, the payer is obliged to exercise due diligence. As of 2022, the criterion of due diligence has been changed: when assessing due diligence, now not only the nature and scale of the payer's activity is taken into account, but also its relationship with the taxpayer. This change is intended to clarify the requirements related to the verification of due diligence and will enable differentiation of due diligence requirements in relation to the related and the unrelated entities.
Use of copy of certificates of residence:	An element of any verification process for withholding tax issues is the possession of a certificate of residence. It is now permissible, in any case, to use a copy of the residence certificate if the information contained in its' copy does not raise a reasonable doubt as to its compliance with the real facts.

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TAX & LEGAL

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Dividends paid by a Polish company	The following rules apply, taking the WHT Pay and Refund mechanism described earlier into account. **International:** **Dividends paid by a company established in Poland.** 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. On the other hand, any deduction of withholding tax from the amount of due tax in Poland should be preceded by the verification of the existence and records of the relevant double taxation conventions. **European Union (EU), European Economic Area (EEA):** Exemptions from withholding tax for dividends, paid by a corporation resident in Poland, towards a corporation resident in a country of the EU or the EEA. Condition: The entitled to the dividends must dispose of a minimum **10%** 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 realization (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 realization (declaration of the beneficiary of the dividends required).
Dividends a Polish corporation receives	The following rules apply, taking the WHT Pay and Refund mechanism described earlier into account. **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 a minimum **10%** 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 realization (declaration of the beneficiary of the dividends required). **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 a 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 realization (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.
Directive on taxation of subsidiaries and parent companies	**Exemption from withholding tax on distributed profits occurs when:** • The period of holding shares is a continuous period of minimum **2** years, • The minimum share in its' equity amounts to **10%**.
Payment of interest and royalties receivables to non-residents	The following rules apply, taking the WHT Pay and Refund mechanism described earlier into account. **Tax exemption applies to:** • interest and royalty payments made between associated companies (parent-subsidiary relationship, or sister-sister-company) only, Thereby, the beneficiary of the payment must maintain a capital shareholding of minimum **25%**.

Choice of the settlement method of accounting of exchange differences	Corporation and Income taxpayers (CIT and PIT) that are obliged to produce financial reports have the right to choose the accounting method to calculate the exchange differences mentioned in Article 9b, Paragraph 1, Point 2 (CIT) or Article 14b, Paragraph 2 (PIT). The competent tax office should be notified of the accounting method chosen in a tax return filed by the end of the third month of the following year by means of electronic communication in accordance with the provisions of the Tax Ordinance Act. In addition, during the period of applying a specific accounting method to calculate exchange rate differences, the annual financial statements of taxpayers are subject to auditing. In this case, the reported and audited exchange rate differences are tax-deductible. The introduction of statutory audits aims at the confirmation of the accuracy of the calculated exchange rate differences. The period of applying this accounting method cannot be less than **3 years**. If you select the balance method of calculating exchange rate differences, taxpayers on the first day of the fiscal year from which this method was chosen, include income or deductible expenses accrued, exchange rate differences, determined on the basis of the accounting regulations on the last day of the previous fiscal year in their financial accounts. From the first day of the tax year for which you have chosen this method, apply the principles of the Accounting Act for calculating the differences.
Capital gains	Capital gains are taxed as ordinary income at the standard corporation tax rate of **19%**.

CIT TAX ALLOWANCES 2023

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.
Research and development relief	Tax on qualified income earned by the taxpayer from qualified intellectual property rights will amount to **5%** of the taxation basis; It is possible to simultaneously deduct under the R&D and IP Box relief. **The following rights are deemed eligible intellectual property rights:** • patent, • utility model protection right, • registered design right, • topographical and integrated circuit registration right, • additional protection right for a patent for a medicinal product, or plants protection product, • the right of registration of a medicinal product and a veterinary medicinal product, • the exclusive right referred to in the Act on the Legal Protection of Plant Varieties, • copyright to a computer program.
IP Box relief	IP Box is a preferential taxation of income from sales of products or services based on intellectual property rights. The solution should increase the attractiveness of conducting research and development activity in Poland. It is supposed to encourage entrepreneurs to more courageously search for business potential in intellectual property rights. The IP Box preference is an arrangement that a taxpayer can take advantage of after the end of the tax year in his annual return.

	Taxpayers who, as part of their business activities, produce and then commercialize computer programs, may tax (after meeting statutory conditions) the income obtained from the transfer of exclusive rights or the granting of licences at a preferential **5%** income tax rate. The subject of the IP BOX tax relief is the income from the commercialization of a qualified intellectual property right (granting of a licence or sale of copyrights to a computer program). Remuneration for other technical activities not directly related to the creation of qualified IP does not constitute qualified income taxed at a **5%** rate (e.g. implementation of the program at the client's site, preparation of technical documentation, technical assistance, training etc.). A taxpayer who wants to take advantage of the IP BOX tax preference must keep detailed accounting records allowing for the link between a specific qualified intellectual property right and the income generated as a result of research and development works. It is worth pointing out that there is no set pattern for keeping such records. What is important is the ability to link revenues and costs with a qualified intellectual property right.
Innovation relief:	
» Relief for robotization	Industrial robotization relief applies to companies seeking to boost production by commissioning industrial robots. Rules for deduction similar to those for R&D tax relief: deduction from the tax base. The relief applies to costs incurred in the years 2022-2026. **The following are regarded as deductible costs incurred for robotization:** • costs of purchasing new industrial robots; machines and peripheral devices for industrial robots which are functionally related to them; machinery, equipment and other items functionally related to industrial robots which serve to ensure ergonomics and safety at work in relation to these workstations, where man-robot interaction is performed, and • costs of acquiring intangible assets necessary for the proper launch and commissioning of industrial robots and other fixed assets mentioned above, and • acquisition costs for training services related to industrial robots and other tangible or intangible assets referred to above, and • fees agreed in the finance lease agreement for industrial robots and other fixed assets.

» Relief for prototypes	The relief for prototypes applies to the trial production and launch of a new product. It supports costs incurred by the taxpayer at the stage of testing of an invention before mass production and market introduction. A company that decides to prepare a prototype may claim expenditures incurred for its creation as tax-deductible costs. Similarly to the R&D, relief costs will be deducted from the tax base and the deduction may not exceed **30%** of the costs incurred and no more than **10%** of the revenue received. **These costs include:** • the purchase price or the production cost of the current fixed assets required to launch a trial production of the new product • improvement expenditures incurred to customize fixed assets and launch trial production of a new product • costs of raw materials and other supplies acquired solely for the purpose of the trial production of a new product. **Launching a new product on the market:** Activities undertaken to acquire essential documentation to facilitate the receipt of certificates and permits related to the product that was created as a result of R&D work carried out by the taxpayer, and these certificates and permits enable the product to be sold. **Costs include:** tests, expert opinions, preparation of documentation necessary to obtain a certification, homologation, CE marking, safety marking, obtaining or maintaining a permit for trading or other mandatory documents, labelling required for launching the product on the market and product usage (costs and fees charged in order to: obtain, renew and extend them), product life cycle, environmental technology verification (ETV) system.
» Relief for innovative employees	Entrepreneurs benefit from the relief for supporting innovative employees when they employ personnel (whose working time devoted to R&D activities amounts to at least **50%** of their total working time) to carry out research and development. Applies to employment contracts, contracts for specific work and contracts of mandate. A taxpayer who is a remitter and conducts R&D activity is entitled to deduct from the advances on income tax (collected from the revenue of natural persons employed by him) the eligible costs which were not deducted from his income in the Annual tax return as part of his R&D relief deductible.
Relief for contributors to sports activities, cultural activities, higher education and science	
Allows the possibility of deducting **50%** of the tax-deductible costs from the tax base of revenues incurred for specific purposes.	
» For sporting activities	Applies to costs incurred by sports clubs which pursue the objectives specified in the Article 28 of the Sports Act, i.e: • purchase of sports equipment,

	• covering costs of organizing sports competitions or participation in these competitions, • covering costs of using sports facilities for training purposes, • funding of sports scholarships, • organizing a sports event that is not a mass sports event, as referred to in the Act on Safety of Mass Events.
» For cultural activities	It relates to the costs incurred for cultural activities within the meaning of the Act on organizing and conducting cultural activities. Cultural activities referred to here are: creation, propagation and protection of the culture.
» For higher education and science	**Applies to costs incurred on:** • student scholarships for academic performance, • research scholarships for doctoral students, • fees related to the education of a hired employee during: the studies, postgraduate and other forms of education, • students' salaries during apprenticeships in the workplace.
Consolidation relief for the acquisition of shares in a Polish or foreign capital company:	The consolidation relief may be applied when the subject of activity of the purchased capital company is the same as the subject of activity of the taxpayer purchasing its shares (stocks) or the activity of the company may be reasonably considered to be an activity supporting the taxpayer's activity (the activity of such a company is not a financial activity). The consolidation relief applies to a taxpayer who is an entrepreneur and earns revenue other than that from capital gains. It allows one to deduct from the tax base certain expenses related to the acquisition of shares in a company having a legal personality. The maximum amount of such a deduction may not exceed **PLN 250,000.00** in a given tax year. **Eligible expenditure includes:** • legal services related to the acquisition of shares, including their valuation (due diligence), • interest, taxes directly charged on the transaction, and • notarial, court and stamp fees. Eligible expenditures do not include the price paid by the taxpayer for the acquired shares (stocks) or the costs of debt financing related to such acquisition. A taxpayer may benefit from this deduction if the company whose shares are acquired by the taxpayer is a legal person with its registered office or management board within the territory of Poland or in another state with which the Republic of Poland has a binding agreement on avoiding double taxation.
Incentives	Expenses incurred for acquiring technological knowledge may reduce the taxable base in certain cases. A one-time depreciation write-off up to **EUR 50,000.00** may also be available for small and start-up taxpayers.

Merger and split up of companies	The transactions of merger and split of companies must have an economic justification. If they do not have such a justification and the tax authority takes the standpoint that the main purpose of the transaction was the achievement of a tax advantage, the acquirer will be held liable to pay tax on the income (no possibility to reduce it via tax-deductible costs). In addition, the obligation to pay the tax may also fall on the shareholders. In total, the authorities may require payment of tax as many as three times: twice from the company (when taking over another company and its subsequent later sale) and from the shareholders.
Amortization of enterprise value (goodwill)	• Possible for an asset deal, but only covering the purchase of the whole company, respectively a separable part of the business operations. • Not possible in the case of a share deal.
Taxation of taxable groups of companies	**All the following conditions must be met:** • The parent company must have at least **75%** of shares in the equity of any other companies in the group, • These other companies within the group must have a minimum equity of **PLN 250,000.00** each, • Part of a capital group should be a limited liability company, joint stock companies or simple joint stock companies. Companies operating within tax capital groups cannot count donations as tax-deductible expenses.
Taxation of holding companies	A holding company that may benefit from preferences is a limited liability company or a joint stock company, being a Polish tax resident. Direct or indirect shareholders (stockholders) of a holding company cannot be entities that have their office, management board or place of registration situated in countries practising harmful tax competition. To benefit from the preferences indicated below, the holding company must hold at least **10%** of the shares in the subsidiary (domestic/ foreign) and conduct real economic activity. **Preferences available to holding companies include:** • a tax exemption for dividends received by the holding company from its subsidiary with respect to profits on shares in legal entities, • exemption from taxation of income earned by a holding company on the disposal of shares in a subsidiary to an unrelated entity, provided that the holding company submits to its' competent head of the tax office, at least 5 days prior to the date of disposal, a declaration of its intention to make use of the exemption from taxation.

Taxation of limited partnerships	Subject to taxation is the running activity of the company and profits distributed to the partners of such companies, similarly as in the case of limited companies and joint stock companies. At the company level, income is taxed at a CIT rate of **19%** (**9%** for small taxpayers) and, further down the line, profits distributed to shareholders are taxed like dividends - at a flat rate of **19%**. **Rules for taxation of partners of a limited partnership on income from shares in the profit of this partnership:** The taxation of the profits of the limited partnership's partners will take place according to principles analogous to those applied to distributions in limited liability or joint-stock companies, however different rules of deduction have been adopted depending on the status of the partner: **1. Limited partner.** An exemption is provided for **50%** of the income from share in the profit of the limited partnership, but not more than **PLN 60,000.00**. This exemption applies to each company in which this entity is a limited partner. **The exemption does not apply if the limited partner:** • holds, directly or indirectly, at least **5%** of the shares in a company having legal personality or a capital company which is the general partner of that limited partnership, • is a member of the management board of the company, which is the general partner, • is an entity related to a member of the management board or a partner in the company, being the general partner Where the aforementioned exemption does not apply, income from participation in the profits of legal persons is taxed in accordance with the rules analogous to the taxation of income from participation in a limited liability company. **2. Partner with unlimited liability** A general partner of a limited partnership will be entitled to a tax deduction on income from profits in that partnership, tax on its running business activity in the proportion in which he holds the right to share in the profits. The amount of this off-set can nevertheless never exceed the amount of the tax calculated from the profit using the linear lump sum tax rate of **19%**, imputable on the profit of the partner with unlimited liability.
Tax collection dates and deadlines	• Annual tax declaration: filing until the **31st 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, • Prepayments for CIT must be settled by the **20th of the following month.**

The consequences of settlement of liabilities by type of transferring (Corporate Income Tax CIT, VAT & Private Income Tax PIT)

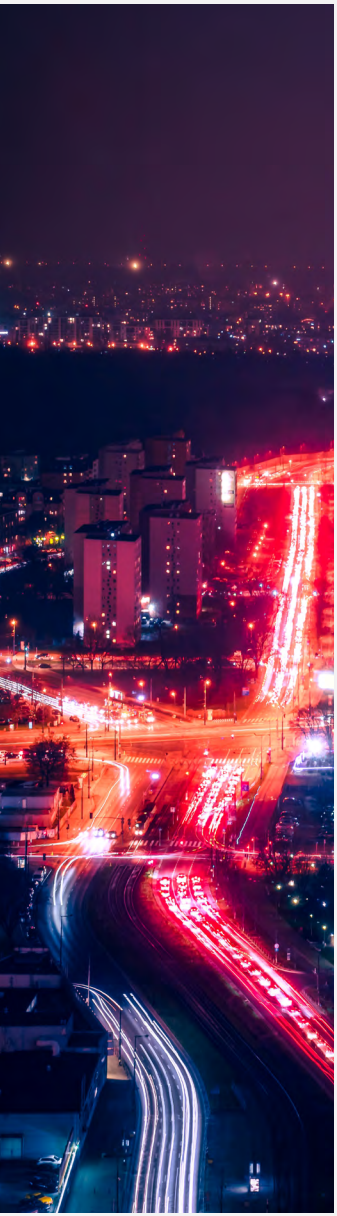
The settlement of liabilities through non-cash contributions generates taxable income by the debtor. The taxable income is defined as the amount of debts, which shall be settled through non-cash contributions. If the market value of the non-cash contribution exceeds the nominal amount of the debt, this may be applied with the restriction that in these cases the market value of the non-cash contribution is taxable. Such settlement also applies to the distribution of the assets of the liquidated company, settled with the partners in a non-monetary form.

If payables are settled through non-cash contributions, the amount of the claim is tax-deductible, but reduced by:

- the VAT payable for the non-cash contribution, as well as,
- the sum of the depreciation carried out.

A provision will be added, according to which the value of the received non-cash contribution being the same amount as the repaid loan (credit), will not be considered as taxable income.

Another regulation added, which states that the purchase value of properties, as well as the intangible and tangible assets, which have been received as non-cash contributions for the settlement of payables, are defined by the value of the settled debt.



TAXATION OF FOREIGN CONTROLLED ENTITY INCOME (CFC)

In the CIT and PIT acts, there are regulations providing for taxation of foreign income of Controlled Foreign Corporations (CFCs).

A controlled foreign corporation is, as a general rule, a company that meets jointly the following criteria regarding:

- the scope of control, i.e. the taxpayer holds continuously for a period of at least **30 days** at least **50%** of shares in the capital or **50%** of voting rights in control bodies or in state bodies or **50%** of the share in profits of a foreign company,
- the nature of the revenue generated, i.e. at least **33%** of the revenue the foreign company generates is a so-called "passive income", i.e. revenue of a financial nature: dividends, shares, receivables and copyrights,
- the income tax actually paid by the company is lower than the tax it would have paid in the State of it's residence or the permanent establishment of its' management board namely in Poland (For the calculation of the difference the permanent establishment of the foreign controlled entity is not taken into account, provided that the foreign controlled entity does not stay subject to taxation or is exempt from taxation in the country of its' residence).

In some cases, a CFC is exempt from taxation (this is due to statutory requirements, among other things, it can depend on the country of residence of the foreign company, the nature of its' business and the amount of income received).

The taxable amount of a CFC shall be the income according to CIT-/PIT-Law, but only for income attributable to the Polish taxpayers and the corresponding period of ownership in the company profits.

The Polish taxpayer will have the opportunity to deduct the dividend received from the CFC and the amount realized from the sale of shares in the CFC from the income mentioned above.

The taxpayers will be required to:

- perform the registration of the CFC,
- guarantee independent management of the accounting, event recording, which will have influence on the income of the CFC, as well as,
- process notification of the profit of the CFC.

The registration and the recording will not be necessary, if the CFC's entire income is subject to taxation in a country within the EU or the EEA and it also exerts its actual business in this country.

Currently, whether the entity should be recognized as a foreign company is determined by the shareholding maintained by the Polish taxpayer, both individually and jointly with other related entities. It is all about having shares directly or indirectly.

Definition of the related entity

For the purposes of the above clarification in the provisions of income tax acts, in Article 24a of the CIT Act and Article 30f of the PIT Act, a definition of what constitutes a related party is included. By this definition, the related entity means:

- a legal entity or an organisational unit without legal personality in which the taxpayer holds at least **25%** of equity or at least **25%** of voting rights in control or constituting bodies, or at least **25%** of shares related to the right to participate in profits,
- a natural person, a legal entity or an organisational unit without legal personality which holds in the taxpayer at least **25%** of equity or at least **25%** of voting rights in control or decision-making bodies, or at least **25%** of shares related to the right to participate in profits, (in the PIT Act - the taxpayer's spouse, as well as his relatives up to the second degree),
- a legal entity or an organisational unit without legal personality in which the entity indicated in b) holds at least **25%** of equity or at least **25%** of voting rights in control or decision-making bodies, or at least **25%** of shares related to the right to participate in profits (Article 24a (2)(4) of the CIT Act).

The scope of activities to be performed by a foreign company was significantly changed so that its income would be covered by Polish income tax under the CFC regulations. The threshold of obtained passive revenues was reduced from **50%** to **33%**, while the catalogue of such revenues was broadened.

This category includes revenues from:

- dividends and other revenues from shares in profits of legal entities,
- the sale of shares,
- receivables,
- interest and benefits from all types of loans,
- the interest part of the leasing instalment,
- sureties and warranties,
- copyrights or industrial property rights, including the sale of these rights,
- the sale and exercise of rights from financial instruments,
- insurance, banking or other financial activity,
- transactions with related entities if the company does not economically generate an added value in relation to these transactions or such value is negligible (Article 24a (3)(3b) of the CIT Act, Article 30f (3)(3b) of the PIT Act).

For the same category of companies, the requirement for the tax rate applicable in the country of residence of the company was changed. The legislator departed from the principle of comparing income tax rates for the sake of a fixed amount of tax. As a consequence, a comparison of the actual (effective) taxation of a given CFC was made.

Thanks to this, an actual reference of tax amounts and verification of mutual relations is to be made. This means that a simulation is necessary in which effective taxation in the country of the company's registered headquarters is compared to the hypothetical taxation with Polish CIT.

The condition for the controlled company is met if the difference between the tax actually paid in the country of residence and the company's hypothetical Polish tax (i.e. which the company would pay if it were a Polish resident) is higher than the tax actually paid by the company (the actually paid tax is one that is not subject to refund or deduction in any form). However, when calculating such a difference, the foreign permanent establishment of the controlled company is not taken into account, the tax from such permanent establishment is not paid in the country of residence of the company.

There is an obligation imposed on taxpayers covering controlled companies to include in the register of foreign companies also foreign controlled companies set up in other member states of the EU or EOG, even if they provide genuine economic activity, unless that is not a significant genuine economic activity. Previously, the legislator did not demand the requirement of significance. Simultaneously the precision was taken for the evaluation, whether the genuine economic activity is of significance, to take into account in particularity the ratio of income generated by the foreign controlled entity from its' genuine economic activity to its' general achieved turnover (article 24 a clause 18 of the CIT tax act, article 30f clause 20a of the PIT tax act).

In the current legal status, the CFC provisions also apply to fixed permanent establishments of foreign taxpayers located in Poland.

Tax on pass-through income

Pass-through income is defined as a specific type of tax-deductible expenses incurred by a taxpayer to a non-resident related party during the tax year. Taxes on pass-through income at a rate of **19%** on the taxable base must be paid by taxpayers provided several conditions are met.

I. The taxpayer must make payments of receivables for certain purposes. These include the costs of:

- consultancy services, market research, advertising services, management and control services, data processing, insurances, guarantees, warranties and services of a similar nature,
- fees and charges of any kind for the use or right to use rights or copyrights or related property rights, licences, patents, know-how,

- the transfer of the risk of insolvency of the debtor under loans other than those granted by banks and credit unions, including commitments resulting from derivative financial instruments and products of a similar nature,
- debt financing related to obtaining funds and using these funds, in particular interest, fees, commissions, premiums, the interest part of lease instalments, penalties, charges for late payment of liabilities and costs of securing liabilities, including costs of derivative financial instruments,
- fees and remuneration for the transfer of functions, assets or risks.

II. The summary of the costs from the aforementioned categories incurred by a taxpayer in a tax year for the benefit of affiliated entities, tied within the meaning of Article 11a(1)(4)with the taxpayer and included in the tax year as deductible costs of that taxpayer, must constitute at least **3%** of the balance of the taxpayer's tax-deductible costs for that year.

III. Several conditions must be cumulatively met concerning the related party to which the payments are made:

- the income of the related entity derived from the aforementioned sources is, according to the regulations of its country of residence, subject to taxation at an income tax rate lower than **14.25%**, or totally exempt or excluded from taxation with this tax,
- a further condition is that the related entity receives from the taxpayer or from other companies related to the taxpayer which are Polish tax residents at least **50%** of the total revenue from the above-mentioned sources,
- additionally, it is necessary that the related entity, for whose benefit the costs are incurred, transfers at least **10%** of the above-mentioned revenues to another entity:
  - » by including the expenditure thereon as an expense accounted for income tax purposes, or by deducting such expenditure or revenue from income, tax base or tax in any form, or
  - » where such income constitutes profits assigned for distribution, irrespective of timing, in the form of dividends or other income from a share in the profits of legal persons,
- in the case of distributions to entities that are residents in a Member State of the European Union or the European Economic Area, taxation only takes place if the entity concerned does not carry out substantial real economic activity in that country.

In order to determine whether the economic activity of the affiliated entity to which the payments are made is genuine, a particular account shall be taken of:

- whether the entity in the country of its registration has an establishment within which it carries out its economic activity, consisting in particular of premises, qualified staff and equipment for the exercise of its economic activity,
- whether the beneficiary of the payment is in a position to decide independently on the use of the funds received,
- whether the recipient of the receivable bears the associated economic risk of loss.

When assessing whether an economic activity is material, particular consideration shall be given to the ratio of the revenue received by the affiliate from its genuine economic activity in relation to its total revenue.

ACCOUNTING & TAX ADVISORY FOR YOU!

If you have any questions regarding accounting, taxation, or other aspects of tax law in Poland, please contact our team of advisors.

CUSTOMER RELATION

MARTA ROGACKA
Senior Customer Relations Manager
Tax Advisory Office
Location: Poznan

The taxation of transformed companies with profits that have been transferred to other categories of capital than share capital	In the case of converting a company, that is an income taxpayer, into a company that is not such a taxpayer, the taxable income from shared profits and non-distributed profits will be increased by profits that are transferred into other categories of capital stock.
So-called equity loans	The corporate income tax act excludes the application of exemption from taxation for the recipient of dividends (article 20, clause 16) as well as other income from shares in profits of legal entities paid between affiliated companies in that part, by which in the country of the company paying the dividends or other shares in profits paid these expenses are subject in whatever form to accreditation to costs of generation of income, deduction from revenue, reduction of the basis of taxation of the paying company.
Regulations regarding the validity of Certificates of Residence (CoR)	The presentation of a valid certificate of residency allows in the case of payment for services rendered to foreign recipients (for example on dividends or royalties) to make use of the principle of avoidance of double taxation. In case of lack of a valid certificate of residence, the moment of payment of determined amounts in favour of the foreign recipient, the Polish entrepreneur stays obliged to collect the monies hereunder upfront and to channel the tax at source in the name of the foreign recipient who is subject to taxation as per the rate stipulated in the tax act to the Polish Inland Revenue Office, hereby not taking into account any relief, nor even exemptions applicable for the regulation of tax at source. A certificate of tax residency, which does not command an expiry date, expires automatically after **12 months** from the date of its issuance. It is admissible to use a copy of the certificate of residence.
A declaration on the actual beneficiary	In line with the law which came into force on **13th of October 2019** Poland operates the public and accessible for everybody Central Register of Ultimate Beneficiary Owners (UBO). In line with the creation of the central register of UBO, companies are legally obliged to pass on the information on their beneficiary owners (private persons exercising the final control on the legal entities) within **7** days from first registration of the legal entity or any actualization in the Polish Corporate Register (KRS).

The issuance value of shares	The issue price of participation units (shares) determines the price for which the participation units (shares) are subscribed, laid down in the articles of association or the statutes, and in case of lack of such source documents - in any other document of similar character, not lower than the market value of these participation units (shares) (article 4a point 16 of the act on corporate income tax on legal entities). Such a definition was introduced for the sake of regulations standardizing the challenges related to restructuring operations for the definition of the size of income related to restructuring events (mergers, splits). The legislator currently orientates himself on the nominal value of participation units (shares), and as a consequence hereof, the income of a stakeholder (shareholder) of a split company stays the issuance value of received by him participation units (shares) of the acquiring party or the new formed company, provided that the assets taken over based on the split, and for a split processed as a separation – the assets taken over as an effect of a split or the assets staying in the company - do not constitute an organized part of the company. Similar as a tax-deductible cost from the sale of participation units (shares) in the acquiring party of the assets of the split or the newly formed company is going to be considered the value of the income previously achieved by the stakeholder (shareholder) of the split party, that is the issuance value of the received participation units (shares).
The obligation to submit financial statements to tax offices in an electronic form	There is no possibility any more to submit financial statements to tax offices or tax authorities directly, either per post or by any means of electronic communication. The company's financials filed with the KRS repository is automatically transferred to the tax authorities, and only by doing so the financials are duly filed within the meaning of the law. Exception: the obligation to submit a copy of the shareholder resolution approving the financial statements by entities registered in the National Court Register raises interpretation doubts. Therefore, for your safety, resolutions approving financial statements should be submitted separately to the relevant tax office by post.
Obligation to publish the tax strategy	The biggest taxpayers (with revenues above **EUR 50,000,000.00**) and companies that are members of a tax capital group and real estate companies have to accept that the Minister of Finance will make public in the Public Information Bulletin information included in their tax statements. The biggest taxpayers and companies that are members of a tax capital group will be required to draw up and publish on their websites' information on the tax strategy pursued, including: • processes and procedures regarding the performance of tax obligations and their implementation, broken down by individual taxes, • information on MDR, • planned and undertaken restructuring activities affecting the amount of tax liabilities, as well as other information indicated in the regulations.

The introduction of a limit for cash transactions

The threshold of the transactional amount which – covering companies being the parties to – can be executed in cash runs up to **PLN 15,000.00**.

In the case of performing a cash payment exceeding this amount, the expenses under such a payment cannot be taken as the tax-deductible costs in the calculation of corporate income tax CIT.

Starting from **1st of January 2024** the execution or the receipt of any payments related to the exercise of a business activity takes place under the intermediation of a bank account of the entrepreneur whenever

- a party to the transaction, which executes the payment, is another entrepreneur, and
- the one-time value of the transaction notwithstanding if the quantity of the underlying payments overshoots **PLN 8,000.00** or the equivalent of this sum.

The private consumer will be obliged to carry out the payment with the intermediation of a bank account provided that the one time value of the transaction with an entrepreneur, notwithstanding of the quantity of the underlying payments, overshoots **PLN 20,000.00** or the equivalent of this sum.

"ESTONIAN" CORPORATE INCOME TAX

Estonian CIT is referred in the law as a lump sum on income of capital companies. It is a modern way of taxation that promotes investments and minimizes formalities when settling taxes for capital companies and partnerships.

This solution is addressed to:

- micro, small and medium-sized capital companies and partnerships (limited and limited joint-stock partnership) being CIT taxpayers,
- companies in which the shareholders are exclusively natural persons.

The Estonian Corporate income tax will be available to companies:

- which do not have shares in other entities,
- which employ at least 3 persons, excluding shareholders (facilitations for small and start-up taxpayers are granted),
- whose passive income does not exceed the income from operating activities,
- which do not prepare their financial statements in accordance with IAS,
- file an appropriate notice of their choice of this form of taxation to the Inland Revenue Office.

All of the above criteria must be met simultaneously.

Estonian CIT is due when the Company distributes its profit. In principle, therefore, no CIT is payable by the company accounting for CIT under Estonian CIT until profit is distributed.

The CIT rate for Estonian CIT is **10%** for small taxpayers and **20%** for all others.

However, the shareholder has the right to apply a deduction for the received dividend. The shareholder can reduce the tax paid on that dividend by the corresponding portion of the tax paid by the company. This results in the partner's final tax bill amounting to:

- **10%** for a small taxpayer
- **5%** for all other companies

A company subject to Estonian CIT is also not obliged to pay the minimum tax (statutory exemption).

A company subject to Estonian CIT, that does not exceed the sales value of **PLN 2,000,000.00** (including VAT) for the preceding tax year is eligible for a quarterly settlement of VAT.

However, when opting for an Estonian CIT settlement, it should be borne in mind that, in addition to the profit distribution indicated above, CIT tax liability will also arise in connection with:

- the appropriation of profit to cover losses generated in the period before the profit was subject to Estonian CIT,
- so-called hidden profits,
- expenses not related to business activities.

Hidden profits are understood as benefits to shareholders, partners and their related parties, including e.g. a loan granted to such a shareholder.

The choice of this solution entails its obligatory application for a period of four years, with the possibility of an extension for a further four years.

ACCOUNTING & TAX ADVISORY FOR YOU!

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CUSTOMER RELATION

ELŻBIETA NARON

Head of Customer Relationships Department / Senior Manager
Tax Advisory Office
Location: Wroclaw

OTHER TAX ON CORPORATIONS

Real estate property tax

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

Tax rates are determined by a resolution of the Municipal Council, and now they cannot exceed:

Property type	Tax rate
Land designated for the conduct of business	**1.16 PLN/m²**
Residential buildings	**1.00 PLN/m²**
Buildings designated for the conduct of business	**28.78 PLN/m²**
Structures	**2%** 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, granting permission, etc. The applicable rates or fixed amounts are specified in the stamp duty law.

Other

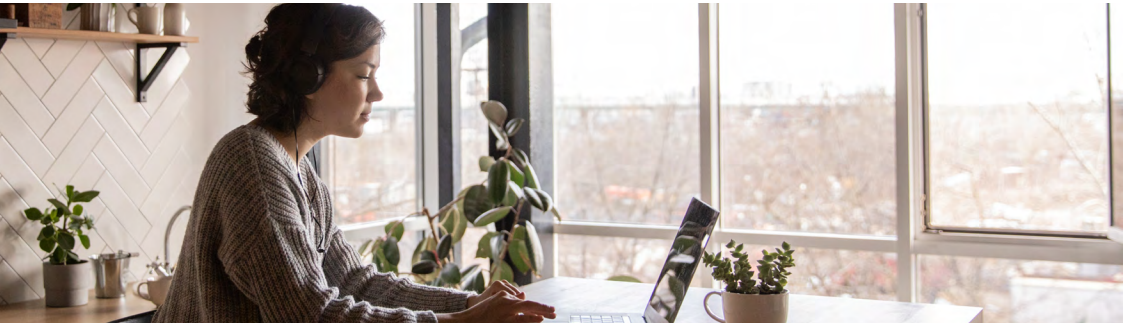
- Excise tax is charged on turnover of selected goods,
- Shipping companies may opt to pay tonnage tax on certain types of income,
- A special tax is imposed on the excavation of silver and copper.
- A special tax is imposed on goods containing sugar, including sweet drinks.

REGULATIONS PREVENTING TAX EVASION

Transfer pricing	Discussed in detail in the section **"Transfer prices" on page 20.**
Standard Audit File (Jednolity Plik Kontrolny -JPK)	There is an obligation for taxpayers who keep a ledger using computer programs to submit these documents in total or in part along with accounting evidence documents, to tax authorities for a certain settlement period, in the form of a strictly defined electronic format (i.e. "structures"). The concept of the standard audit file is based on the recommendations of the OECD for the Standard Audit File - Tax 2.0 and was introduced in many European countries, among others, Austria, the Netherlands, France, Slovenia, Luxembourg, Portugal and the Czech Republic. **Currently, the following reporting structures are in operation:** • Structure 1 - Accounting - JPK_KR, • Structure 2 - Account Statements - JPK_WB, • Structure 3 - Stock - JPK_MAG, • Structure 4 - VAT register for purchases and sales - JPK_ V7M, JPK_V7K, • Structure 5 - Invoices for VAT purposes - JPK_FA, • Structure 6 - Tax Revenue and Expense Ledgers - JPK_PKPIR, • Structure 7 - Revenue Ledger - JPK_EWI. **The obligation to transfer the data to the tax authorities in the form of the standard audit file can be divided into two areas:** • At the request of the tax authorities (JPK_KR, JPK_EWI, JPK_PKPiR, JPK_FA, JPK_MAG, JPK_WB, JPK_ V7M, JPK_V7K), • Without the request of the tax authorities (only JPK_ V7M, JPK_V7K) but to be delivered by law on predefined deadlines, i.e. the 25th of the following month for the previous month.

	The submitted VAT JPK is both a record and a declaration: • JPK_V7M - for taxpayers settling their dues monthly • JPK_V7K - for taxpayers settling their dues on a quarterly basis. These declarations have to submitted monthly or quarterly, dependent on the method of settling the taxpayer's accounts.
National e-Invoice System	The National e-Invoice System is a solution for issuing and receiving structured invoices electronically. As of **1st of January 2022**, the system has been introduced in Poland as a voluntary solution, while in the future (according to the legal status as at the date of publication from 30.04.2023 onwards) the National e-Invoicing System will become a mandatory solution. **The electronic invoicing obligation:** • will cover all taxpayers who carry out economic activity in the field of goods and services tax in Poland, and will concern: » active VAT payers, » taxpayers enjoying subjective or entity exemption from tax on goods and services, • will apply exclusively to taxpayers with their registered office in Poland. **The introduction of the National e-Invoicing System will not affect:** • foreign taxpayers who are not obliged to register for VAT purposes in Poland, • foreign taxpayers who are registered in Poland for VAT purposes without creating herewith a permanent establishment. Only structured invoices may be issued in the National e-Invoicing System. Taxpayers will be able to use free tools provided by the Ministry of Finance or their own financial and accounting systems to issue structured invoices. The right of customers to receive paper invoices or electronic invoices, e.g. in pdf or equivalent format, will not be affected by the corporate's use of the National e-Invoicing System.
Clause for circumventing the law on the exchange of shares:	The Act on Corporate Income Tax (CIT) provides that the postponement of taxation in the case of transactions involving swap of shares, does not apply if one of the principal reasons of the transaction of swapping shares is the avoidance or circumvention of taxation. This situation always applies if the swapping of shares is not grounded on justified economic aspects. **In addition:** Individual interpretations issued before the clause came into force on tax evasion do not protect the taxpayer if tax advantages are challenged on the basis of this clause, after **1st of January 2017**.
Disclosure Requirements	Certain transactions must be reported to the tax authorities and/or the National Bank of Poland.

Mandatory Disclosure Rules (MDR)	There is an obligation to provide the Head of the National Tax Administration with information on Mandatory Disclosure Rules (MDR). MDR is a solution developed on the basis of knowledge of tax law provisions and its practical application. **Reporting of national MDR is limited to relevant ones only:** • subjectively: revenues, costs or assets of the beneficiary or its affiliates exceed the equivalent of **EUR 10,000,000.00,** or, • objectively: the agreement refers to an asset or right with its value exceeding **EUR 2,500,000.00**. **The entities obliged to report MDR are:** • promoters, i.e. entities that develop, offer, make available or implement the agreement or manage the implementation of the agreement, • supporting entities, i.e. entities which, with due diligence generally required in the performed activities, taking into account the professional nature of the activity, the area of specialization and the subject matter of the performed activities, undertake, directly or indirectly through other persons, to provide assistance, support or advice concerning developing, marketing, organizing, making available for implementation or supervising the implementation of the agreement, • beneficiaries, namely entities to which an arrangement is being made available or implemented, or which are prepared or have taken action to implement the arrangement (taxpayers in principle).
Exit Tax	Subject to taxation by income tax of non-realized profits stays: • the transfer of assets by the tax payer to another tax jurisdiction in another state, herein also those assets forming part of a permanent establishment, • change of a tax residency by the taxpayer, as a result thereof the Polish state loses its right to taxation of the income from the sale of a component of the estate being the ownership of this taxpayer. Thus, by its nature, exit tax does not apply to any transfer of assets, but only to those to which the country loses its right to tax the income effectively generated before the transfer. In the CIT Act, the rate is **19%** of the tax base.



PERSONAL INCOME TAX (PIT)

Legal basis	Law dated **26th July 1991**, on Income Tax with all amendments.
NIP Registration For tax purposes, if PESEL is not applicable	Needs to be performed in the relevant tax office before the date when the first PIT advance payment is due.
Tax period	For natural persons: Calendar year
Tax rates *(provided that no flat rate taxation scheduled)*	**The tax-privilege is PLN 3,600.00 annually.** Consequently, the fixed monthly privilege regardless of the income is **PLN 300.00**. Contrary to the previous regulations, there is no upper limit for the tax privilege, which remains unchanged regardless of the income achieved.
Tax-free income *(tax-free amount)*	**PLN 30,000.00** (with limitations)
Tax liability	• unlimited tax liability on worldwide income (unless a Double Taxation Treaty does confine the taxation obligation), • limited tax liability on certain domestic income.
Revenue streams	**Different revenues from:** • Special areas in agriculture • Economic activity • Self-employed (personally performed) activity • Employed activity • Capital investment and property rights • Rent & leasing • Capital gains from transfers • Activities carried out by a foreign controlled entity • Unrealized gains • Other income

PIT progressive rates	**12%** and **32%** for the excess over **PLN 120,000.00** (ca. **EUR 26,000.00**) (applicable e.g. to employment income or income on dependent services).
PIT flat rate	**20%** (applicable to board members, being non-Polish tax residents after having completed certain requirements and income generated by the liberal professions), **19%** (e.g. interest, capital gains, the sale of virtual currencies, income from employment capital schemes, etc.).
5% IP Box	Described in detail in **"Research and development relief" on page 31**.
Revenue from unrealized gains (Exit Tax)	**The exit tax amounts to:** • **19%** of tax base - if the tax value of an asset is established, • **3%** of tax base - if the tax value of an asset is not established.
Lease subject to lump-sum taxation	Uniform rules apply to the taxation of income deriving from the source referred to in Art. 10 par. 1 item 6 of the PIT Act, i.e. from lease, sublease, tenancy, subtenancy and other agreements of a similar nature. Taxpayers earning income from the so-called private rental of residential property apply the same rules for the taxation of this income. This income is taxed exclusively by means of a lump-sum tax on registered income. • **8.5%** up to **PLN 100,000.00,** • **12.5%** over **PLN 100,000.00.**
Monthly tax compliance	PIT advances for a given month to be paid by **20th day of the following month** Advance payments do not have to be paid by those PIT and CIT taxpayers, whose advance payment for a given month did not exceed **PLN 1,000.00**. These are cases in which the tax due on income earned from the beginning of the year less the amount of advance payments paid since the beginning of the year does not exceed **PLN 1,000.00**.
Annual tax compliance	An annual tax return for a certain year must be filed from **15th February** to **30th April** in the year following the tax year.
Jurisdiction of the tax authorities	Both registrations, as well as payments of amounts due on personal income tax and the annual PIT settlement for non-residents posted to work in Poland should be made at the tax office competent for non-resident taxpayers in the area in which the foreigner resides or with the III Tax Office Warszawa-Śródmieście, if the work is rendered in more than one region.

FOREIGNERS AND WORK IN POLAND

Tax residency	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. 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 non-Polish tax 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. 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.
Legal basis for rendering work in Poland	**Employment contract with the Polish entity** 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 **12%** and **32%**. The Polish employer is obliged to pay monthly PIT advances on the described above income calculated according to the progressive PIT rates. Foreign individuals are obliged to calculate their final annual tax liability for the given year as well as submit the annual PIT return by **30th April** of the following year.

Foreign employment contract and secondment to Poland

a) non-Polish tax residents

The foreign private individuals are personally responsible for all compliance with the rules vis-à-vis the Polish personal income tax declaration, i.e. neither the foreign employer nor the 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 private individuals in Poland may not be subject to personal income taxation in Poland starting from the first day of stay in Poland, provided that the following conditions defined in the relevant Double Tax Treaty are simultaneously met (important: in each case referral is made to the treaty of double taxation avoidance between Poland and the applicable foreign country)::

- the stay in Poland lasts less than **183** days,
- 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 really 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 the employee's stay in Poland. PIT advances on income received from a foreign employment contract should be paid on a monthly basis for the months, in which the referred to income was received. Advance payments for PIT for a given month are to be paid up to the 20th day of the next month, applying the **12%** PIT rate (the **32%** rate may also be applied after exceeding the tax threshold). Individuals employed under a contract of employment or a contract of mandate are exempt from income tax under the age of **26**. Foreign private individuals are obliged to calculate their final annual tax liability applying progressive PIT rates. Foreign private individuals are also obliged to submit the annual PIT return by 30th of April of the following year. Only income related to work performed in Poland is reported for Polish PIT purposes.

b) Foreigners being Polish tax residents

Generally, the same rules applicable to non-Polish tax residents as mentioned in point a) above should be also applied in the 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. As well as the total world income accounted for in accordance with the provisions of agreements on the avoidance of double taxation.
Board members	**a) non-Polish tax residents** Income obtained by foreigners from, for example, Germany as natural persons being non-Polish resident taxpayers who were appointed as members of a management board of a Polish entity on the basis of a relevant shareholder's resolution, may be subject to **20%** flat-rate taxation in Poland. All obligations related to PIT relating to this system are performed by a Polish entity, in which such a person is a member of a management board. **b) Polish tax residents** If a foreigner, as an individual who is a member of the management board of a Polish entity, becomes a Polish tax resident, the income obtained on the basis of membership in the management board pursuant to a relevant shareholders' resolution will be subject to progressive PIT taxation in Poland. In such a case, the Polish entity would be obliged to pay monthly PIT advances. Foreigners as natural persons are also obliged to submit their annual PIT return to the Polish Tax Office by **30th April** of the following year. Appointed board members who are Polish residents are subject to health insurance contributions from the entirety of their income in the amount of **9%** of the contribution base (income).

Tax-deductible expenses: **(in the case of income from the employment relationship)**	**From the employment contract** (the place of permanent or temporary residence is the same town or city as the workplace)	monthly	**PLN 250.00**
		yearly	**PLN 3,000.00**
	From several employment contracts (the place of permanent or temporary residence is the same town or city as the workplace)	monthly	**PLN 250.00**
		max. yearly	**PLN 4,500.00**
	From the employment contract (the place of permanent or temporary residence is a different town or city than the workplace)	monthly	**PLN 300.00**
		yearly	**PLN 3,600.00**
	From several employment contracts (the place of permanent or temporary residence is a different town or city than the workplace)	monthly	**PLN 300.00**
		max. yearly	**PLN 5,400.00**

The revenues of authors

- **50%** of the tax-deductible expenses incurred by a taxpayer collectively in a tax year may not exceed the amount corresponding to the upper limit of the first bracket of the tax scale, i.e. **PLN 120,000.00**.
- Creative costs, applicable to business revenues pursuant to Article 22(9b) of the PIT Act, from the following activities:
  - » creative in the field of architecture, interior architecture, landscape architecture, construction engineering, urban planning, literature, visual arts, industrial design, music, photography, audiovisual creation, computer programs, computer games, theatre, costume design, set design, resignation, choreography, artistic violin-making, folk art and journalism,
  - » artistic in the field of acting, stage, dance and circular art and in the field of conducting, vocalism and instrumentalism,
  - » audio and audio video production,
  - » journalism,
  - » museum in the fields of exhibition, science, popularization, education and publishing,
  - » conservation,
  - » a related right described in Art. 2 (2) of the Copyrights Act of 4 February 1994 to an adaptation of a third party's work in translation,
  - » development and research, educational and scientific and teaching at universities.

Amortization of intangible assets and tax costs	The following items are not considered as tax-deductible expenses: amortization write-offs from the initial value of intangible assets, referred to in Article 22b(1)(4-7), if these rights or assets were previously acquired or created and then sold by a taxpayer or a company that is not a legal entity of which the taxpayer is a partner - in the part exceeding the revenue obtained by the taxpayer from their prior sale.
Loss in receivables and tax costs	The expense is determined only up to the amount of the previously obtained due revenue. In the PIT Act, the legislator clearly indicated that the revenue from the sale of receivables, also in the form of a contribution, corresponds to its sales price.
Income from economic activity	In particular, income from trade or business, which includes 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 intangible assets, • Revenue from the sale of movable assets (e.g. passenger cars), used for business purposes under a leasing contract. 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 **January 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 rendered to his proper inland revenue office). But: by choosing so, deductions from the taxable base and joint assessment with the spouse can not be applied. According to the paragraph 7 added to Article 8 of the PIT Act, in the case of spouses earning lease revenue, a declaration on the taxation of all revenues by one of them, and a notification of the resignation from this method of settling lease revenues may be submitted using the model declaration/notification specified by the minister responsible for public finances.
Taxation of so-called "cashback"	Taxation with a flat **19%** income tax on so-called "cashback" and other similar benefits received from the banks, credit unions and financial institutions. Cashback received from banks, cooperatives, or other financial institutions and finance institutions within the meaning of separate provisions, in connection with promotions offered by these entities, are subject to **19%** flat rate income tax. This tax is collected by banks, cooperatives (e.g. SKOK) and financial institutions as taxpayers.

Private use of company cars	The monetary value of a gratuitous service provided to an employee in connection with the use of a company car for private purposes is determined as follows: 1) **PLN 250.00** per month: for electric or hydrogen powered vehicles with engine power of up to 60 kW (80 km) 2) **PLN 400.00** per month: for vehicles other than those mentioned above If a company car is being used for private purposes on an irregular basis, the value of that service is determined for each day of usage and equals to 1/30th of the above-mentioned amounts. Group transport of employees organized by the employer to the workplace does not constitute a non-cash benefit for the employee and subsequently does not fall under taxation. The precondition for this approach stays the use of a means of transport designed and dedicated from its construction to the transport of more than 9 passengers, herein including the driver.
Income of non-residents	The Income Tax Act specifies the mandatory list of sources of income of nonresidents, which are considered to be on the territory of Poland. The amendment also introduces new types of income. **Income is considered to be achieved on the territory of Poland if applying to:** • securities, including financial derivatives admitted to trading on the Stock Exchange, as well as their sale or execution, • the transfer of ownership of company shares, inter alia. From companies and investment funds in which real estate in Poland represents a direct or indirect asset of at least **50%**, in the case of disposal of **5%** or more of the shares in a real estate company, the tax is collected by that company/fund, • claims which are subject to a flat-rate tax which is regulated by Article 29 and which are carried out by Polish taxpayers, irrespective of the place of conclusion of the contract and the provision of services. Exclusions from tax-deductible expenses **The following are not considered as tax-deductible expenses:** • all kinds of fees and charges for the use or right to use the rights and assets referred to in Article 22b(1)(4-7), acquired or created and then sold by a taxpayer or a company that is not a legal entity of which the taxpayer is a partner - in the part exceeding the revenue obtained by the taxpayer from their previous sale, • the tax referred to in Article 30g (tax on the ownership of commercial properties).

Manner of implementation of capital in kind transactions	The manner of calculation of the income covering transactions of commitment of shares in a company/contributions in a cooperative received in exchange for a non-financial recompense looks as follows: in the case that the value determined in the statutes or the articles of association will not be valued, or will be valued in a way not answering the market value, the income will be established on the level of market value based on general principles. With respect to the Polish Limited Partnership on Shares (and their foreign legal counterparties which are subject to corporate income taxation), those principles are applicable exclusively with reference to the capital in kind contribution, whose subjects are rights or items.
The catalogue of revenues (income) classified as the "income (revenue) from the share in profits of legal entities" has been expanded	Such revenues, in addition to those previously allocated to them, include: • revenues from the decrease in the value of shares - this is a supplement to the item where income (currently revenue) from redemption of shares has been indicated for a long time, • revenues from a participatory loan, i.e. the one where the payment of interest depends on whether the company made a profit or whether it made a profit in the assumed amount, • revenues from payment in cash, in the case of exchange of shares.
Incentive schemes	Taxation of income earned on the disposal of shares acquired under incentive schemes. Taxable income arises when the shares are disposed of. The concept of the incentive scheme and the parent company was also defined. The provisions of paragraphs 11-11b apply to income earned by persons entitled by means of acquisition or purchase of shares in joint-stock companies whose registered headquarters or management board is on the territory of a state with which the Republic of Poland has concluded an agreement of avoidance of double taxation. Revenue from incentive schemes is allocated to the source to which the scheme is linked. Therefore, if the incentive scheme is related to work, it will be taxed as income from the employment relationship and stays subject to **12%** and **32%** tax.
Changes related to bonus depreciation	The taxpayer may make a one-off depreciation and amortization write-off up to **PLN 100,000.00** and include it in costs in the year in which he adopted the brand new fixed asset for use. • This regulation applies only to acquired fixed assets (it does not apply to manufactured fixed assets). • Depreciation can only be applied to brand new fixed assets in groups CFA 3-6 and 8. This means that all means of transport have been excluded (group 7), not just passenger cars.

	• The minimum value of a fixed asset which could be depreciated or be subject to amortization in this manner should amount to at least **PLN 10,000.00.** • The regulations allow to include as tax costs also advance payments for the acquisition of new fixed assets, which are included in CFA 3-6 and 8, and whose delivery will take place in the next reporting periods. • The limit of **PLN 100,000.00** per year will cover jointly the depreciation write-off and the amount of advance payment made for the delivery of a fixed asset. • The limit of **PLN 100,000.00** applies to each entrepreneur, and in the case of partnerships that are not CIT taxpayers, the limit applies to all partners in the partnership. **Taxpayers may choose the moment of making a one-off depreciation write-off from the following variants, already in force:** • a write-off may be made at the earliest in the month in which the fixed assets were entered in the register of fixed assets and intangible assets, • a write-off may be made in one of the ways specified in Article 16h(4) of the CIT Act or Article 22h (4) of the PIT Act, i.e. in equal instalments every month, in equal instalments every quarter or once at the end of the tax year.
One-off amortization	**PLN 10,000.00** is the limit of fixed assets or intangible assets, allowing for a one-off crediting of expenditure for the acquisition of these assets as tax-deductible costs.
Withholding tax - flight tickets	**Flight tickets** The obligation to collect withholding tax on the purchase of flight tickets (in the amount of **10%**) was abolished, if the purchase of such flight ticket concerns a scheduled passenger flight.

PIT RELIEFS 2023

Deduction covering blood donation purposes	The monetary equivalent for one litre of blood was determined on the basis of the Regulation of the Minister of Health and amounts to **PLN 130.00.** A litre of blood plasma is valued at **PLN 170.00**. However, the value of the allowance should not exceed **6%** of the income indicated in the PIT return.
Deduction of expenses for the travel of the disabled persons	Deduction of expenses for the travel of the disabled persons to necessary medical and rehabilitation treatment applies to all disabled people, notwithstanding their disability class. Nonetheless, the deduction is still limited by an annual amount of **PLN 2,280.00**. **PLN 10,080.00** is a limit on the income of a disabled person who is the taxpayer's dependant, while the taxpayer settles the rehabilitation allowance for the disabled person supported by this taxpayer. In addition, it is stipulated that child support is not be taken into account when calculating this income.
Expenses deduction for the maintenance of a service dog	The limit of expenses deducted for maintaining a service dog is **PLN 2,280.00**.
Deductible expenses	**Deductible expenses - the paid disposal of virtual currency** Pursuant to Article 22(14) of the PIT Act, tax-deductible expenses of paid disposal of virtual currency are documented expenses directly incurred for the acquisition of virtual currency and costs related to the disposal of virtual currency, including documented expenses incurred for the benefit of the entities referred to in Article 2, paragraph 1 (12) of the Act on Counteracting Money Laundering and Terrorist Financing.
Deduction of a donation	Donations made for the purposes of vocational training to the public schools providing such training, referred to in Article 4 point 28a of the Educational Law **14 December 2016**, as well as donations to the public facilities and centres described in Article 2 item 4 of this act.
Thermal modernization relief	A taxable person who owns or is a co-owner of a single family residential building is entitled to deduct from the tax basis as calculated under Article 26, paragraph 1 or Article 30c, paragraph 2, the expenditures incurred in the tax year on construction materials, equipment, and services related to the execution of thermal modernization in this building, as described in the regulations issued on the basis of paragraph 10, which will be completed in the period of 3 consecutive years, counting from the end of the tax year in which the first expense was incurred. The deduction amount cannot exceed **PLN 53,000.00** with regard to all executed thermal modernization activities in certain buildings, owned or co-owned by the taxable person.

Relief for the employees **(Middle-Class Relief)**	Concerns taxpayers (restrictions apply accordingly to the catalogue described in the Act) that yearly generated income in the amount ranging between **PLN 68,412.00** and **PLN 133,692.00** or monthly ranging between **PLN 5,701.00** to **PLN 11,141.00** (for the purpose of calculating monthly tax advances).
Relief for return back to Poland	The return allowance can be taken into account during the year when calculating advance payments, including by taxpayers. The application of the exemption by the tax payer is subject to the taxpayer making a proper declaration in this effect to his competent tax office. The deduction will, in principle, be available to the taxpayer for the duration of four years following the base year. The base year is selected by the taxpayer and shall either be the year in which the taxpayer changes tax residency and becomes a Polish resident or the year that follows the change of the tax residency. **The relief for return grants a deduction:** • for the first year - half of the due tax calculated for the base year of the relief application • for the second year - half of the due tax calculated for the first year of the relief application • for the third year - half of the due tax calculated for the second year of the relief application • for the fourth year, half of the tax due calculated for the third year of the relief application Similarly to the tax relief for return, if the returnee has lived at least **3** years abroad and moves to Poland, he/she will be able to benefit from preferences regarding the contributions for the social security.
Relief for research and development (Innovation Box)	The rules for applying the relief for innovative employees, robotization and prototypes do not differ for CIT and PIT. For details on this relief, **see page 31.**
Relief for innovative employees, robotization, prototypes	The rules for applying the relief for innovative employees, robotization and prototypes do not differ for CIT and PIT. For details on this relief, **see page 32.**
Relief for contributors to sports activities, cultural activities, higher education and science	The rules for applying the relief for contributors to sports activities, cultural activities, higher education and science do not differ for CIT and PIT. For details on this relief, **see page 33.**

VALUE ADDED TAX (VAT)

Legal basis	Act of **11 March 2004**, on the taxation of goods and services, with all amendments.
Tax rates	• 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	• Value 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 legal entity is subject to the VAT registration obligation if the value of the sales in the previous tax year exceeded **PLN 200,000.00**. 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).
Refusal to register a taxpayer	The premises for the refusal to register an entity as a VAT payer and to delete the taxpayer from the registry of VAT payers: • refusal of registration is possible where verification shows that the data given in the registration application is false, the entity does not exist or, despite attempts to do so, it cannot be contacted, or it does not appear, and its representative does not appear on the summons of the head of the tax office.

Cancellation of a taxpayer	**A taxpayer is cancelled if:** • the taxpayer does not exist, • despite documented attempts, it is not possible to contact the taxpayer or its representative, • data provided on VAT-R registration form is false, • the taxpayer or its representative does not react to the summons of the head of the tax office, of the director of the tax administration chamber or the head of the national tax administration, • the taxpayer suspended the performance of business activity on the basis of provisions concerning suspension of business activity for a period of at least 6 consecutive months, • a taxpayer who was obliged to submit VAT declarations failed to submit such declarations for 6 consecutive months or 2 consecutive quarters, • the taxpayer submitted VAT declarations for 3 consecutive months or 1 consecutive quarter in which he did not report the sale or acquisition of goods or services with any amounts of tax for deduction.
Compliance	**(a) Invoicing** Transactions between VAT taxpayers must be documented with invoices. The Polish VAT law strictly regulates the elements that should be included in invoices. In general, an invoice should contain at least the following obligatory data: • 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 issuance, • date of supply - if such date is determined and differs from the invoice issuance 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 price of the goods or services without VAT (Net unit price), • value of the potential discounts, including those for the earlier payment, if they were not included in the net unit price. Simplified invoices may be used if the total amount of due amounts on the invoice does not exceed **PLN 450.00** or **EUR 100.00** (if the invoice is issued in EUR).

Simplified invoices may not include elements of the invoice that are marked with '' provided that the invoice includes information enabling to determine the value of VAT in relation to particular VAT rates. If a VAT invoice is to be issued on the basis of a fiscal receipt, this receipt must contain the tax identification number (NIP) of the purchaser.

(b) EU VAT tax

Polish VAT regulations comply with Directive 2006/112/EC.

(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.

Only small taxpayers are entitled to file quarterly VAT declarations, provided that:

- Already **12** months lapsed counted from the month they have been registered as an active VAT payer by the Polish Inland Revenue Office
- In the reporting quarter or in the **4** preceding reporting quarters, the taxpayers did not accomplish a delivery of goods which are in detail enumerated in the enclosure number 13 of the VAT tax act (unless the aggregated value of those goods without VAT did not exceed, in any month of those mentioned periods, the amount of **PLN 50,000.00**).

Additionally, registered VAT EU taxpayers performing intra-community acquisitions of goods into Poland and intra-community sales of goods and services from Poland are also required to submit every month the summary information.

(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 a rose). If the input VAT exceeds the output VAT, a VAT refund is generally available.

(e) Penalties

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

VAT group	The legislator has introduced regulations on the establishment and operation of the VAT groups. **A VAT group may be formed by the taxpayers that:** • have their registered office in the territory of Poland, or • conduct their business activity in the territory of Poland. An entity may be a member of only one VAT group. In addition, a VAT group cannot be a member of another VAT group. The constitution of a VAT Group may not change during its duration. Upon the creation of a VAT group, members are lawfully deleted from the VAT register and appropriately, upon its termination, they are automatically reinstated in the VAT register. The VAT group is represented by a contractually appointed Group Representative.
Application to non-residents	The entities without the status of Polish residents (i.e. headquartered 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, and as a consequence, fulfil the obligations imposed under Polish VAT law on registered VAT taxpayers.
Deliveries	The tax applies to the supply of goods against payment, which also includes the delivery of goods and services free of charge. The taxpayer has the right to deduct input tax paid on goods and services, provided that they are used for taxable activities.
Gratuitous transfers	Free transfer of low value goods considered to be gifts as well as samples are not subject to taxation, as long as it is linked with business goals. Propagation of advertising materials and printed information brochures as per today stays not exempt from taxation. New definitions of samples have been introduced into the tax code.
Place of supply of goods (cross-border transactions)	• Place of supply for dispatched goods or transported by the forwarder himself, their purchaser or by a third party is the place where the goods are warehoused the moment of the commencement of their dispatch or transport to the buyer; • Place of supply for goods neither dispatched nor transported is the place where the goods are stored the moment of their delivery, for example land plots, buildings, construction sides.
Services	As a general rule all services which are not to be treated as delivery of goods. The tax base comprises all items which are subject to payment for the rendered services.

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 being a private person/ consumer, is the country of his headquarters (or fixed place of management or fixed place of residence).

Exeptions:

- Services performed by intermediaries for end users - the place where the transaction takes place.
- Real estate services - location of real estate property,
- Transportation services:
  - » Transport of persons - the place of transport, taking into account the distances covered,
  - » Transport of goods in favour 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 of the transport.
- Auxiliary services to transportation services: place of service delivery.
- Services in the field of art, culture and of educational, recreational, scientific and sporty character:
  - » In favour of an entrepreneur: applicable stays the general rule (place of headquarters of the entrepreneur),
  - » In favour of a consumer: the place of service delivery,
  - » Entrance to an event (entrepreneur and consumer): the localization of the event.
- Restaurant and catering services: place of service delivery.
- Short term rental of means of transportation: place where the transportation means are in fact made available to the client.
- Electronic services:
  - » In favour of entrepreneurs: the general rule applies (localization of the headquarters of the entrepreneur),
  - » In favour of final consumers.
- Possessing the headquarters or status of place of residence outside the European Union or possessing the status of a resident in the European Union, where the services are rendered from a third country by service providers having residency status: localization of the headquarters/place of living of the service provider.
- Possessing the headquarters or status of residency in the European Union, where the services are rendered from a country of the European Union by service providers being residents: place of headquarters (or permanent establishment of performing business activity or permanent place of living) of the service provider.
- On intangible and legal services (for example sale of rights, advertising, legal, bank, financial and insurance services, employment agency) in principle the general rule applies, an exception affects only consumers who have their headquarters/ place of living in a third country - headquarters/place of living of the service provider.

	• Telecommunication, radio, and television services - exemption from taxation, provided that the services are rendered in favour of the end consumers, with the difference of delivery in the place of living/headquarters of provider and recipient of the services. • Services linked to tourism - localization (or permanent establishment of business performance or place of living) of the service provider.
New special procedure for the VAT rules on telecommunications, radio and television, as well as on electronic services	Notwithstanding the status or the place of headquarters of business activity of the service provider, in the case of rendering of telecommunication, electronic, and broadcasting services in favour of persons not being taxpayers, place of service delivery always stays the place where such a person/consumer has his office, permanent place of living or the simple residency stay permission (article 28k of the VAT act). This also applies to foreign entities (entities not having neither their headquarters nor their place of business activity performance on the territory of the European Union). The above is applicable if the total value of the referred to services rendered to the aforementioned entities, less the amount of VAT, did not exceed, during the tax year or the previous year, the amount of **EUR 10,000.00** - **PLN 42,000.00**. Until the aforementioned limit is not reached, the place of taxation for services provided by an entity with its registered office in Poland is Poland.
Reverse Charge "Reversal of the tax liability"	The reverse charge as a general rule finds application in the situation where the supplier/service provider is a foreign entity (and thus does neither have in Poland his headquarters nor a permanent establishment for running a business activity), and the purchaser is a Polish VAT payer. Invoices issued without VAT require the information on transfer of the tax obligation, the identification numbers of the entrepreneurs, supplier as well as purchaser. **The foreign entrepreneur stays obliged to settle the tax:** • Provided that he performs services linked to real estate and he is registered for VAT purposes in Poland; in case of other services, it is required to assure the control of the Polish purchasers. • In the case of trade in goods, the foreign supplier is obliged to settle his VAT, provided that he is registered for the purpose of VAT in Poland. For the supply of goods and services, whose catalogue has been in-depth itemized in the enclosure number 15 to the VAT act, the application of split payment mechanism in VAT obliges by law. The purchaser of goods or services explicitly mentioned in the enclosure number 15 stays obliged to transact the payments divided into net amounts to the supplier whereas for the part of VAT tax specified on the invoice on a dedicated VAT account, which services for the tax administration for collection of payments in the context of split payment.

Real estate	VAT settlement obligations stay with the buyer or application of exemption from taxation of the delivery of the real estate after fulfilment of detailed terms and conditions.
Rental	Subject to taxation VAT in any case (as long as the service provider has the status of a tax payer).
Sale	Subject to VAT taxation or tax on civil transactions, which is payable in the case of VAT exemption or in case none of the parties is a registered VAT payer.
0% Tax Rate	Amongst others (after fulfilment of specified terms and conditions): • Inner European delivery of goods, • Export of goods, • In detail, itemized costs directly linked with the export of goods and linked with them services, • International forwarding freight services, • Services related to processing and finishing of goods.
VAT exemption inter alia	• delivery of used goods utilized solely for the purpose of non-taxable business operations (without deduction of tax), • financial services (granting of loans, maintenance of bank accounts, foreign exchange) with the exception of leasing, factoring or advisory services but without: » services forming an element of financial services, which are themselves considered a separated entirety even if they are adequate and required for the performance of the financial services, » services constituting an element of brokerage in financial services, » please note, for these services, under the conditions indicated in the law, it is possible to waive the exemption, • insurance and reinsurance services, • some medical services, • some educational services, • services in the field of social care, • services in the field of social security insurance, • some services in the field of culture and sport.
VAT deduction on expenses related to the use of passenger cars	**The amount of VAT subject to deduction depends on the purpose for which the car is used.** Provided that the car is used for different purposes, that means as well as for business operations as well as for private ones, the right to deduct tax is limited to **50%**. But in case the taxpayer uses the car exclusively for business operations, he stays entitled to the deduction of the full amount of VAT tax. The full right of deduction is also available in other cases indicated in the Act, e.g. when the motor vehicle is structurally designed for the carriage of at least 10 persons including the driver (must be provable from the car documents) or when the vehicle is a so-called single-row car - one row of seats, which is confirmed in the relevant documents.

Limited possibilities of tax deduction

Provided that the car of a maximum allowed weight not exceeding 3.5 tons is used for business operations as well as for private ones, the taxpayer is entitled to a **50%** deduction in VAT, applicable not only for VAT on purchase, Inner European purchase of goods (WNT) or the import of cars (as it was in the past), but also on the VAT applicable on repairs, exploitation, and the purchase of spare parts or fuel for this vehicle.

Unlimited possibilities of deduction - obligations referring to the evidencing

The taxpayer will have the right to **100%** of VAT deduction for "typical" passenger cars, deduction under the condition that the car is used exclusively for the purpose of business activity of the taxpayer. Simultaneously the following requirements must be fulfilled:

- The taxpayer must determine the principles of use of the car, confirming that it can be used exclusively for the purpose of business activity of the taxpayer
- Mileage records must be kept for vehicles used exclusively for the taxable person's business activity.

The logbook evidence of the car must comprise: registration number of the car, commencement, and end of the evidencing, reading of the meter of the driven kilometres. The logbook must be maintained from the day onwards, from which the car is used exclusively for the purpose of business activity of the taxpayer.

In case the taxpayer does not comply with the mentioned before information requirements on time, his car will be accredited as a company car used exclusively for the purpose of business activity of the taxpayer following the day when the missing information had been replenished.

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 the 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 **PLN 116.33** to as much as **PLN 46.53** - the amount of a daily rate).

Accelerated refund of VAT

- General refund period: **60** days from the date of filing the tax return, shortening to **25** days possible (assuming that all purchases shown on the tax return must be paid by reaching the deadline for submission of the VAT return/SAF file),
- **180** days: if in a given settlement period, no taxable transactions were made.

The accelerated **25-day VAT** refund period is subject to a number of conditions to be met.

The VAT refund within this shorter deadline is possible if:

- the input tax connected with purchases, shown in the tax return and under the exclusion of the tax credits on purchases rolled over from previous settlement periods, results from:
  - » invoices documenting liabilities paid in full through a bank account of the taxpayer in a bank headquartered in Poland or an account of the taxpayer in a co-operative bank which he is a member of; registered with the Polish Inland Revenue Office, which is regulated In other law directives,
  - » other invoices documenting liabilities provide that the amount total of those receivables does not exceed **PLN 15,000.00**,
  - » customs clearing documents, import declarations or other decisions, which article 33 clauses 2 and 3 and article 34 refer to, have been paid by the taxpayer,
  - » the import of goods settled in accordance with Article 33a, Intra-Community purchase of goods, provision of services for which the taxpayer is the service recipient, or the delivery of goods, for which the taxpayer answers as the purchaser, provided that in the respective tax declaration an input tax has been reported from these transactions,
- the input tax or tax surplus not settled having been rolled over from previous settlement periods and shown in the declaration does not exceed **PLN 3,000.00,**
- the taxpayer presents to the Inland Revenue Office documents confirming the payment of the VAT tax, where the payment of the tax must have been made from a bank account of the taxpayer having been previously notified to the Polish Inland Revenue Office,
- the taxpayer for the consecutive 12 months preceding the tax period in which he applies for a refund of VAT within the shortened period of **25 days**,
  - » was registered as an active VAT taxpayer,
  - » submitted a VAT declaration for each VAT period.

A refund within the deadline of 25 days is also possible if the taxpayer requests a refund to a so-called VAT account - an account used in principle for split payments of VAT.

Re-imbursement of input tax for foreign companies	**How does it work:** • Application in Polish language for entrepreneurs from the European Union - in electronic format only, • Competent tax office: II Urząd Skarbowy Warszawa - Śródmiejście • The application may encompass a period of minimum **3** months, but not longer than **1** year, • The application should be rendered by the **30th** of September of the following year as the deadline, • The decision on the amount of recognized VAT eligible for return will be issued within **4** months counted from the moment the application has been rendered to the competent tax office, • The refund will be processed within **10** working days from the moment the decision on the amount of recognized VAT eligible for refund has been taken by the competent tax office.
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 are handed over in the name of the supplier to the final consumer, provided that the value of the goods sold exceeds a certain turnover limit on the side of the supplier).
Reporting requirements	• Summing up, reports (UE VAT) are to be delivered in general on a monthly basis. • 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 passes over to the purchaser of the goods or services.

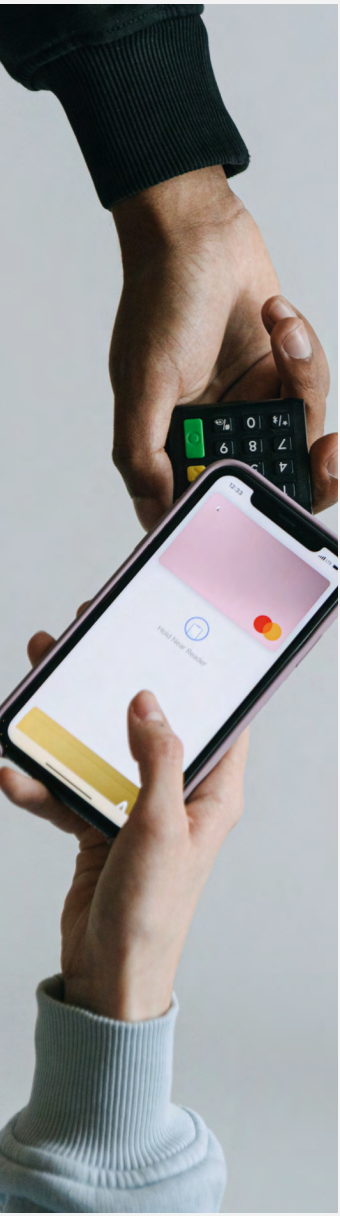
Point of time of the origination of the tax liability	The tax obligation arises the moment of delivery of goods or service.
Definitions of the tax base	As a rule, the modifications of the rules are the direct implementation of the definition contained in the VAT directive. The new tax base includes all payments, which have a direct impact on the price of goods and services rendered by the taxpayer. The new VAT regulation explicitly mentioned what is included in the tax base, like additional costs (commissions, packing, and transportation costs, as well as insurance costs). In the case of free deliveries or services, the values or comparable prices of the goods and services concerned will build the new tax base. If there are no comparable prices, the tax base includes all costs incurred at the tax point.

ACCOUNTING & TAX ADVISORY FOR YOU!

If you have any questions regarding accounting, taxation, or other aspects of tax law in Poland, please contact our team of advisors.

ACCOUNTING OUTSOURCING

JOANNA
NIZKA-KRZYŻANOWSKA
Head of Accounting
Senior Manager
Tax Advisory Office
Location: Warsaw



OBLIGATION TO USE THE SPLIT PAYMENT METHOD

Some products and services are subject to the obligation to apply the split payment method, which results from art. 108a of the VAT Act, appendix no. 15. When making payments for goods or services listed in this appendix, documented by an invoice in which the total amount due exceeds **PLN 15,000.00,** taxpayers are obliged to apply the split payment mechanism.

On the other hand, a taxpayer who is obliged to issue an invoice, is obliged to accept payment of the amount of receivables resulting from that invoice using the split payment mechanism. Invoices should be tagged "split payment mechanism" under pain of additional tax liability. Lack of such a tagging will result in a sanction amounting to **30%** of the VAT amount indicated in the invoice, unless the receivable was paid using the split payment mechanism.

The application of the split payment mechanism will be based on the following:

- the payment of the amount corresponding to all or part of the tax amount resulting from the invoice received is made to the VAT account,
- the payment of all or part of the amount corresponding to the net sales value resulting from the invoice received is made to a bank account or an account in a co-operative savings and credit union for which a VAT account is kept or is otherwise settled.

The split payment mechanism for goods other than those listed in Annex 15 to the Act is still not mandatory, but the legislator has provided for a number of incentives for these transactions to convince taxpayers to use this form of settlement. These incentives are as follows:

- abandoning the principle of joint and several liabilities,
- abandoning the imposition of additional tax liability,
- no use of increased interest from the VAT tax debts (up to **150%** of the standard rate),
- accelerated refund of excess input VAT.

Deposits and withdrawals

The VAT account will allow to deposit only cash from:

- the payment corresponding to the amount of VAT paid to the supplier of goods or the service provider using a dedicated transfer message,
- VAT amount refund:
  - » in the case of issuing a corrective invoice, using a dedicated transfer message,
  - » by the tax office.

THE WHITE LIST OF TAXPAYERS

Regulations introducing the so-called white list of taxpayers are in force. The white list replaced the lists of VAT taxpayers in force until now.

The list of VAT taxpayers contains information not only about the current status of a given entity, but also about how it looked on a selected date in the 5 years preceding the year in which the taxpayer is checked.

The white list contains data on taxpayers such as: REGON, PESEL, business address, residence and most importantly the taxpayer's bank account.

The consequences of a taxpayer making a payment to an account other than the one on the white list are as follows:

Limitation of the right to deduct tax-deductible expenses (KUP)

In case of payment to a bank account other than the one from the whitelist of an amount exceeding **PLN 15,000.00** gross, a taxpayer will not be able to recognize this amount as a tax-deductible cost (amended Article 22p(1) of the PIT Act / Article 15d(1) of the CIT Act). If the taxpayer recognizes this expense as a tax-deductible cost, he/she will be obliged to

- decrease tax-deductible costs, or, if this is not possible,
- increase the income - by the amount incorrectly classified as tax-deductible costs in the month in which the payment was made, or the transfer was ordered, respectively.

However, the limitation related to the payment to an account which was indicated on the white list will not apply if the taxpayer submits an appropriate notice to the head of the tax office competent for the seller within seven days (during the pandemic period: 14 days) from the date of ordering the transfer or settles the payment using the split payment mechanism.

Joint and several liability with the contractor

If the buyer makes a payment to an account other than the one indicated on the white list and the seller does not pay VAT on this transaction, the buyer will be jointly and severally liable with the seller up to the amount of the tax liability on the transaction. However, the taxpayer may protect himself from the above sanction in two ways:

- by submitting, at the latest within **7** days (during the pandemic: **14** days) from making the payment, an appropriate statement to the head of the tax office of the seller, or
- making the payment using the split payment mechanism.

White list of VAT registered entities

It is a public available list of VAT payers containing information on the status of the company. It was created to make it easier for entrepreneurs and authorities to verify whether a given entrepreneur is an active VAT taxpayer and to confirm his bank account number. The legislator has provided for sanctions for payments to bank accounts not registered in the white list.

PIT and CIT taxpayers of payment to an account other than the one indicated in the white list of taxpayers for a transaction exceeding **PLN 15,000.00** gross cannot account the above-mentioned expenditure in the tax-deductible expenses (unless within **7 days** they notify the head of the tax office applicable for the invoice issuer) on their wrongdoing.

VAT taxpayers are jointly and severally liable for the amount of VAT at the moment of payment to an account other than the one indicated in the white list of taxpayers (for a transaction exceeding **PLN 15,000.00** gross) (unless within **7 days** they notify the head of the tax office applicable for the invoice issuer on their wrongdoing or make a split payment).

ACCOUNTING & TAX ADVISORY FOR YOU!

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CUSTOMER RELATION

ELŻBIETA NARON
Head of Customer Relationships Department / Senior Manager
Tax Advisory Office
Location: Wroclaw

Vouchers	Regulations provide for two types of vouchers, within the meaning of instruments subject to the obligation of their acceptance as remuneration for delivery of goods or rendered services, namely: • a single-purpose voucher (SPV) - for which the place of supply of the goods or services to which the voucher relates and the amount of due tax, value added tax or similar tax arising from the supply of such goods or services are known at the time of issuance of the voucher, • a multi-purpose voucher - a voucher other than a single purpose voucher. A single-purpose voucher entitles the holder to receive certain goods or services where the level of taxation (in particular the VAT rate), the identification of the supplier and the Member State in which the supply of the goods or services linked to a certain voucher can be determined definitively from the outset. VAT is charged on the sale of the voucher. With regard to a multipurpose voucher, the tax is charged at the actual supply of goods or services in exchange for the voucher accepted by the supplier. In other words, in this case, VAT should be charged when the goods or services to which it relates are supplied.
Bad debt relief	Bad debt relief is the possibility for the creditor to correct the tax in case the debtor fails to pay the invoice. Lack of payment for the sales invoice within **90 days** from the due date results in the obligation of correction on the part of the buyer. On the part of the creditor, meaning the supplier to whom payment is due, this is a privilege that he/she may but does not necessarily have to use.
Consequences of delay by failure to meet the deadlines and dates	• Penalty interest: currently **16.5%** per annum. • So-called Additional Tax Liability for VAT only: up to **30%**, **100%** • in special cases. The Head of the Inland Revenue Office or the Control Authority may impose on the taxpayer an additional liability of up to **30%** of the amount of the understatement of VAT liability or up to **30%** of the amount of the overstatement of the refund of the difference or input VAT or of the tax difference to be reduced for subsequent settlement periods. Correction of the error may reduce the rate from a maximum of **30%** to a maximum of **20%**. **Additional obligations arise when the inland revenue office confirms that the taxpayer reported in his tax declaration:** • a tax amount due lower than the tax liability comes up in reality, • shows a tax differential to be reimbursed or a pre-tax offset higher than the tax credit due in reality, • a tax difference to be deducted from the tax liability for the next tax periods higher than the amount due to him in reality, • a refund of a tax differential or a VAT refund or a difference carried forward as a deduction for the periods to come, although he should show a tax liability, which stays subject to payment on an account of the Inland Revenue Office.

Furthermore, up to **30%** of the penalties also apply to taxpayers who do not submit tax returns and do not settle the tax liabilities with the tax authorities.

In the current legal environment, when the Polish tax authorities discover the lack of tax declaration filings or missing VAT payments when having fallen due, increased penalty interest will be inflicted on the delinquent taxpayers.

100% of the VAT on false empty invoices

The percentage of additional liability increases to **100%** of the input tax that results from the invoices if it is established that the invoices with increased deductible VAT:

- have been issued by a non-existent legal entity,
- are related to activities which have not been carried out (as regards the part relating to those activities),
- relate to amounts which do not correspond with reality (with regard to the items for which amounts are not in compliance with the reality),
- support the activities in which Article 58 of Civil Law applies (as regards the part relating to those activities).

TAXES ON CIVIL AGREEMENTS (PCC)

Transfer tax

Tax is imposed at a rate of **0.5%-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).

Purchase of real estate:	**2,0%**
Articles of association:	**0,5%**
Loans:	
- partner in a private company	**0,5%**
- shareholder in corporations	**not applicable**
Proprietor/Shareholder loans:	**0,5%**

TAX AUDIT AND LEGAL RECOURSE IN POLAND

Purpose	To verify compliance with tax law obligations.
Scope of the audit	Determined in the notification of initiation of a tax audit (in certain cases, the audit may be initiated without prior notice).
Audit of the Tax Office	Target: determination of the subject and the amount of the tax liability. The Inland Revenue Office prepares a protocol, which can be used 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 is 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 will be enacted. **Taxpayers can draw on in Poland in fiscal matters on the following rights:** • 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.

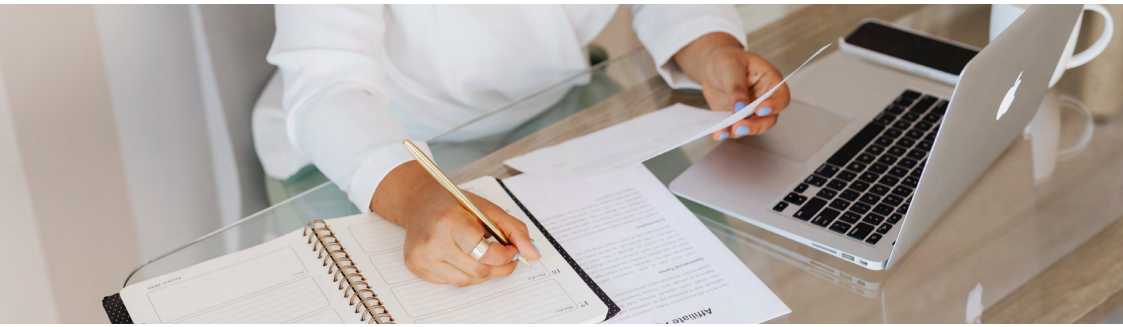
TAX ORDINANCE ACT

Verification of the contractor	Taxpayers may obtain from the tax offices a certificate regarding the following information about their contractors conducting business activity: • confirmation that the contractor has (or has not) submitted a tax return or other document he was obliged to submit pursuant to the provisions of tax acts, • confirmation that the contractor has (or has not) included in the tax return or other document the events he was required to include pursuant to the provisions of tax acts, • confirmation that the contractor is (or is not) in arrears with taxes, resulting from a tax return or other document submitted pursuant to the provisions of tax acts.
Evidence in tax proceedings	The open catalogue of evidence in tax proceedings may include documents gathered during the analysis performed by the National Tax Administration.
Acquisition checking	Acquisition checking is a procedure of purchasing goods or services performed by a National Revenue Administration (KAS) officer. It is carried out in order to determine whether the person being subject to the verification complies with the obligations arising from the tax law provisions within the scope of: • registering sales of goods and services using a cash register, • issuing a fiscal receipt to the customer, It is performed on the grounds of legal standing and a permanent authorization issued by the Head of the Inland Office or the Customs and Tax Office.

INTEREST AS OF 01.01.2023

Interest on tax arrears	Interest on tax arrears amounts to the double basic NBP Lombard loan interest rate and **2%**, however not less than **8.5%** (currently **16.5%**).
Statutory interest	• **10.25%** (statutory interest), • **20.50%** (maximum interest).
Statutory interest for delay	• **12.25%** (interest for delay), • **21.50%** (maximum interest for delay).
Interest rate for delay in commercial transactions	The interest rate on delays in commercial transactions is **16.75%**.
Reduced rates	Reduced interest on tax arrears at **50%** of the interest rate on tax arrears applies if the following conditions are fulfilled simultaneously: • a legally binding correction of the tax return is submitted no later than within **6 months** from the date of the expiry of the time limit for submitting the tax return, • the confirmed tax arrears are paid within **7 days** from the date of submitting the correction of tax return.
Leniency	When a taxpayer provides the authorities with a formal notification that he has committed a prohibited act, this shall exclude the act as punishable if: • it occurs before the competent tax authority identifies the fact in question and • along with the filing of the notice, the reported deficiencies and transgressions will be remedied. An act of contrition does not protect the taxpayer from being penalised if, prior to the submission of the act of contrition together with the correction, preparatory proceedings have been initiated in his case with regard to the tax offence.

Increased rate	The increased interest rate of **150%** of the base rate (currently **24.75%**) will apply to tax refunds on goods and services, as well as to back-up excise duties and customs duties. This rate shall be applied if the tax authority detects in the course of its tax procedures (verification activities, tax audit or tax proceedings) an understatement of tax liabilities (overestimation of overpayment or tax refund) in the amount exceeding **25%** of the amount due and higher than the amount of 5 times minimum salary, or the lack of the tax return and tax payment.



TAX LIMITS IN 2023

Income limits for small-business enterprises in 2023	• Small-business enterprises for PIT / CIT: **PLN 9,654,000.00**. • Small-business enterprises for VAT: **PLN 5,793,000.00**. • The limit of revenues entitling to a lump sum on recorded revenues is **EUR 2,000,000.00**, which corresponds to the amount of: **PLN 9,654,000.00**. • The amount of net income that requires to maintain full accounting ledger accounts by individuals, partnerships of individuals, partnerships of individuals, partnerships and social cooperatives: **PLN 9,654,000.00**. • Maximum total amount of depreciation in a year, as part of a one-off depreciation: **PLN 100,000.00**.

DOUBLE TAXATION AGREEMENT (DTA)

Double Taxation Agreement (DTA):

Poland concluded Double Taxation Agreements (DTA's) with 90 countries, 86 of which have entered into force. These agreements are based on 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-à-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%	Licences in%
Albania	27.06.94	no	5/10	10	5
Armenia	27.02.05	yes	10	5	10
Australia	04.03.92	yes	15	10	10
Austria	01.04.05	yes	5/15	0/5	5
Azerbaijan	20.01.05	yes	10	10	10
Bangladesh	28.01.99	no	10/5	10	10
Belarus	30.07.93	no	10/15	0/10	0
Belgium	29.04.04	yes	10	0/5	0/5
Bosnia & Herzegovina	07.03.16	yes	5/15	10	10
Bulgaria	10.05.95	no	10	0/10	5
Canada	08.12.12	yes	0/5/15	10	5/10
Chile	30.12.03	no	5/15	15	5/15
China	07.01.89	no	10	0/10	10
Croatia	11.02.96	yes	5/10	0/10	10
Cyprus	Protocol - 09.11.12	no	0/5	0/5	5
Czech Republic	13.06.12	no	5	0/5	10
Denmark	31.12.02	yes	0/5/15	0/5	5
Egypt	16.07.01	yes	12	12	12
Estonia	09.12.94	no	5/15	0/10	10
Ethiopia	14.02.18	yes	10	10	10
Finland	11.03.10	no	0/5/15	5	5
France	12.09.76	yes	5/15	0	0/10
Georgia	31.08.06	no	10	8	8
Germany	19.12.04	yes	5/15	0/5	5

Country	Entry into force	Property Clause	Dividends in% (*)	Interests in%	Licences in%
Greece	28.09.91	no	19	10	10
Guernsey	01.10.14	no	-	-	-
Hungary	10.09.95	no	10	0/10	10
Iceland	Protocol - 08.12.12	yes	5/15	0/10	10
India	26.10.89	yes	10	10	15
Indonesia	25.08.93	yes	10/15	0/10	15
Iran	01.12.06	no	7	10	10
Ireland	22.12.95	yes	0/15	0/10	0/10
Isle of Man	28.10.11	no	-	-	-
Israel	30.12.91	yes	5/15	5	5/10
Italy	26.09.89	no	10	0/10	10
Japan	23.12.82	yes	10	0/10	0/10
Jersey	01.12.12	no	-	-	-
Jordan	22.04.99	no	10	10	10
Kazakhstan	13.05.95	yes	10/15	0/10	10
Korea	21.02.92	no	5/15	0/10	5
Kuwait	25.04.00	no	0/5	0/5	15
Kyrgyzstan	22.06.04	no	10	10	10
Latvia	30.11.94	yes	5/15	0/10	10
Lebanon	07.11.03	no	5	5	5
Lithuania	19.07.94	yes	5/15	0/10	10
Luxemburg	Protocol - 11.12.12	yes	0/15	0/5	5
Malaysia	05.12.78	no	0	0/15	0/15
Malta	22.11.11	yes	0/10	0/10	0/5
Mexico	06.09.02	no	5/15	5/15	10
Moldova	27.10.95	no	5/15	10	10
Mongolia	21.07.01	no	10	10	5
Montenegro	17.06.98	no	5/15	10	10
Morocco	23.08.96	no	7/15	10	10
Netherlands	18.03.03	no	5/15	0/5	5
New Zealand	16.08.06	yes	15	10	10
Norway	29.01.13	yes	0/15	5	5
Pakistan	24.11.75	no	15	0	15/20

Country	Entry into force	Property Clause	Dividends in% (*)	Interests in%	Licences in%
Philippines	07.04.97	yes	10/15	0/10	15
Portugal	04.02.98	yes	10/15	0/10	10
Qatar	28.12.09	no	5	5	5
Romania	15.09.95	no	5/15	0/10	10
Russia	22.02.93	yes	10	0/10	10
Saudi Arabia	01.06.12	yes	5	0/5	10
Serbia	17.06.98	yes	5/15	10	10
Singapore	06.02.14	yes	0/5/10	0/5	2/5
Slovakia	21.12.95	yes	0/5	5	5
Slovenia	10.03.98	yes	5/15	0/10	10
RSA	05.12.95	no	5/15	0/10	10
Spain	06.05.82	yes	5/15	0	0/10
Sri Lanka	14.06.19	no	10	10	10
Sweden	15.10.05	yes	5/15	0	5
Switzerland	Protocol - 17.10.11	no	0/15	0/5	0/5
Syria	23.12.03	no	10	10	18
Taiwan	Act - 30.12.16	no	10	10	3/10
Tajikistan	24.06.04	no	5/15	10	10
Thailand	13.05.83	no	20	0/10	5/15
Tunisia	15.11.93	no	5/15	12	12
Turkey	01.04.97	no	10/15	0/10	10
Ukraine	11.03.94	yes	5/15	0/10	10
United Arab Emirates	21.04.94	no	0/5	0/5	5
United Kingdom	27.12.06	yes	0/10	0/5	5
USA	23.07.96	yes	5/15	0	10
Uzbekistan	29.04.95	no	5/15	10	10
Vietnam	20.01.95	no	10/15	10	10/15
Zimbabwe	28.11.94	no	10/15	10	10

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

(-) The agreements do not include agreements relating to dividends, interest, and licences.

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