Poland
Country Profile

EU Tax Centre

July 2015

Key tax factors for efficient cross-border business and investment involving Poland

EU Member State Yes

Double Tax Treaties With:

Albania	Denmark	Kazakhstan	Nigeria[(a)]	Syria
Algeria[(a)]	Egypt	Korea	Norway	Tajikistan
Armenia	Estonia	Kuwait	Pakistan	Thailand
Australia	Finland	Kyrgyzstan	Philippines	Tunisia
Austria	France	Latvia	Portugal	Turkey
Azerbaijan	Georgia	Lebanon	Qatar	Ukraine
Bangladesh	Germany	Lithuania	Romania	UAE
Belarus	Greece	Luxembourg	Russia	UK
Belgium	Hungary	Macedonia	Saudi Arabia	Uruguay[(a)]
Bosnia and Herzegovina	Iceland	Malaysia	Serbia	US
Bulgaria	India	Malta	Singapore	Uzbekistan
Canada	Indonesia	Mexico	Slovakia	Vietnam
Chile	Iran	Moldova	Slovenia	Zambia[(a)]
China	Ireland	Mongolia	South Africa	Zimbabwe
Croatia	Israel	Montenegro	Spain	
Cyprus	Italy	Morocco	Sri Lanka	
Czech Rep.	Japan	Netherlands	Sweden	
	Jordan	New Zealand	Switzerland	

Note: (a) Treaty signed, but not yet in force.

Forms of doing business Capital companies (S.A., sp. z o.o.), Partnerships, Branches, Rep. Offices.

Legal entity capital requirements S.A. - PLN 100,000, Sp. z o.o. - PLN 5,000.

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Residence and tax system

A company is resident if either its legal seat or its place of management is located in Poland. Resident companies are taxed on their worldwide income. Non-resident companies are taxed only on their Polish source income.

Compliance requirements for CIT purposes

- Fiscal year is generally a period of 12 consecutive months;
- Monthly tax advance payments should be made (simplified monthly advances equal to 1/12 of the previous year tax due possible);
- No filing obligation during the year;
- Annual tax return should be filed and the remaining balance paid within three months after the end of each tax year.

Tax rate

The standard corporate income tax rate is 19 percent.

Withholding tax rates

On dividends paid to non-resident companies

- 19 percent (dividend payments to EU, EEA and Swiss parent companies exempt subject to: Minimum holding requirement: 10 percent (25 percent for Switzerland);
- Minimum holding period: 2 years.
- Reduction of WHT applicable under DTTs.

On interest paid to non-resident companies

- 20 percent (exemption on payments to specific EU/EEA and Swiss-related companies available from July 1, 2013).
- Reduction of WHT applicable under DTTs.

On patent royalties and certain copyright royalties paid to non-resident companies

- 20 percent (exemption on payments to specific EU/EEA and Swiss-related companies available from July 1, 2013).
- Reduction of WHT applicable under DTTs.

On fees for technical services

No

On other payments

20 percent, unless DTT provides otherwise, on payments for intangible services (accounting, marketing, HR, management, etc.).

Branch withholding taxes

No

Holding rules	Dividend received from resident/non-resident subsidiaries ▪ Credit method. Underlying credit available for non-EU and non-EEA treaty countries except Switzerland: – Minimum holding requirement: 75 percent; – Minimum holding period: 2 years. ▪ Participation exemption for dividends from Polish subsidiaries and subsidiaries located in EU Member States, EEA states and in Switzerland, provided that: – Minimum holding requirement: 10 percent (25 percent for Switzerland); – Minimum holding period: 2 years. Capital gains obtained from resident/non-resident subsidiaries Generally taxable.
Tax losses	Losses may be carried forward for five years. Up to 50 percent of the loss may be offset in each year. Loss carry back is not allowed.
Tax consolidation rules/Group relief rules	Resident companies with an average share capital of at least PLN 1,000,000 may form a fiscal group. It must be formed for at least 3 years. Additional requirements: ▪ The parent company must hold 95 percent of the shares in the subsidiaries; ▪ The subsidiaries may not hold shares in the other companies of the group; ▪ The companies may not be exempt from corporate income tax; ▪ The annual ratio of net income to gross income must be above 3 percent.
Registration duties	Capital duty on incorporation of a company and on share capital increase (0.5 percent of share capital or increase of share capital). Capital allocated to share premium is not taxed.
Transfer duties	On the transfer of shares 1 percent On the transfer of land and buildings 2 percent if not subject to VAT or VAT exempt Stamp duties Yes, on some legal actions as issuance of the certificate or submitting a power of attorney. Real estate taxes Yes, the tax rates are set by the local authorities, subject to the maximum rates.

Controlled Foreign Company rules	Yes (CFC legislation in force since January 1, 2015).
Transfer pricing rules	General transfer pricing rules OECD Guidelines apply. APA available. Documentation requirement For most related party transactions statutory transfer pricing documentation required within 7 days upon request (any transfer pricing adjustments taxed at 50 percent if no documentation).
Thin capitalization rules	*Old thin cap rules* Under the grandfathering clause, the old thin cap rules still apply to loans granted before January 1, 2015 provided the loan (money) has actually been transferred to the borrower before that date, which should be understood as a physical transfer. Interest paid on a loan is non-deductible in proportion to the amount exceeding the debt-to-equity ratio of 3:1, if the loan is granted: ■ by a shareholder holding directly at least 25 percent of the share capital or by a group of shareholders holding directly in total at least 25 percent of the share capital; or ■ between companies in which the same company holds directly at least 25 percent of the share capital of both the lending and the borrowing company. *New thin cap rules* New thin capitalization rules took effect as of January 1, 2015. Under the new thin capitalization rules, interest paid on a loan is non-deductible in proportion to the amount exceeding the debt-to-equity ratio of 1:1, if the loan is granted: ■ by an entity holding, directly or indirectly, at least 25 percent of the share capital or by a group of entities holding, directly or indirectly, in total at least 25 percent of the share capital; or ■ by a company that has the same shareholder as the borrower, if the shareholder holds, directly or indirectly, at least 25 percent of the share capital of both the lending and the borrowing company.
General Anti-Avoidance rules (GAAR)	When establishing the content of a legal action, tax authorities consider the intention of the parties and purpose of the legal action, and not solely the declaration made by the parties. If the legal action was illusory and the parties intended to hide the real legal action, the legal consequences will be attributed to the hidden legal action. Rules on major GAAR proposed amendments are pending.

Specific Anti-Avoidance rules/Anti Treaty Shopping Provisions	Certain exemptions apply only if there are legal grounds for the exchange of fiscal information between Poland and the relevant State. Tax neutrality will not apply to a merger or a division if the transaction is not justified by sound economic reasons, but was to avoid tax; Specific anti-abuse clauses under DTTs. Certain transactions / arrangements specifically excluded from the Interest and Royalties Directive exemption. Tax exemption on dividends received by Polish resident companies from EU/EEA/Swiss subsidiaries does not apply if the amounts paid are tax deductible for the distributing company.
Advance Ruling system	Yes
IP / R&D incentives	50 percent extra tax deduction on new technology expenses.
Other incentives	Research and development expenditure can either be deducted in the year when it is incurred or through tax write-offs.
VAT	The standard rate is 23 percent, and the reduced rates are 0 percent, 5 percent and 8 percent.
Other relevant points of attention	No

Source: Polish tax law and local tax administration guidelines, updated 2015.

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