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| Taxation in Poland - general rules

Introduction

Business decisions concerning locations of new investments are often determined by the legal system which investors have to face when dealing in new EU member countries. This forces the governments of these countries to compete by introducing fair, clear and simple regulations. Taxes are no exception here. During recent years, there was a kind of European contest where most of the new EU joiners made strong efforts to liberalize and simplify their tax systems.

On the other hand these countries also have to adopt tax laws in order to collect public revenue efficiently by covering all possible fields of business activities within the relevant scope of their regulations. In Poland for example, there are still a significant number of miscellaneous tax-related acts, regulations and decrees which are complicated and in some areas vague. Moreover, the complexity of a tax procedure may be a source of surprise and disappointment for foreign investors having to cope with the bureaucracy of the authorities.

Taking into account the above, it is in the investor's best interest to ensure the correct amount of time and care is taken in terms of the local tax compliance. Appropriate care will eliminate or, at least, minimize the tax risks existing under the Polish regulations which have been subject to gradual reform (as of the beginning of the 90's) and are aimed at encouraging at foreign investments. Such reform is also a result of the harmonising of Polish law with EU law.

Below is some key information regarding the different types of taxes in Poland.

VAT

The Polish VAT Act of 2004 has harmonised Polish law with EU provisions, in particular those related to the Sixth Directive. Poland was allowed some derogations and full harmonization has not been yet achieved. The rate structure and scope of exemptions remains the same as before the EU accession. The basic VAT rate is 23%, but there is a group of products which are taxed at lowered rates of 8%, 5%, 0% or exempt.

The most common exemptions from VAT are financial, health, social and cultural services as well as the sale of companies and the rental of apartments for non-business purposes.

VAT returns must be submitted monthly. The amount to be paid to the tax office is basically the surplus of VAT on sales (output VAT) over VAT on purchases (input VAT). There is, however, a list of goods or services, for example fuel for cars or services provided by tax haven residents, which are exempt from the right to input VAT deduction (it is worth noticing that such exemptions do not necessarily mirror EU standards).

The excess of input VAT over the output VAT can be recovered within 60 days from the date of filing of a tax return, irrespective of the character of the acquisition. These limits in special cases can be shortened to 25 and 60 days, respectively.

If the taxpayer did not perform activities taxable in the territory of Poland (VAT-able sales) during a specific accounting period (month or quarter), he is entitled to receive the return of the excess of input tax over the output tax within **180 days** from the date of submission of the application, unless the taxpayer provides financial security (i.e. a guarantee deposit) to the fiscal office to benefit from the standard 60 day deadline.

The tax office is allowed to audit tax returns for the last 5-6 year period. All VAT-able transactions should be documented via VAT invoices issued in accordance with specified requirements.

CIT

The general rule is that income received by a legal entity from activities carried out in Poland is subject to Corporate Income Tax (CIT) regardless of its residency. Profits earned abroad by entities having their seat in Poland are also liable to taxation in Poland, however under the numerous double tax treaties (international agreements that Poland has with 81 countries) such profits can be exempted from tax.

Polish CIT was subject to reform from the beginning of the 90's. The CIT rate was lowered from 40% in 1995 to 19% in 2004 and it remains unchanged till now. Tax is levied on income being the positive difference between taxable revenues and tax deductible costs. Deductible costs are those incurred for the purpose of earning revenue or securing the existing source of income. All tax deductible costs should be properly documented with invoices or agreements. According to the CIT regulations, some costs cannot be tax deductible, the most common examples are:

- costs of acquisition of land
- unpaid interest from loans
- negative exchange differences from valuation
- unpaid salaries
- donations

Significant items on the cost side are also fixed assets depreciation write-offs. Depreciation rates depend on the type of asset and vary from 1,5% to 30%, whilst some fixed assets can be depreciated once-off.

Taxable profit is generally calculated on a cumulative monthly basis. A company is also obliged to submit yearly CIT return no later than three months after the end of the fiscal year.

If the Company makes no taxable profits, its tax loss can be set off against profits of the following 5 years, but only up to 50% can be deducted in any one year.

The CIT Act also introduces Polish withholding taxes on payments to foreign entities, such as: dividends (19%), interest (20%) and royalties (20%). Under certain conditions, these rates can be decreased (even to 0%) according to the EU Directives implemented to the Polish regulations or double tax treaties.

PIT

The Personal Income Tax (PIT) Law is similar to the CIT law in terms of construction. The catalogues of PIT taxable revenues, tax deductible costs or tax exemptions are much like those of the CIT law in many areas. The general rule is that under the Polish PIT law, individuals pay tax on their salary income or as self-employed persons. Polish residents pay tax on their worldwide income whilst foreign residents employed in Poland pay solely on income earned in Poland.

In Poland, individuals are subject to Personal Income Tax calculated in accordance with a progressive tax scale, which differs according to the amount of income earned:

Taxable income in PLN	Tax bracket
below 85.528	18% of income decreased by PLN 556,02
over 85.528	PLN 14.839,02 + 32% of income excess over PLN 85.528

Besides the progressive tax scale, individuals who conduct business activity may be subject to the 19% flat rate. This 19% rate may be applied irrespective of residency status.

The tax calculated in compliance with the tax scale may be reduced by the part of the obligatory health insurance premiums paid in Poland or in another EU country. The taxpayers may reduce their tax by the payments made to the account of public utility organizations. However the reduction of the tax cannot exceed the amount of 1% of the tax as shown in the annual tax return.

Property Taxation

Poland is one of the few EU countries without value-based tax on property. Instead, tax is paid based on the area of land or useable space of a building. Only building constructions are subject to tax at 2% of their value calculated for depreciation purposes (in practice that value does not fully correspond to the market value).

There are taxes on three general types of properties in Poland: real estate, agriculture and forestry. Maximum rates are established in the Polish regulations, but it is the local authority who sets the binding rates. The maximum rates are presented below:

Land	up to PLN 0,80/ sq.m
Buildings	up to PLN 21,05/ sq.m
Constructions	2% of value

Property tax returns should be filed each year and tax due should be settled in 12 equal monthly installments.

Due to the ever changing reforms to the tax regulations, professional assistance should be considered to avoid any risks.